

## 6. APPEALS UPDATE

### 6.1 PLANNING APPEALS LODGED

Planning appeals received by Dacorum Borough Council between 18 June 2021 and 03 October 2021.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	20/04010/FUL	W/21/3277285	Nash House, Dickinson Square, Hemel Hempstead	Written Representations
2	20/00946/FUL	W/21/3277540	58-60 High Street, Berkhamsted	Written Representations
3	20/04015/FUL	W/21/3277915	74 Brook Street, Tring	Written Representations
4	4/01278/18/FUL	W/21/3278371	Units 1 & 2 Richmond Square, Hicks Road, Markyate	Written Representations
5	21/00441/OUT	W/21/3278280	Land SW of Frindles, Cheverells Green, Markyate	Written Representations
6	20/02360/FUL	W/21/3278634	Rosemary Cottage, 126 High Street, Northchurch	Written Representations
7	21/01885/FHA	D/21/3279267	25 Georgewood Road, Hemel Hempstead	Householder
8	20/01843/FUL	W/21/3279289	93-95 High Street, Markyate	Written Representations
9	21/01313/RET	D/21/3279451	28 George Street, Berkhamsted	Householder
10	21/00701/FUL	W/21/3279608	Land At 28 Hall Park, Berkhamsted	Written Representations
11	21/01653/FHA	D/21/3280113	43 Green Lane, Bovingdon	Householder
12	21/01354/RET	D/21/3280282	18 Dinmore, Bovingdon	Householder
13	21/01463/FHA	D/21/3280746	36 College Close, Flamstead	Householder
14	21/01236/FHA	D/21/3280747	The White House, Potten End Hill, Water End	Householder
15	21/01366/ROC	W/21/3281296	Wagon And Horses, London Road, Flamstead	Written Representations
16	21/03074/TEL	W/21/3281978	Land At Green End Road, Hemel Hempstead	Invalid 3 <sup>rd</sup> party appeal
17	21/01696/FHA	D/21/3282270	Honeysuckle Barn,	Householder

			Birch Lane, Flaunden	
18	<a href="#">20/01370/MFA</a>	W/21/3282461	Bank Mill, Berkhamsted	Written Representations
19	<a href="#">21/02373/UPA</a>	D/21/3282662	Arewa, Shootersway Lane, Berkhamsted	Written Representations
20	<a href="#">21/01801/FUL</a>	W/21/3283492	Land R/o 34 Great Road, Hemel Hempstead	Written Representations
21	<a href="#">21/03109/FHA</a>	D/21/3284123	25 Beaumayes Close, Hemel Hempstead	Householder

## **6.2 PLANNING APPEALS DISMISSED**

Planning appeals dismissed between 18 June 2021 and 03 October 2021.

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	<a href="#">20/03103/FUL</a>	W/21/3267910	3 Curtis Road, Hemel Hempstead	Written Representations
	<b>Date of Decision:</b>		18/06/2021	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3267910">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3267910</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>I am satisfied that the dwelling's form and appearance would be broadly compatible with the mix of buildings near to the site, but its siting to the rear of No 3 and lack of a street frontage would be in marked contrast to the usual pattern of development along Curtis Road. The position of the garden to the front of the dwelling and its small size relative to the building would also be at odds with the long rear gardens that are characteristic within this area. The dwelling would be of much greater height and overall scale than the existing garage on the site and other outbuildings that I observed to the rear of nearby properties, and would in part be visible including from Curtis Road along the proposed driveway. I accept that it would not be prominent in the street scene, but its presence would be jarring and it would diminish the spaciousness on the site that currently makes a positive contribution to the character and appearance of the area.</p> <p>The development would be a discordant addition that would be detrimental to the character and appearance of the area.</p> <p>Given the close proximity of these windows to the boundary, and particularly those within the deeper rear projection to No 3, I consider that the resulting overlooking would be significant and intrusive, and the garden would not provide suitable private open space for use of the dwelling as sought by Appendix 3 of the DBLP.</p> <p>The proposal would fail to provide acceptable living conditions for future</p>			

