

6. APPEALS UPDATE

6.1 APPEALS LODGED

Appeals received by Dacorum Borough Council between 02 July 2022 and 21 August 2022.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	22/01323/FHA	D/22/3303397	118 Hempstead Road, Kings Langley	Householder
2	22/00596/FHA	D/22/3303596	20 Hempstead Lane, Potten End	Householder
3	21/04607/PIP	W/22/3303737	Land Adj Honeysuckle Barn, Birch Lane, Flaunden	Written Representations
4	21/04768/FUL	W/22/3304045	October Cottage, Barnes Lane, Kings Langley	Written Representations
5	21/02155/FUL	W/22/3304081	Land Adj. 8 Haywood Drive, Hemel Hempstead	Written Representations
6	22/00486/RET	W/22/3304627	Wood End Farm, Wood End Lane, Markyate	Written Representations

6.2 PLANNING APPEALS DISMISSED

Planning appeals dismissed between 02 July 2022 and 21 August 2022.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	21/04085/FHA	D/22/3292754	62 Scatterdells Lane, Chipperfield	Householder
	Date of Decision:		05/07/2022	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3292754			
	Inspector's Key conclusions:			
	<p>I would agree that the effect of the proposed development on the Green Belt's visual openness would be limited, given its location to the rear of the existing building. There would, however, be an unavoidable reduction in the spatial openness of the Green Belt, by virtue of the not insignificant land take of the proposed development. This would cause further harm to the Green Belt, in addition to that caused by the inappropriateness of the proposed development.</p> <p>The extension would be well screened and discreetly located to the rear where</p>			

	<p>it would have a small overall visual impact. However, the extension itself would be inappropriate development and the Framework does not test this against public views. I therefore ascribe this limited weight.</p> <p>I am required to give substantial weight to any harm to the Green Belt. In this case such would occur due to the proposed development's inappropriateness.</p> <p>The weight I would accord to the other considerations raised, in isolation and all together, would not be sufficient to clearly outweigh this harm for the reasons I have given. Therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated. Consequently, the appeal should be dismissed.</p>			
No.	DBC Ref.	PINS Ref.	Address	Procedure
2	21/02382/FUL	W/21/3287701	16 St Anthony's Avenue, Hemel Hempstead	Written Representations
	Date of Decision:		07/07/2022	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3287701			
	Inspector's Key conclusions:			
	<p>While dwellings on Crofts Path are for the most part of similar designs and overall appearance, those on St Anthony's Avenue are of more varied form, scale and appearance, and include a mix of bungalows, some with accommodation at roof level served by dormers, and two-storey dwellings. However, both streets are characterised by detached dwellings that typically sit on fairly wide plots with generous spacing between buildings at first-floor level and above, and reasonably deep frontages that accommodate areas of parking and soft landscaping. As a result, there is an attractive spacious character to the area.</p> <p>I do not find that the proximity of the development to Crofts Path would in itself be discordant or unduly prominent in the street scene.</p> <p>While the gaps between buildings near to the site may not be uniform in width, I have not been directed to any examples of dwellings in similarly close proximity at first-floor level as would occur in the development before me, and the unusually close relationship of the dwelling to the side of No 16 would in my judgement stand out incongruously. I find that this relationship together with the very modest spacing that would be afforded between the development and the boundaries to both of its sides would cause the dwelling to appear cramped and awkward on the site.</p> <p>Against the modest width of the building, I find that the height and steep pitch of the roof would give significant vertical emphasis to the dwelling, and in my judgement would exacerbate the impression of it being squeezed onto the site.</p> <p>In the absence of appropriate mitigation for recreation impacts arising from the development, I can only conclude that the proposal alone or in combination with other plans and projects would result in likely significant</p>			

effects to the Chilterns Beechwoods SAC that would adversely affect its integrity. Accordingly, the proposal would conflict with the requirements of the Regulations, and it would be contrary to the objectives of the National Planning Policy Framework ('the Framework') for the protection of biodiversity and the conservation of the natural environment.

There would be no off-street parking to serve the proposed dwelling, and I acknowledge advice within the SPD that the starting principle is that all parking demand for residential development should be accommodated on site, and that car-free residential development will not normally be acceptable outside Accessibility Zone 1. However, the guidance within the SPD is just that, and while it may provide an indication of harm, this is not an inevitable conclusion should a proposal not accord with its provisions.

