

6. APPEALS

A. LODGED

4/00268/16/ENA

MR N MARTIN
APPEAL AGAINST INFORCEMENT NOTICE - OUTBUILDINGS
WOODLANDS, NOAKE MILL LANE, WATER END, HEMEL
HEMPSTEAD, HP1 3BB
[View online application](#)

4/00269/16/ENA

MR N MARTIN
APPEAL AGAINST ENFORCEMENT NOTICE - SCAFFOLDING USE
WOODLANDS, NOAKE MILL LANE, WATER END, HEMEL
HEMPSTEAD, HP1 3BB
[View online application](#)

B. WITHDRAWN

None

C. FORTHCOMING INQUIRIES

None

D. FORTHCOMING HEARINGS

None

E. DISMISSED

4/01000/15/FUL

Miss J & Miss S Seager
CONSTRUCTION OF TWO SELF BUILD HOUSES
49 & 51 SCATTERDELLS LANE, CHIPPERFIELD, KINGS
LANGLEY, WD4 9EU
[View online application](#)

The main issues are (1) whether the proposal is inappropriate development within the Green Belt (GB) for the purposes of planning policy set out in the National Planning Policy Framework (the Framework) and the development plan; (2) whether the proposal would affect the openness of the GB; (3) the effect of the dwellings on the character and appearance of the countryside; and (4) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

At the heart of the Framework is a presumption in favour of sustainable development. Amongst its considerations for decision-making, the presumption includes approving proposals that accord with

the development plan without delay, and I find the scheme would not accord with that expectation having regard to the plan and to the Framework as a whole. Having balanced the various matters, other considerations do not clearly outweigh the harm to the GB by reason of inappropriateness, the additional harm to its openness, the harm to the character and appearance of the rural area, and the conflict with national and development plan policy. The very special circumstances necessary to justify the development do not exist, and for the reasons given above I conclude that the appeal should be dismissed.

F. ALLOWED

4/00310/15/OUT Grand Union Investments Ltd
DEMOLITION OF EXISTING BUILDINGS AND THE DEVELOPMENT OF THE
SITE TO PROVIDE 5 FAMILY HOUSES (USE CLASS C3) INCLUDING THE
RETENTION AND PART REBUILD OF THE EXISTING STABLE BLOCK.
DETAILS OF ACCESS WITH ALL OTHER MATTERS RESERVED.
ASHLYNS FARM, CHESHAM ROAD, BERKHAMSTED, HP4 2ST
[View online application](#)

The appeal was allowed and permission was granted. An award of costs against the Council was not awarded.

The Inspector considered that the main issues were whether the proposal was inappropriate development in the Green Belt and secondly, the effect to the proposal on affordable housing. Turning to the Green Belt, the Inspector considered that the site formed previously developed land and that the proposed dwellings would not result in a greater impact on the openness of the Green Belt having balanced the reduction in footprint. The Inspector went on to consider that whilst, the indicative scheme would result in a new building where there is currently none, the new development would be confined to the main body of the site. The boundary of the site is well defined, beyond which there is significant built development on three sides. Pushing built development slightly outwards on the site would not necessarily result in encroachment. In short, one group of buildings would be replaced by another so that having particular regard to its strategic role there would be no greater impact on this Green Belt purpose. In terms of affordable housing, the Inspectors requires a contribution towards affordable housing which is subject to an independent viability review.

In terms of costs, the Inspector dismissed the costs application against the Council, as he considered that while there was delays in the determination of the application, he appreciates that the Council proposed a robust and evidenced case to support the reason for refusal. The Inspectors comments that he came to a different conclusion, and supported the appellant's case, does not mean that the Council failed to show clearly why in its view the development should not be permitted or that it failed to substantiate its case.

4/01228/15/FUL EXIMIUS DEVELOPMENTS LTD - MR J HAYDON
DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF TWO
DETACHED DWELLINGS WITH INTEGRAL GARAGES AND CAR PARKING,
LANDSCAPING AND REVISED VEHICULAR ACCESS
THE PENNANT, DOCTORS COMMONS ROAD, BERKHAMSTED, HP4 3DW
[View online application](#)

The appeal was allowed. The Inspector noted that the number of dwellings proposed had been reduced to two from the earlier application dismissed at appeal and that the design was significantly different. He considered the scheme to have a crisp, contemporary appearance with clean lines and simplicity of detail which would create a staggered effect by setting part of the first floor deep behind the front of each dwelling. The Inspector considered that the proposed dwellings would be sited around 1m away from their respective plot boundaries, and as such the resulting gaps between the proposed dwellings and adjacent dwellings would create a definite sense of 'breathing space' between the built form. It would also allow views across the valley between the buildings, characteristic of development on that side of Doctors Commons Road. Consequently, the Inspector considered that due to the spacing, the proposed dwellings would not create the sense of a solid bulky built form across the frontage and they would not appear out of place in the context of the low profile, contemporary dwellings immediately adjacent to the appeal site. The Inspector also took that the intervening distance between the rear elevations and the boundary, together with the distance to the houses on Kings Road is substantial. It would be sufficient to further offset the effect of the

overall height and bulk of the proposed dwellings and the higher level of the appeal site. The Inspector considered how the proposed dwellings would appear overdominating to other properties especially taking into account the high trees.

Having regard to the dismissed appeal, the Inspector considered that the proposal would be far less dominant in comparison with the previous scheme and would avoid a cramped appearance, because of the wider plots and spacing between the dwellings. In terms of the character of the conservation area, the Inspector considered that the contemporary design when taken in account with that side of Doctor Commons Road would be the correct approach. Finally, the Inspector considered the roof terraces to be adequately designed to ensure that the privacy of neighbours would not be compromised.

The appeal was also subject to an award of costs against the Council. The Inspector awarded full costs as he considered that members refused planning permission against the recommendation of officers and failed to produce sufficient evidence to substantiate the reason for refusing permission. The Inspector goes on to state that paragraph 049 of the PPG clearly advises Councils that they will be at risk of costs being awarded against them on substantive grounds, where they prevent or delay development which should clearly have been permitted, they fail to produce evidence to substantiate their reasons for refusal or they make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. The appeal decision goes on to say that there has been no detailed assessment of the relationship between the proposed dwellings and the adjoining properties on Kings Road, to support the claim of overdominance. Moreover, the lack of any assessment of the screening effect provided by existing mature trees on the boundary of the appeal site, raises questions over the accuracy of this particular part of the Council's evidence. In short, the Inspector considered that having regard to the Development Plan, national policy and other material considerations, the proposed development should clearly have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour as defined in paragraph 049 of the PPG and the appellant has been put to the unnecessary expense of making an appeal.