<p>occupiers of the development with regard to privacy, outlook and the provision of amenity space.</p> <p>The narrow width of the access would result in vehicles passing immediately alongside No 3A which is set on the boundary with the site and No 3 which includes windows facing the access. I consider that vehicles passing at such close proximity would be highly noticeable, and even in low numbers would result in undue noise and disturbance that would be intrusive and harmful to the living conditions of the occupiers of these dwellings.</p> <p>I conclude that adequate provision for the storage and collection of waste has not been demonstrated.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
2	<a href="#">20/03345/FUL</a>	W/21/3268444	Flaunden Stables, Flaunden	Written Representations
<b>Date of Decision:</b>			25/06/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3268444">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3268444</a>				
<b>Inspector's Key conclusions:</b>				
<p>The appeal proposal would contain two dwellings that would be constructed of large proportions. In particular, the development features large projecting gables and a significant height that would conflict with the more traditional forms of architecture that are a feature of the immediate vicinity.</p> <p>In addition, the proposal features detached garages. Therefore, in conjunction with the proposed dwellings, there would be a relatively long built frontage. This means that the more open character of the surrounding area would be eroded due to the increase in built form and that the character of gaps between buildings with views of the countryside beyond would be eroded.</p> <p>The proposed development would have much greater proportions which would render the proposed dwellings incongruous. In addition, the proposed development would be prominent due to its positioning adjacent to the road. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the surrounding area.</p> <p>The erection of two new detached dwellings, including garages, would mean that the surroundings of the Chapel would appear to have a more developed and built up character. This would therefore erode the generally open character that surround existing buildings in Flaunden, including the Old Chapel. This gap is not identified in any CA appraisal, or subject to a formal designation. However, this space is a prominent and significant part of the CA.</p> <p>The traditional character of the surrounding area would be eroded, as well as the historical significance of the Old Chapel. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the CA.</p>				

No.	DBC Ref.	PINS Ref.	Address	Procedure
3	<a href="#">20/03246/FUL</a>	W/21/3268586	2 Cemetary Hill, Hemel Hempstead	Written Representations
	<b>Date of Decision:</b>	25/06/2021		
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3268586">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3268586</a>			
	<b>Inspector's Key conclusions:</b>			
<p>Due to the proximity of development to the existing houses, views from the existing dwellings would be possible into the garden and the dwelling. This would mean that occupiers of the proposed development would not benefit from appropriate levels of privacy.</p> <p>Whilst the windows of the side elevation would be either small or could be fitted with obscured glazing, the larger form of the neighbouring dwellings would remain readily apparent giving the impression of being overlooked.</p> <p>Furthermore, owing to the relatively short garden associated with the proposed development, residents would not benefit from appropriate levels of outlook. In particular, the boundary treatments and pergola would restrict outlook to an unacceptable degree.</p> <p>The amount of space that would be available for residents to undertake outdoors recreation would also be limited owing to the size of the garden. Whilst the size of the dwelling means that it is unlikely to be occupied by families, the restricted garden size would limit the residents from undertaking the full range of recreation activities, as well as household activities such as the drying of washing. The living conditions of residents would be further diminished as refuse and materials for recycling might need to be stored within this area. I therefore conclude that the proposed development would not provide appropriate living conditions for the future occupiers of the development.</p> <p>The proposed development would also reduce the level of privacy experienced in the garden owing to the proximity between the proposed development to the existing garden, which would further reduce the useability of space. Views would also be possible of rear elevation windows, which would add to the general character of being overlooked. I therefore conclude that the proposed development would erode the living conditions of the occupiers of neighbouring properties.</p> <p>Whilst the proposed development would be of a different form to other dwellings within the vicinity, the proposal would retain the form of the existing building. Given this and the variety of buildings that are present within the surrounding area, this would ensure that the development would not appear to be incongruous.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
4	<a href="#">20/02060/LDP</a>	X/20/3261710	Parker House, Maylands Avenue,	Public Inquiry

			Hemel Hempstead	
	<b>Date of Decision:</b>		05/08/2021	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3261710">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3261710</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>The main issue is whether the deemed refusal by the Council was well-founded, based on a position that it had refused the application for prior approval 4/01588/19/OPA by a decision notice dated 23 August 2019 (disputed by the appellant) with the consequence that none of the events specified in paragraph W(11) of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) have occurred.</p> <p>The document sent by the Council on 23 August 2019 very clearly refuses the prior approval application made. It identified the prior approval application made, with associated reference and date, and said "the application is refused" on the first page with the "reasons for refusal" given on the second page.</p> <p>Accordingly, I find that the only reasonable way for the appellant to have understood the document was as formal notification of refusal. While the appellant disagrees with the reason given for refusal, and indeed is of the opinion that it was a reason that it was not possible for the Council to give ('outwith of the statutory scheme'), it does not alter the fact that the document contained a clear refusal of the prior approval application within the statutory period and it was open to the appellant to challenge it.</p> <p>In the absence of a successful challenge against it, I consider that the 23 August 2019 document has the status as what it says it is, namely a refusal, and it is not within the scope of this appeal on the LDC application to revisit the reason for that earlier, unquashed, decision. The fact that the Council did not use its discretion to require further information from the appellant under paragraph W(9) of the GPDO before it sent the decision is of no consequence in this context, and it does not affect my finding.</p>			
<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
5	<a href="#">21/00228/FHA</a>	D/21/3273077	102 Scatterdells Lane, Chipperfield	Householder
	<b>Date of Decision:</b>		31/08/2021	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3273077">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3273077</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>The proposed garage would be physically and visually separated from the host dwelling. Given the level of that separation, I consider that the proposed garage cannot be considered an extension to the dwelling. Therefore, for the purposes of Green Belt policy, it would constitute a new building and would comprise inappropriate development in the Green Belt.</p> <p>As a result of its size, including a footprint of 6 metres by 7 metres, and</p>			