At my visit I saw very limited parking taking place on streets surrounding the appeal site...the appellant's evidence includes a Parking Stress Survey which also indicates a very low level of on-street parking overnight...there is no substantive evidence before me to indicate a high level of parking stress locally that would be harmfully exacerbated by the proposal to a level that would cause congestion, detriment to highway safety or other harm...the site is within reasonable walking distance of local shops and services at Leverstock Green and Bennetts End, and Hobbs Hill Wood and Saint Albert the Great Catholic Primary Schools. The site is also within walking distance of a number of bus stops offering connections to larger towns...the appeal site is not within a controlled parking zone. In this context, I am satisfied that flexible application of the standards within the Parking SPD would in this particular case be justified, and I conclude having regard to the accessibility of the site that the proposed parking arrangements would be acceptable.

No.	DBC Ref.	PINS Ref.	Address	Procedure
3	19/02588/MFA	W/21/3275429	Lilas Wood, Wick road, Wigginton	Hearing
Date of Decision:			13/07/2022	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3275429				
Inspector's Key conclusions:				
<p>Whilst elements of weddings could be described as recreational such as communal feasting and enjoyment of entertainment, these are the associated celebrations to the ceremonial act which is the primary function of a wedding. I therefore do not consider that the proposed use can be classified as outdoor recreation for the purposes of national Green Belt policy. I therefore find that the proposal does not fall under the exception under paragraph 149b) of the Framework. For this reason, it would constitute inappropriate development in the Green Belt.</p>				
<p>The proposal would include the permanent siting of a 20ft container within the woodland, the temporary siting each year between May and September of various other structures, and car parking and camping on an adjacent field. The container and structures would be largely contained within the woodland therefore visually they would have a limited impact on openness. In spatial terms, however, these structures would have a volume, and</p>				

particularly in the case of the container, a not insubstantial volume. They would, therefore, not preserve openness in this respect.

I consider there is a clear distinction between vegetation, which is not subject to planning law, and manmade structures, which are, when considering impact on openness for Green Belt purposes. Also, the fundamental aims of Green Belt Policy include safeguarding the countryside from encroachment. That is not encroachment from vegetation but manmade structures. Notwithstanding the findings of the previous Inspector, I therefore find that the proposed container and structures would not preserve openness in the Green Belt and would conflict with the purposes of including land within it.

On the evidence before me, therefore, the potential use of the field for arable crops or livestock would not impact on openness to the level anticipated by the previous Inspector. Consequently, I find that camping and parking of vehicles on the field would not preserve openness.

I therefore find that the proposal also constitutes inappropriate development under para 150e) of the Framework as it would not preserve openness and would conflict with the purposes of including land within the Green Belt insofar as it would not safeguard the countryside from encroachment. Even if the container were to be in-situ only between May-September each year my findings would be the same.

Having regard to all material considerations I find that the proposal would result in further deterioration of the ancient woodland contrary to the Framework and policy CS26 of the CS which requires designated sites to be protected.

As I have identified harm to the ancient woodland it must therefore logically follow that the proposal would also be harmful to the Chilterns AONB. This is the case even if the land in question is private land and not visible from public view. I therefore find conflict with Policy CS24 of the CS which requires the special qualities of the Chilterns Area of Outstanding Natural Beauty (AONB) to be conserved.

I have considered the fallback position throughout this case, which is that wedding events will continue at the appeal site under Permitted Development rights regardless of the outcome of this appeal. I have noted the appellant's submissions regarding the more intense periods of setting up and de-rigging of structures for each event required under permitted development rights and the noise, disturbance and lighting implications of this at unsociable hours. However, I find this to be less harmful than the siting of the various structures between May-September each year and an increase in overall number of events proposed. The fallback position therefore carries only moderate weight.

The additional woodland planting proposed would be a modest benefit along with any biodiversity net gain. I accept that holding weddings at the appeal site makes a contribution to the local economy both directly and indirectly

