

## 6. APPEALS UPDATE

### 6.1 APPEALS LODGED

Appeals received by Dacorum Borough Council between 01 January 2023 and 13 February 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	22/02580/FHA	D/23/3314460	6 The Poplars, Hemel Hempstead	Householder
2	22/02586/FUL	W/23/3314513	Land Adjoining Cyrita, Hogpits Bottom, Flaunden	Written Representations
3	22/01766/DPA	W/23/3314903	Site of 1-31 Nightingale Walk, Hemel Hempstead	Written Representations
4	22/02740/FUL	W/23/3315012	2 Lower Yott, Hemel Hempstead	Written Representations
5	22/03307/FHA	D/23/3315954	37 Cedar Walk, Hemel Hempstead	Householder
6	22/03157/FHA	D/23/3315971	New Lodge, Dunstable Road, Markyate	Householder
7	22/01286/FUL	W/23/3316011	Sharlowes Farmhouse, Flaunden	Written Representations
8	22/03103/UPA	D/23/3315748	9 Darrs Lane, Northchurch	Written Representations
9	22/00456/FUL	W/23/3316262	Former Convent Of St Francis De Sales Preparatory School, Aylesbury Road, Tring	Hearing
10	22/03390/ROC	W/23/3316329	26 Hempstead Lane, Potten End	Written Representations

## 6.2 PLANNING APPEALS DISMISSED

Planning appeals dismissed between 01 January 2023 and 13 February 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	<a href="#">21/04756/FUL</a>	W/22/3300850	1 Dale End, Box Lane, Hemel Hempstead	Hearing
	<b>Date of Decision:</b>		19/01/2023	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3300850">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3300850</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>The development proposed is the construction of 9 apartments with associated outbuildings, parking, landscaping and access.</p> <p>There are two Grade II listed buildings to the north of the site, Boxmoor Lodge and the former Swan Inn public house. In determining this appeal I have given special regard to the desirability of preserving these buildings, their setting and any features of special architectural or historic interest which they possess... I consider that both listed buildings also derive some significance from their association with the land to their south, which includes the appeal site...The appeal site is the closest land to the listed buildings and contains a single, relatively small house with the remainder of the site predominantly given over to soft landscaping. It makes a positive contribution to their setting.</p> <p>The proposed development would be a substantially larger building than the existing single dwellinghouse as it would be taller, wider, and deeper with an attendant greater presence. As such, it would be prominent within the settings of these listed buildings, especially Boxmoor Lodge as it would be close to the shared boundary between the two sites. The appeal proposal, comprising the larger building and introduction of substantial hard landscaping to the site frontage, would result in a significantly more developed site that would further erode the contribution that the appeal site makes to the setting of the listed buildings. This would result in harm to their significance...the harm arising to the significance of the listed buildings would be less than substantial.</p> <p>The National Planning Policy Framework (the Framework) requires that less than substantial harm is weighed against the public benefits of a proposal. The proposed development would deliver 8 new dwellings, helping to address the Council's shortfall and supporting the Government's objective of boosting the supply of homes. This factor attracts additional weight given the considerable shortfall of just 2.8 years housing land supply. The appeal site is in a sustainable location in an existing settlement within walking distance of services and facilities and with access to public transport, so residents would not be reliant on private cars. The site is quite small and comprises previously developed land, with the appeal proposal capable of being built out relatively quickly. There would be economic benefits from ongoing support for local shops and services from the occupiers of the new dwellings.</p>			

The development would provide an improved boundary treatment at the junction with the wall for the former Swan Inn. The cumulative weight that these benefits attract is substantial. However, the Framework states that great weight should be given to the conservation of designated heritage assets, even where potential harm amounts to less than substantial harm to their significance. The heritage harm arising would, in this instance, outweigh the public benefits of the proposed development.

The proposed building would be substantially larger than the existing house on the appeal site. From Box Lane, the proposed building would be set back within the plot. The front elevation of the building would be staggered, and there would be some variance to the ridgeline, but it would still be a taller and much wider building, occupying almost the full width of the plot. With the site entrance centred on the Box Lane frontage the building would be significantly more prominent in the street scene, even allowing for the setback, as the existing site entrance and building are offset from one another. The established planting to the front of Nos 1 and 5 would provide some screening, but the size of the building would be such that it would be a dominant feature along this part of Box Lane.

The front of the site between the building and front boundary wall would feature new planting, which would somewhat soften the appearance of the building over time as it matures. However, it would also include parking for 16 cars, including 2 car ports, where much of the existing frontage is laid to soft landscaping. While the footprint of the building would only be around 20% of its area, the appeal proposal overall would therefore result in a substantially more developed site.

While the extent of spaciousness in the area has been reduced by developments in recent years, the proposed development would be a wide building relative to its plot, built to within 1 metre of either boundary at ground floor level, albeit further set in at the upper floors. As seen from Box Lane, the building would overlap with the house on plot 4 of the Boxmoor Lodge site if that development is built out, due to the tapering of the site. This would further reduce any sense of space between the two developments. Consequently, the proposed building would not sit comfortably within its plot because of its height, width and depth. The increased depth of the building would be particularly apparent when seen from the sides due to the greatly increased depth of the building. The lack of tall planting to the Boxmoor Lodge boundary would mean that much of the building would be in plain view from that site, and in longer views from London Road.

Overall the appeal proposal would result in harm to the character and appearance of the area due to its size, cramped appearance and the extent of hardstanding to the front of the site.

The appeal proposal would not result in unacceptable harm to the living conditions of neighbouring occupiers.