	<p>height, and by virtue of introducing additional built form into the locality, the proposed garage would impact upon the spatial and visual openness of the Green Belt to a greater degree than existing development at the appeal site. Although the impacts would be localised, the sense of openness, an essential characteristic of the Green Belt, would be harmed.</p> <p>I observed a number of outbuildings in the front gardens of properties along this stretch of Scatterdells Lane. These vary in size, and while I do not have the full details of all of these buildings before me, they nevertheless contribute to the character and appearance of the area. Given this context, the proposed garage would not appear as an incongruous addition to the area.</p>
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### **6.3 PLANNING APPEALS ALLOWED**

Planning appeals allowed between 18 June 2021 and 03 October 2021.

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	20/00339/ROC	W/20/3254243	Bovingdon Airfield, Chesham Road, Bovingdon	Written Representations
	<b>Date of Decision:</b>		16/07/2021	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3254243">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3254243</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>The proposal here is for the market stalls to occupy the whole of the NW-SE runway lying SE of the main runway. Additionally the proposal seeks to lift the restriction on where cars may be parked within the application site, presently restricted by plan 4308 to the main runway, perimeter road, and land to the SE of the NW-SE runway.</p> <p>The parish council suggest that an increase in the trading area along with an increase in the parking area will inevitably lead to more visitors and exacerbate the problem further. Whilst I accept in general terms that an expansion of the market and available parking is likely to lead to more visitors, the anticipated effects are not quantified.</p> <p>The existing permission contains no meaningful traffic management measures save for requirements and prohibitions relating to the use of particular access points. In the absence of any evidence, I am not satisfied that the expansion of the trading area has itself resulted in a significant increase in market-related traffic. Taken together, therefore, the expansion of the permitted car parking area to serve the market coupled with the enforceable provisions of the TMP requiring proper traffic management and marshalling to enable safe and efficient parking at the site would, in my</p>			

<p>judgement, considerably ameliorate the situation rather than harmfully exacerbate it. Therefore, subject to requiring adherence to the TMP and associated matters by condition, I am unable to support the Council's first reason for refusal on the grounds of adverse highways impacts.</p> <p>The Council's second reason for refusal concern litter accumulation and some anti-social behaviour, coupled with off-site parking along the roadside. Again these concerns relate to the existing situation and there is no evidence as to the extent to which such matters are expected to be exacerbated as a result of a permitted extension to the market trading area. The problems appear largely to stem from the traffic delays which, as I have noted above, are acknowledged by some local residents to be a consequence of the current level of parking provision on the site which the application seeks to expand.</p> <p>I am unable to insist on a Litter Management Plan covering land outside the site which is not within the appellant's control, but I do accept that the existing LMP may require revisiting in the light of the expanded trading area to address the waste capacity at the site and to allow consideration of whether the cleaning operations should be brought forward from the following day, which is a concern stated by local residents as allowing litter to escape from the site prior to the cleaning taking place.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
2	20/01126/FUL	W/21/3268495	Land at Laurel Bank, Hemel Hempstead	Written Representations
<b>Date of Decision:</b>			03/08/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3268495">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3268495</a>				
<b>Inspector's Key conclusions:</b>				
<p>The proposed development would result in the loss of part of the open space, however, the evidence before me is not indicative that the development would result in a loss of space where outdoors recreation by the public might take place. In addition, whilst a section of the space would be removed, a large proportion would be retained to the side of the proposed development. This would ensure that the more open character of this section of Laurel Bank is retained post development.</p> <p>Although the proposed development would be of a bungalow, the remainder of Laurel Bank contains houses constructed to varying designs and proportions. In addition, the neighbouring streets contain a variety of house types, including bungalows. Laurel Bank also contains several, single-storey detached garages. In result, the proposed development would not appear to be incongruous given that it would be viewed against a backdrop of varying buildings.</p> <p>In addition, the dwellings in Laurel Bank, when taken as a whole, are set back from the highway by varying amounts. In result, the proposed development would not erode the character of the area.</p>				