	<p>and that this is particularly important given the effects of Covid 19 on the service industry. This therefore carries significant weight. Bird and bat boxes could be conditioned to be erected which would be of modest benefit.</p> <p>These harms [inappropriate development in the Green Belt, ancient woodland, AONB] are clearly not outweighed by the other considerations put forward by the appellant. Very special circumstances have not, therefore, been demonstrated.</p>			
No.	DBC Ref.	PINS Ref.	Address	Procedure
4	22/00635/FHA	D/22/3300793	Ravels, Shootersway Lane, Berkhamsted	Householder
	Date of Decision:		05/08/2022	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3300793			
	Inspector's Key conclusions:			
	<p>The surrounding area mainly comprises of large dwellings set within generous, landscaped plots. There are examples of garages to the front of the dwellings although from what I could see at my site visit, most of these are single storey or have a limited first floor set within the roof space.</p> <p>The appeal proposal would result in a full two storey structure to the front of the host dwelling. The height of the resultant building would be about the same as the eaves height of the existing dwelling. The dominance of the building would be emphasised by the irregular shaped overhanging first floor addition which in my view, would result in an overtly 'top heavy' appearance. The building would not appear sufficiently subordinate to the existing dwelling and would fail to harmonise with it. Consequently, I find that the proposed building would dominate the frontage of the site to an unacceptable extent and would visually compete with the host dwelling due to its overall size, scale, height and design.</p> <p>In my view, the proposed two storey, flat roof building to the front of the host dwelling would stand out as an uncharacteristic form of development, and due to its prominent siting and its overall size, scale, height, design and materials, would be incongruous and harmful to local character.</p>			
No.	DBC Ref.	PINS Ref.	Address	Procedure
5	21/00441/OUT	W/21/3278280	Land SW of Frindles, Cheverells Green, Markyate	Written Representations
	Date of Decision:		08/08/2022	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3278280			
	Inspector's Key conclusions:			
	I found the immediate environs of the appeal site to have a clear rural			

character, being on the edge of the settlement where the prevailing built form thins out with large properties set on spacious and substantial plots, and where attractive common land and open countryside dominates. This contrasts with the more built-up part of Pickford Road extending further into the village which has a more suburban character.

I agree with the appellant's LVIA that the development would be well-contained, and where any glimpsed views were possible through existing vegetation, that any housing would be seen in the context of the adjacent built form and settlement edge. As a consequence, I agree with the LVIA's findings that the site has a low/medium susceptibility to change, a medium landscape value and a medium landscape sensitivity.

At a localised level, the resultant narrower plot rhythm and smaller open gaps between buildings in the appeal scheme would contrast with its immediate context, as would the use of a shared driveway to access each of the dwellings. As a consequence, the scheme's higher density would be out of keeping with the immediate local context of large dwellings set on substantial plots. When taken cumulatively with the use of a shared access drive, this higher density would give it a suburban estate-like character that would cause significant harm to the character and appearance of the area.

Although the proposed vehicular access has been positioned in the least harmful location from a point of view of protecting the common land and existing hedgerow, it would nonetheless introduce a highly engineered addition to this sensitive location, which would be harmful to its natural rural character.

The appellant states that the development would not be easily seen from the public highway because of existing landscaping and its setback. However, it would nonetheless be visible from directly outside the site entrance and from the adjacent right of way, which would intensify the harmful impact described above. However, even if it was not visible, I cannot be certain that the existing landscaping which screens the site would be retained in perpetuity, which would further expose the scheme. In any event, I do not consider the screening of a development by landscaping to be a sound basis upon which to justify an otherwise harmful scheme as this could be repeated too easily and often for all forms of poor quality development.

I conclude that the scheme would be harmful to the character and appearance of the area. The proposal would therefore conflict with Policies CS11 and CS12 of the Core Strategy.

The Council and appellant both agree that there is a shortfall in the District's 5-year housing land supply. I have also noted that the delivery of housing was below the housing requirement over the previous three years. The shortfall in supply means that the Framework's presumption in favour of sustainable development applies. My attention has been drawn to another planning appeal decision by the appellant in which the Inspector concluded that the delivery of two new houses would support the Government's

<p>objective of significantly boosting the supply of homes and that this constituted a public benefit attracting additional weight given a shortfall in the Council's supply of housing land⁴. I agree with this conclusion and recognise that there is a significant shortfall in the Council's 5-year housing land supply in this case and that the scheme would make a small, but meaningful contribution to this. I also agree with the appellant that small sites have an important role to play in housing delivery. As a consequence, I have given this benefit additional weight in my planning balance assessment.</p> <p>The scheme would result in economic and social benefits from; - (a) a quickly-deliverable contribution towards the Council's 5-year housing land supply; (b) a contribution towards the supply of new 3 and 4 bedroom homes which are noted as being in high demand; (c) the use of a small site for housing in short supply for SME builders; (d) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in the surrounding area; (e) a net gain in biodiversity; (f) enhanced surfacing to part of the adjacent right of way; and (g) local employment during construction. However, given the small size of the development in terms of housing units, I consider these benefits to be of limited value and that the adverse impacts of the scheme would significantly and demonstrably outweigh these, when assessed against the policies in the Framework when taken as a whole.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
6	22/00039/FHA	D/22/3300491	84 Seaton Road, Hemel Hempstead	Householder
Date of Decision:			11/08/2022	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3300491				
Inspector's Key conclusions:				
<p>I observed on my site visit that several of the dwellings that back onto Johnson Court have outbuildings within their rear gardens. However, the appeal proposal is far more prominent in the street scene than the other rear garden structures which are visible from Johnson Court. The metal shed towers above the rear garden fence and is at odds with the more domestic scale and appearance of the other structures which are visible from Johnson Court. Its overall size, combined with its height and metal construction results it having a rather industrial appearance, which is incompatible with the residential character and appearance of the host dwelling. Moreover, the shed is sited on rising land and is seen in the same context as the semi-detached houses that are accessed from Johnson Court. In my view, due to its size and incongruous appearance, it significantly detracts from the prevailing residential character and appearance of the area.</p> <p>Thus, I conclude that the proposal has a harmful effect on the character and appearance of the host property and the surrounding area.</p> <p>In my opinion the shed is visually intrusive and overbearing on the rear garden of No 84, due to the combination of its depth directly along the boundary, and its overall height and inappropriate materials used. As such it</p>				