	<p>In addition, owing to the road layout and the pattern of existing development, the proposed bungalow would be relatively well-screened, particularly from those vantage points further away from the site. This lack of prominence would mean that the proposal would not be unduly strident.</p> <p>I therefore conclude that the proposed development would not have an adverse effect on the character and appearance of the surrounding area.</p>			
No.	DBC Ref.	PINS Ref.	Address	Procedure
3	20/00964/FUL	W/20/3256852	Highlands, Kings Road, Berkhamsted	Written Representations
	<b>Date of Decision:</b>		20/08/2021	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3256852">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3256852</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>In line with the comments of the previous Inspector, no one has a right to a view, but outlook from neighbouring dwellings near to a development should not be unduly obstructed or unacceptably harmed by overbearing or visually dominant development. The plans for the proposed new house have been substantially reduced compared to the appeal scheme, dropping the height of the main 2 storey section and reducing the rear wing to a single storey. In re-assessing the impact on outlook following these changes, I take into account that there are high hedges on the key boundaries, but note that their retention at current heights cannot reasonably be guaranteed in the longer term.</p> <p>On the uphill side there are clear views from the first floor windows of 10 Oxfield Close over the top of the existing hedge so that the new house would be highly visible. The combination of the difference in ground levels, the relatively low height of the proposed new dwelling and the wide separation distance means, however, that this revised proposal would not be overly dominant on views from that property.</p> <p>The most significant impact would be on the rear elevation and garden of No 65, which would look directly towards the new side wall. The lowered height and reasonably narrow width of this part of the structure, together with the separation distances between the wall and No 65's main accommodation would, however, be sufficient to limit any impact on that property's outlook to acceptable levels. The new wall would occupy only a minor section of the overall outlook from No 65 and would not be overly dominant on those views. As the impacts on other Kings Road houses would be less than that on No 65, those would also be acceptable.</p> <p>I conclude in respect of the main issue that the proposal would not unduly or unacceptably affect living conditions at neighbouring properties in terms of the impact on outlook.</p>			
No.	DBC Ref.	PINS Ref.	Address	Procedure
4	20/01754/MFA	W/21/3268082	Land off Tring Road,	Written



		Wilstone	Representations
	<b>Date of Decision:</b>	25/08/2021	
	<b>Link to full decision:</b>		
		<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3268082">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3268082</a>	
	<b>Inspector's Key conclusions:</b>		
	<p>The development plan therefore seeks to direct new residential developments to larger settlements, which would contain the full range of services and facilities that residents would require, such as education and healthcare. In consequence, the development would conflict with the Development Plan given that the residents would need to travel to other settlements in order to access the full range of services that they are likely to require.</p> <p>However, the harm arising from this is not of a large degree as whilst Wilstone is not a big settlement, it does benefit from some services and facilities that are in walking distance of the appeal site. In addition, whilst not extensive, Wilstone also benefits from a bus service. Therefore, residents would be able to use some services in the village and would also have an alternative to private cars for some potential journeys.</p> <p>The proposed development would be for 28 dwellings. The development is therefore of a relatively large size, although in the context of the scale of the existing settlement, the proposal would not represent a disproportionate extension to the settlement. In addition, the proposal would include areas of open space, which would reflect the site's more rural surroundings. These would assist in ensuring that the development would not appear significantly disproportionate.</p> <p>I therefore conclude that the proposed development would not be sited on the most suitable site for a residential development, albeit the level of harm would be limited. The development would therefore conflict with Policies CS1, CS2 and CS7 of the Core Strategy.</p> <p>The proposed development would result in an extension of the village. This would mean that the more open character of the appeal site would be eroded due to its change from a field to a more urban setting. In addition, the development would feature dwellings arranged in patterns that would contrast with the more common predominantly linear form of the settlement. In consequence, the development would conflict with the character and appearance of the surrounding area. This would amount to harm.</p> <p>Whilst the appeal site has previously been used for agriculture, the site's lack of prominence means that the loss of this activity would not have a significant effect of the area's character. These features, when combined, mean that the proposed development would not appear significantly divergent from the surrounding area.</p> <p>The erosion of the area's character would be relatively small. Although of a more modern design, the proposed dwellings would be viewed against a varied backdrop, which includes dwellings in Wilstone of differing ages,</p>		

styles and proportions. In result, the proposed development would not appear significantly discordant in this context.

Therefore, whilst the proposal would result in harm to the character and appearance of the vicinity, this harm would be of a moderate level due to the immediate context relating to the surroundings of the appeal site and the design and layout of the scheme before me. However, the development by reason of the presence of such harm would result in a breach of Policies CS1, CS10 and CS20 of the Core Strategy.

The proposed development includes a Sustainable Urban Drainage System. Therefore, the development is unlikely to have an adverse effect upon flood risk.

The evidence before me indicates that the Council cannot demonstrate a five-year housing land supply. In consequence, the provisions of Paragraph 11(d) of the Framework are invoked. This states that planning permission should be given for a development unless the benefits are significantly and demonstrably outweighed. This is referred to as the 'tilted balance'.

In this instance, the benefits of the development are 28 additional new dwellings. Of these dwellings, half could be secured for occupation on affordable tenures. In result, this would represent a reasonably sized contribution towards the provision of housing within the vicinity. I give this a significant amount of weight. In addition, the proposed development would generate some economic benefits arising from the construction process and support of local facilities, albeit these benefits would be of a limited amount.

However, I can only give the harm to the character and appearance of the surrounding area a moderate amount of weight due to the limited effects arising from the design and positioning of the development and a limited amount of weight to the harm arising from the location of the development. Therefore, having applied the 'tilted balance', I conclude that the harm arising from the development does not significantly and demonstrably outweigh the benefits.

I am conscious of the steps being taken by the Council to address the lack of a five-year housing land supply. However, at this juncture there is not one in place and therefore the appeal should be determined with reference to the 'tilted balance'. In result, the harm arising from the development is not significantly and demonstrably outweighed.

No.	DBC Ref.	PINS Ref.	Address	Procedure
5	<a href="#">20/03101/FHA</a>	W/20/3265856	13 Chambersbury Lane, Hemel Hempstead	Householder
	<b>Date of Decision:</b>		21/09/2021	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3265856">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3265856</a>			
	<b>Inspector's Key conclusions:</b>			

Notwithstanding that the patio as built is a more significant structure than approved, the depth of the new rear extension constructed under 4/01652/19/FHA means the patio is set back away from the neighbours' windows and this reduces the degree of overlooking. Further, the tops of the neighbours' ground floor windows roughly align with the tops of the fencing (1.8m above terrace level) that is part of the development and which provides privacy from those using the terrace. This is broadly the same as the conventional relationship between a neighbour's windows and the fencing along the shared boundary, and does not result in an unacceptable degree of overlooking onto the ground floor windows of properties either side of the appeal property or into their gardens. The officer's report says the patio facilitates views back towards neighbours' first floor windows. However, I note that the terrace is broadly in line with internal ground levels and there are commonly views when stepping out into any garden back towards elevated windows in neighbouring houses. In this case the depth of the second storey rear extension serving the appeal property increases the distance. Within this context, the degree of mutual overlooking is not unusual and is acceptable.

While the development is clearly visible when viewed from neighbouring properties, I have seen nothing to persuade me that there are any significant enclosing or other visually deleterious effects resulting from it. Despite the depth of the terrace, it remains modest in comparison with the lengths of the neighbouring plots.

Further, while the gardens slope down and away from the properties, I note that the fencing drops to a lower level beyond the end of the patio so as to acceptably reduce the visual dominance of the boundary treatment.

Accordingly, the development does not cause harm to the living conditions of neighbours at Nos 11 and 15 as regards overlooking and outlook.

## **6.4 PLANNING APPEALS WITHDRAWN**

Planning appeals withdrawn between 18 June 2021 and 03 October 2021.

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	20/03612/FUL	W/21/3276964	103 Bathurst Road, Hemel Hempstead	Written Representations
<b>Date of Decision:</b>			23/06/2021 (Invalid appeal)	

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
2	21/00090/RET	W/21/3275075	Gable End, 1	Written

			Threefields, Sheethanger Lane, Hemel Hempstead	Representations
	<b>Date of Decision:</b>		30/06/2021	

No.	DBC Ref.	PINS Ref.	Address	Procedure
3	<a href="#">21/00253/FHA</a>	D/21/3274448	8 Dammersey Close, Markyate	Householder
	<b>Date of Decision:</b>		30/06/2021 (Invalid appeal)	

No.	DBC Ref.	PINS Ref.	Address	Procedure
4	<a href="#">21/03074/TEL</a>	W/21/3281978	Land At Green End Road, Hemel Hempstead	Written Representations
	<b>Date of Decision:</b>		02/10/2021	

## **6.5 ENFORCEMENT NOTICE APPEALS LODGED**

Enforcement Notice appeals lodged between 18 June 2021 and 03 October 2021.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	<a href="#">E/19/00268</a>	C/21/3278485	Silver Birches, Nettleden Road North, Little Gaddesden	Written Representations
2	<a href="#">E/20/00388/CO NSRV</a>	C/21/3279423	28 George Street, Berkhamsted	Written Representations
3	<a href="#">E/21/00312/NPP</a>	C/21/3282334	Land At Church Road, Little Gaddesden	Written Representations
4	<a href="#">E/21/00312/NPP</a>	C/21/3283466	Land At Church Road, Little Gaddesden	Written Representations

## **6.6 ENFORCEMENT NOTICE APPEALS DISMISSED**

Enforcement Notice appeals dismissed between 18 June 2021 and 03 October 2021.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	<a href="#">E/20/00023/MU LTI</a>	C/20/3249358	Haresfoot Farm, Chesham Road, Berkhamsted	Hearing
	<b>Date of Decision:</b>		18/06/2021	
	<b>Link to full decision:</b>			

<https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3249358>

**Inspector's Key conclusions:**

I saw at the site visit that the location of building 6 is in the heart of the former farmyard, where it is largely enclosed from the surrounding agricultural land by other built development, which prevents it from having any undue impact. Even if buildings 3 and 4 had not been developed further, this part of the yard would have been shielded from open views by the original buildings. Although building 6 appears to be higher than the buildings it replaced, views of it are very limited and I consider that it is causing no appreciable harm to the openness of the Green Belt.