	<p>would be likely to significantly detract from the occupier's enjoyment of the rear garden. The proposal would therefore have a harmful effect on the living conditions of the occupiers of 84 Seaton Road, with particular reference to outlook from the rear garden.</p> <p>I appreciate that the appellant confirms that the shed would be for purposes ancillary and incidental to the enjoyment of the appeal property and improves the quality of accommodation for him and his family. I also acknowledge that the appeal property would retain a reasonable amount of external garden space. However, these matters, whilst noted, are not sufficient to outweigh the harm I have identified above.</p>			
No.	DBC Ref.	PINS Ref.	Address	Procedure
7	21/02424/FHA	D/21/3288255	Four Trees, River Hill, Flamstead	Householder
	Date of Decision:		11/08/2022	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3288255			
	Inspector's Key conclusions:			
	<p>The proposal seeks to remove the existing detached garage and replace it with a larger detached garage in a position closer to the front of the site. The replacement garage would be materially larger than the existing garage, and the appellant agrees with this in their grounds of appeal. It would have a footprint approximately 50% greater and additional usable space in the roof. Accordingly, the development would be inappropriate development and result in harm to the Green Belt.</p> <p>The site is located towards the edge of Flamstead. Immediately to the rear are open fields that spread further north. Whilst the proposal would be materially larger than the existing garage, due to the overall extent of the development, the effect upon the openness of the Green Belt would be limited. Although the harm would be limited, the proposal would nevertheless be detrimental to the openness of the Green Belt.</p> <p>The proposed garage would be much wider than the existing garage and be positioned further forward, such that it would be closer to the road than the main dwelling. It is noted that the garage at Wilton Cottage is in line with Wilton Cottage itself. The proposed garage would also be considerably wider than the garage at Wilton Cottage which it would adjoin. It would create a row of closely positioned buildings, and remove the existing open space. It would therefore, due to its size and position, cause harm to the character and appearance of the area. The proposal would be setback from the road and there is vegetation along the front boundary of the site. However, the setback would not be sufficient to mitigate the harm, and the garage would be sited in line with the open driveway where it would be largely visible from the road. Accordingly, the proposal would harm the character and appearance of the area.</p>			

6.3 PLANNING APPEALS ALLOWED

Planning appeals allowed between 02 July 2022 and 21 August 2022.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	21/04646/RET	D/22/3300471	136 Beechfield Road, Hemel Hempstead	Householder
	Date of Decision:		05/08/2022	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3300471			
	Inspector's Key conclusions:			
	<p>There is a small, level patio immediately to the rear of the host dwelling which is at about the same level as the patio to the rear of the neighbouring dwelling. The remainder of the garden has been levelled to form three distinct terraces.</p> <p>The first terrace level is retained by a wall of about 2.13m in height. However, the neighbouring garden similarly rises such that much of the retaining wall is obscured by the sloping embankment. This shallow patio is enclosed by railings and a fence along the boundary with No 134. Given that the neighbouring garden is also sloping steeply, I conclude that neither the terrace nor the retaining wall is particularly overbearing on the garden of No 134.</p> <p>The second raised terrace is a larger levelled area which has been surfaced with artificial grass. Again, the retaining walls, whilst fairly high, do not tower above the adjacent garden to an unreasonable extent. The third terrace is retained by a lower wall of about 1 metre in height and in my view is not overbearing on the garden of No 134.</p> <p>The proposed works which have taken place do not significant raise levels within the garden but create more usable, levelled areas. In terms of overlooking, views are obtainable into the rear windows and rear garden of No 134, particularly from the closest terrace. However, similar views would have been obtainable prior to the landscaping works taking place. Indeed, the photograph provided in the appellant's statement shows the raised, sloping terraces that previously existed, which would have offered similar views at close proximity.</p> <p>The retaining walls and steps involved in the landscaping of the garden have inevitably introduced hard landscaping features. However, in my view the</p>			