Building 6 is therefore also limited infilling on previously developed land and as it too does not have a greater impact on the openness of the Green Belt than existing development it can consequently be considered as 'not inappropriate' in Green Belt terms, with reference to paragraph 145(g) of the Framework. I therefore conclude that buildings 3, 4 and 6 are not inappropriate development.

The Framework encourages the growth and expansion of businesses in rural areas. The appellants have explained how their business is well positioned not only to make good use of this former farmyard, which has already largely diversified away from agriculture, but also to support a number of film production studios sited in the local area. I therefore consider that, subject to conditions, planning permission should be granted for buildings 3, 4 and 6.

Building 5 amounts to a significant area of new built footprint. However, Buildings 3, 4, and 6 stand as a group which is largely contained within the established farmyard and building 5 is visually well related to this development.

I have already concluded that buildings 3, 4 and 6 can remain and consider that, although building 5 occupies a significant volume, it has, along with the others, the appearance of a typical agricultural building and does not, in my opinion, detract from the character of the wider area.

I do, however, take a different view in respect of the metal storage containers and the area on which they are located and the more open land to the south of building 6 and to the north of buildings 7 and 8. These areas spread beyond

buildings 4, 5 and 6 into previously open land and, as with the storage racks, bring an industrial character into the agricultural fields around the former farm

yard and would consolidate development between buildings 6 and 8.

The use of this land for non-agricultural storage would again be inappropriate development and its use for anything other than access to the buildings would,

I consider, be harmful to the openness of the Green Belt and the character of the surrounding countryside.

The appellants have agreed to remove building 1 and this requirement will

	<p>therefore be retained in the notice.</p> <p>I consider that this prominent area [Area B] of external storage, which extends into the open land to the north east and is highly visible from the public footpath, is harming both the character of the countryside and the openness of the Green Belt.</p> <p>I consider that although [Building 8] has had its original cladding removed, the frame is original; and, on its own, does not constitute a new building. The appeal on ground (d) in respect of it consequently succeeds and the requirement to demolish this section of it will be removed from the notice. It should however be noted that, should it be considered expedient, that Council might nevertheless be able to take enforcement action against the addition of the external cladding.</p> <p>Although not yet complete, building 7 covers a sizeable footprint of land that was previously undeveloped. It is agreed that it represents inappropriate development in the Green Belt. I consider that the possible needs of the business for this building do not been demonstrated to amount to the very special circumstances needed to outweigh the harm caused by this building and planning permission will not be granted for it.</p> <p>No particular lesser steps have been suggested and the appeal on ground (f) fails.</p> <p>The time for the reinstatement of the land would be likely to run into the winter months and, to allow sufficient time for any replanting, a further 4 months would be reasonable. The appeal on ground (g) succeeds to this extent and I will vary the notice accordingly.</p> <p><b>Note:</b> The above appeal was ‘Part Allowed and Part Dismissed’.</p>
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## **6.7 ENFORCEMENT NOTICE APPEALS ALLOWED**

Enforcement Notice appeals allowed between 18 June 2021 and 03 October 2021.

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	E/20/00421/COL	C/20/3264483	Bovingdon Airfield, Chesham Road, Bovingdon	Written Representations
	<b>Date of Decision:</b>		16/07/2021	
	<b>Link to full decision:</b>		<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3254243">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3254243</a>	
	<b>Inspector’s Key conclusions:</b>			
	This constitutes an appeal against an enforcement notice issued by the Council directed at the use of a field adjoining the runway, the so-called			

'radar field', for use as overspill car parking for the adjacent market. The lawful use of the Radar Field is for agriculture, and the notice alleges an unauthorised material change of use of the land from that use to use as a car park associated with the adjacent market site, together with the associated laying of hard core. The appellants contend that the site reverts to its lawful agricultural use between its car parking uses, but do not contend that the matters alleged in the notice have not occurred.

The Council's photographs show some laying of hard core at the entrance and exit to the site, and rutting of the land by vehicle tyres, but not of such a significant scale as to preclude the resumption of the lawful agricultural use of the land between the Saturday car parking uses. Thus I do not consider that the change of use was a permanent one at the time of issuing the notice, but that the change took place temporarily on each occasion that the site was used for car parking.

The Council do not allege that the site is in itself used for the purposes of the holding of a market (whether by the setting up of market stalls on it or by ancillary activities such as car parking). This being the case, I do not find that the use alleged in the notice is precluded from taking place for more than 14 days a year by the terms of Class B, which states that the permission conferred is for 'the use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the purposes of the holding of a market'.

As it is not said by the Council to have exceeded 28 days, I find that the temporary uses of the appeal site for the purpose of car parking have occurred with the benefit of the permission conferred by the Order, and thus no breach of planning control had occurred at the time the notice was issued.

Therefore the appeal on ground (c) succeeds in relation to both aspect of the allegation, and consequently the notice will be quashed.

No.	DBC Ref.	PINS Ref.	Address	Procedure
2	<a href="#">E/19/00398</a>	C/20/3257704	Land Off Upper Bourne End Lane Adj. Wayside, Hemel Hempstead	Written Representations
	<b>Date of Decision:</b>		16/09/2021	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3257704">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3257704</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>The enforcement notice is clearly directed at a material change of use of the site.</p> <p>Even though the use specified within the description of the alleged breach is <i>'pig breeding enterprise'</i> the Council have stated that the pigs are bred and kept as pets or to show rather than for the production of food and that therefore the use is not agricultural.</p>			

There is no dispute that pigs are kept and grazed on the land. The appellant has confirmed that some pigs are kept as pets and some have been sold for meat production. In my experience you're considered to be a pig keeper even if you keep a pig as a pet and all pig keepers have to follow the same regulations with regards to registering them with the Animal and Plant Health Agency (APHA). Moreover, I have no doubt that even pigs kept as pets or used for breeding purposes, to produce pigs to be sold as pets, would eventually be sold for food production. In addition, in my experience farmers enter some of their livestock in 'shows' as well as the animals being used for food production and breeding.

In any case, even if the pig breeding enterprise does not fall within the definition of agriculture it does not mean that there has been a material change of use. Whether a business or activity amounts to a material change of use is a matter of fact and degree, amongst the considerations being whether there is a change in the character of the use of the land.

The number of pigs kept on the land is small and the appeal site is relatively restricted in size. Nevertheless, some smallholdings that are treated as an agricultural use can also be small in size and undertaken as a hobby. The visual impact of the use is similar to that of an agricultural smallholding. There is little evidence before me to indicate that the activities, comings and goings associated with this pig breeding enterprise have materially different characteristics and impacts compared to an agricultural use.

Based on my observations and the evidence before me, in my judgement, the use of the appeal site as a pig breeding enterprise has not, on the balance of probability, resulted in a material change of use of the land.

It is open to the Council to issue a fresh enforcement notice, if they consider that the site is in use for purposes other than as a pig breeding enterprise and/or attacking the operational development, should they consider it expedient to do so.

No.	DBC Ref.	PINS Ref.	Address	Procedure
3	<a href="#">E/20/00311/NAP</a>	C/20/3265857	13 Chambersbury Lane, Hemel Hempstead	Written Representations
	<b>Date of Decision:</b>		21/09/2021	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3265857">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3265857</a>			
	<b>Inspector's Key conclusions:</b>			
	Notwithstanding that the patio as built is a more significant structure than approved, the depth of the new rear extension constructed under 4/01652/19/FHA means the patio is set back away from the neighbours' windows and this reduces the degree of overlooking. Further, the tops of the neighbours' ground floor windows roughly align with the tops of the fencing (1.8m above terrace level) that is part of the development and which provides privacy from those using the terrace. This is broadly the same as the conventional relationship between a neighbour's windows and the			



	<p>fencing along the shared boundary, and does not result in an unacceptable degree of overlooking onto the ground floor windows of properties either side of the appeal property or into their gardens. The officer's report says the patio facilitates views back towards neighbours' first floor windows. However, I note that the terrace is broadly in line with internal ground levels and there are commonly views when stepping out into any garden back towards elevated windows in neighbouring houses. In this case the depth of the second storey rear extension serving the appeal property increases the distance. Within this context, the degree of mutual overlooking is not unusual and is acceptable.</p> <p>While the development is clearly visible when viewed from neighbouring properties, I have seen nothing to persuade me that there are any significant enclosing or other visually deleterious effects resulting from it.</p> <p>Despite the depth of the terrace, it remains modest in comparison with the lengths of the neighbouring plots.</p> <p>Further, while the gardens slope down and away from the properties, I note that the fencing drops to a lower level beyond the end of the patio so as to acceptably reduce the visual dominance of the boundary treatment.</p> <p>Accordingly, the development does not cause harm to the living conditions of neighbours at Nos 11 and 15 as regards overlooking and outlook.</p>
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## **6.8 ENFORCEMENT NOTICE APPEALS WITHDRAWN**

Enforcement Notice appeals withdrawn between 18 June 2021 and 03 October 2021.