	<p>works appear to have been well executed, with white painted walls, black railings and Indian sandstone patios closest to the house. The middle terrace has an artificial grass finish which softens the overall appearance of the garden. I therefore find that the landscaping that has taken place does not have a significantly harmful effect on the character and appearance of the host dwelling.</p> <p>I am of the view that the landscaping works have not had a detrimental effect on the character and appearance of the host dwelling or the surrounding area.</p>
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6.4 PLANNING APPEALS WITHDRAWN

Planning appeals withdrawn between 02 July 2022 and 21 August 2022.

None.

6.5 ENFORCEMENT NOTICE APPEALS LODGED

Enforcement Notice appeals lodged between 02 July 2022 and 21 August 2022.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	E/21/00430/NPP	C/22/3302653	1 The Orchard, Kings Langley	Written Representations

6.6 ENFORCEMENT NOTICE APPEALS DISMISSED

Enforcement Notice appeals dismissed between 02 July 2022 and 21 August 2022.

None.

6.7 ENFORCEMENT NOTICE APPEALS ALLOWED

Enforcement Notice appeals allowed between 02 July 2022 and 21 August 2022.

None.

6.8 ENFORCEMENT NOTICE APPEALS WITHDRAWN

Enforcement Notice appeals withdrawn between 02 July 2022 and 21 August 2022.

None.

6.9 SUMMARY OF TOTAL APPEAL DECISIONS IN 2022 (up to 21 August 2022).

APPEALS LODGED IN 2022	
PLANNING APPEALS LODGED	46
ENFORCEMENT APPEALS LODGED	2
TOTAL APPEALS LODGED	48

APPEALS DECIDED IN 2022 (excl. invalid appeals)	TOTAL	%
TOTAL	53	100
APPEALS DISMISSED	38	71.7
APPEALS ALLOWED	13	24.5
APPEALS PART ALLOWED / PART DISMISSED	2	3.8
APPEALS WITHDRAWN	0	0

	TOTAL	%
APPEALS DISMISSED IN 2022		
Total	38	100
Non-determination	1	2.6
Delegated	32	84.2
DMC decision with Officer recommendation	0	0
DMC decision contrary to Officer recommendation	5	13.2

APPEALS ALLOWED IN 2022	TOTAL	%
Total	13	100
Non-determination	0	0
Delegated	12	92.3
DMC decision with Officer recommendation	0	0
DMC decision contrary to Officer recommendation	1	7.7

6.10 UPCOMING HEARINGS

No.	DBC Ref.	PINS Ref.	Address	Date
1	E/21/00041/NPP	C/22/3290614	The Old Oak, Hogpits Bottom, Flaunden	tbc
2	21/04756/FUL	W/22/3300850	1 Dale End, Box Lane, Hemel Hempstead	tbc

6.11 UPCOMING INQUIRIES

None.

6.12 COSTS APPLICATIONS GRANTED

Applications for Costs granted between 02 July 2022 and 21 August 2022.

None.

6.13 COSTS APPLICATIONS REFUSED

Applications for Costs refused between 02 July 2022 and 21 August 2022.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	19/02588/MFA	W/21/3275429	Lilas Wood, Wick road, Wigginton	Hearing
	Date of Decision:		13/07/2022	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3275429			
	Inspector's Key conclusions:			
	The appellant contends that the Council did not take account of the fallback position when considering ecology matters i.e. the use of the site as a wedding venue under permitted development rights which would continue regardless of the outcome of the appeal. However, it is clearly referred to in the Council's officer report and they were aware of the position. Not agreeing with the appellant's ecologist and following their own specialist advice does not constitute a failing on the part of the Council to take the appellant's			

evidence into account.

Mr Hicks [HCC Ecologist] was clear in his evidence in respect of this harm. That this harm has not been adequately addressed and resolved in this application does not constitute unreasonable behaviour on the part of the Council. It is also reasonable for the Council to not apply planning conditions to unresolved matters such as these.

the appeal process should not be used to evolve a scheme and the Council followed their procedural duty in terms of providing all necessary evidence and documentation. Beyond this, it was not unreasonable on the part of the Council to cease discourse with the appellant in the run up to the appeal.

For these reasons I do not consider that the Council behaved unreasonably resulting in unnecessary or wasted expense, as described in the PPG.