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	<a href="#">E/19/00444/NAP</a>	C/21/3274933	Plot 1, Cupid Green Lane, Hemel Hempstead	Written Representations
<b>Date of Decision:</b>			20/07/2021	

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
2	<a href="#">E/20/00388/CO NSRV</a>	C/21/3279423	28 George Street, Berkhamsted	Written Representations
<b>Date of Decision:</b>			21/07/2021 (invalid appeal)	

## **6.9 SUMMARY OF TOTAL APPEAL DECISIONS IN 2021 (up to 03 October 2021)**

<b>APPEALS LODGED IN 2021</b>	
PLANNING APPEALS LODGED	51
ENFORCEMENT APPEALS LODGED	5
TOTAL APPEALS LODGED	56

<b>APPEALS DECIDED IN 2021</b> (excl. invalid appeals)	<b>TOTAL</b>	<b>%</b>
TOTAL	49	100
APPEALS DISMISSED	25	51.02
APPEALS ALLOWED	14	28.57
APPEALS PART ALLOWED / PART DISMISSED	2	4.08
APPEALS WITHDRAWN	8	16.33

<b>APPEALS DISMISSED IN 2021</b>	<b>TOTAL</b>	<b>%</b>
Total	25	100
Non-determination	1	4
Delegated	21	84
DMC decision with Officer recommendation	0	0
DMC decision contrary to Officer recommendation	3	12

<b>APPEALS ALLOWED IN 2021</b>	<b>TOTAL</b>	<b>%</b>
Total	14	100
Non-determination	0	0
Delegated	10	71.43
DMC decision with Officer recommendation	1	7.14
DMC decision contrary to Officer recommendation	3	21.43

## 6.10 UPCOMING HEARINGS

None.

## 6.11 UPCOMING INQUIRIES

No.	DBC Ref.	PINS Ref.	Address	Date
1	19/02588/MFA	W/21/3275429	Lilas Wood Wick Road Wigginton	tbc

## 6.12 COSTS APPLICATIONS GRANTED

Applications for Costs granted between 18 June 2021 and 03 October 2021.

None.

## 6.13 COSTS APPLICATIONS REFUSED

Applications for Costs refused between 18 June 2021 and 03 October 2021.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	E/20/00421/COL	C/20/3264483	Bovingdon Airfield, Chesham Road, Bovingdon	Written Representations
	<b>Date of Decision:</b>		16/07/2021	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3254243">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3254243</a>			
	<b>Inspector's Key conclusions:</b>			
	The question of reasonableness is concerned with whether it reasonably appeared to the Council that a breach of planning control had arisen at all. This does not require a high degree of certainty on the part of the Council,			

<p>but a breach must be at least reasonably apparent.</p> <p>It may sometimes be the case that, as appeared here to the Council, hardstanding is laid in order to facilitate a permanent change of use and not, as I have found here, primarily in order to safeguard the underlying residual use of the land. The facts of the case here appear to give reasonable scope for different views about that. Similarly on the '14 day rule' point. The Council have not actually alleged that the land is used for the purposes of holding a market, but their allegation raises an association with the market use. To suggest that the 'associated' car parking use falls within the 14 day restriction of the Order is in my view, as I have explained, erroneous, but I would not go so far as to say that it is an unreasonable position to take given the obvious functional connexion that here exists.</p> <p>Therefore I do not consider that the Council have behaved unreasonably resulting in unnecessary expense that would warrant a costs award in this case.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
2	<a href="#">20/02060/LDP</a>	X/20/3261710	Parker House, Maylands Avenue, Hemel Hempstead	Public Inquiry
<b>Date of Decision:</b>			05/08/2021	
<b>Link to full decision:</b>				
<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3261710">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3261710</a>				
<b>Inspector's Key conclusions:</b>				
<p>Much of the applicant's costs submissions, and appeal submissions, are concerned with disputing the Council's interpretation of a planning permission which had led it by notice dated 23 August 2019 to refuse a prior approval application. The applicant also disputes that such a refusal was made in law, but I have found in my decision on the appeal that the above notice did indeed refuse prior approval.</p> <p>Even were the applicant correct that the Council had behaved unreasonably in the way it came to its decision on the prior approval application, including as to when and how it applied for legal advice, the remit of the costs application before me is confined to the appeal against failure to determine the LDC application.</p> <p>I do not accept that the Council failed to communicate sufficiently.</p> <p>The applicant says that the Council also acted unreasonably during the appeal as it hadn't sufficiently dealt with the issue of whether its 23 August 2019 notice was materially similar to the 'purported refusal' letter in the <i>Dunnett</i> case<sup>1</sup>. However, the Council dealt comprehensively with that issue in written submissions and orally at the inquiry.</p> <p>I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.</p>				