The Council sought the creation of a pedestrian link across the neighbouring

	Boxmoor Lodge site. This link would provide a more direct route to Hemel Hempstead railway station, encouraging walking...While the proposed pedestrian access would improve the development in terms of sustainable transport, its absence does not make it unsustainable.			
No.	DBC Ref.	PINS Ref.	Address	Procedure
2	<a href="#">22/00233/FUL</a>	W/22/3300029	55 High Street, Markyate	Written Representations
	<b>Date of Decision:</b>		09/02/2023	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3300029">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3300029</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>The development proposed is proposed erection of a detached dwelling following demolition of a garage.</p> <p>The scheme has been amended from that which was previously refused. However, its location partially on the same footprint of the garage building does not preserve this existing relationship with 60 Roman Way, as the appellant suggests. Rather the inclusion of a first floor results in a discordant feature in its relationship to this existing property resulting in adverse impacts on the appearance of the streetscene.</p> <p>However, the design of the appeal scheme reflects more closely the architectural features of the housing along Roman Way and not those of the CA. I acknowledge that the Framework supports the efficient use of land but this requires balance against its policies which support good design and the protection of heritage assets. Whilst the existing state of the site detracts from the CA the appeal scheme would not preserve or enhance its character and appearance. Although this would be less than substantial harm I do not regard the addition of a single dwelling to the housing stock as a public benefit which could outweigh the harm which would result on the character and appearance of the area with specific regard to the Markyate CA.</p> <p>Policy CS8 requires the provision of safe and accessible parking spaces in accordance with adopted standards; these require the provision of a single off street parking space for this scheme. The appellant identifies that the scheme would be for car free housing. However, Markyate is not one of the Borough's 'Accessability Zones' defined by the parking SPD1 where this form of housing could be allowed. The roads around the appeal site are narrow, heavily parked and during my site visit I saw examples of vehicles using pedestrian footways to gain access along the High Street. The area is under acute parking stress. For this reason, I regard the inclusion within the scheme of off street parking as necessary to avoid on street parking which could further compromise highway safety. For these reasons I find conclude that the appeal scheme conflicts with Policy CS8 and the adopted parking standards.</p>			

### **6.3 PLANNING APPEALS ALLOWED**

Planning appeals allowed between 01 January 2023 and 13 February 2023.

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	<a href="#">22/01305/FHA</a>	D/22/3302163	Imrie House, Doctors Commons Road, Berkhamsted	Householder
	<b>Date of Decision:</b>		19/01/2023	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3302163">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3302163</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>The development proposed is the erection of a first floor extension.</p> <p>The appeal site is within the Berkhamsted Conservation Area. One of the key features of this part of the Conservation Area are the age and design of residential buildings opposite and the nearby school buildings.</p> <p>The proposal would infill the first-floor front recess, squaring off the front corner of the house to include a window and rendered finished to match the existing facade. Both the additional window and retention of the brick detailing in the middle of the first-floor front elevation would break the bulk of the design when viewed from the street-scene and provides visual interest. The design would integrate with the existing flat roof, rendered facade and would still be very similar to the neighbouring property Zaya House and other houses in the same row. Therefore, the design would still respect existing densities, scale, roof height, and streetscape of existing contemporary designed houses of which there is not a predominant single design.</p> <p>The older buildings here do form part of the key features of the Conservation Area. These houses are in stark contrast to the row of contemporary houses the appeal site is within. I find that the effect of the extension on the existing design of the appeal house would not result in significant harm for the reasons set out above, and that there would be no harm to the character or appearance of the Conservation Area, which the proposal would preserve. I therefore conclude that the development does not have a detrimental effect on the character and appearance of the Berkhamsted Conservation Area.</p>			

### **6.4 PLANNING APPEALS WITHDRAWN**

Planning appeals withdrawn between 01 January 2023 and 13 February 2023.

None.

## **6.5 ENFORCEMENT NOTICE APPEALS LODGED**

Enforcement Notice appeals lodged between 01 January 2023 and 13 February 2023.

<b>No.</b>	<b>DBC Ref.</b>	<b>PINS Ref.</b>	<b>Address</b>	<b>Procedure</b>
1	E/19/00444/NAP	C/23/3314025	Plot 1 Cupid Green Lane, Hemel Hempstead	Written Representations
2	E/19/00444/NAP	C/22/3313454	Plot 1 Cupid Green Lane, Hemel Hempstead	Written Representations
3	E/22/00349/NPP	C/23/3315084	Land At Berry Farm, Upper Bourne End Lane	Written Representations

## **6.6 ENFORCEMENT NOTICE APPEALS DISMISSED**

Enforcement Notice appeals dismissed between 01 January 2023 and 13 February 2023.

None.

## **6.7 ENFORCEMENT NOTICE APPEALS ALLOWED**

Enforcement Notice appeals allowed between 01 January 2023 and 13 February 2023.

None.

## **6.8 ENFORCEMENT NOTICE APPEALS WITHDRAWN**

Enforcement Notice appeals withdrawn between 01 January 2023 and 13 February 2023.

None.

## 6.9 SUMMARY OF TOTAL APPEAL DECISIONS IN 2023 (up to 13 February 2023).

<b>APPEALS LODGED IN 2022</b>	
PLANNING APPEALS LODGED	10
ENFORCEMENT APPEALS LODGED	3
TOTAL APPEALS LODGED	13

<b>APPEALS DECIDED IN 2022</b> (excl. invalid appeals)	<b>TOTAL</b>	<b>%</b>
TOTAL	3	100
APPEALS DISMISSED	2	66.6
APPEALS ALLOWED	1	33.3
APPEALS PART ALLOWED / PART DISMISSED	0	0
APPEALS WITHDRAWN	0	0

	<b>TOTAL</b>	<b>%</b>
<b>APPEALS DISMISSED IN 2023</b>		
Total	2	100
Non-determination	2	100
Delegated	0	0
DMC decision with Officer recommendation	0	0
DMC decision contrary to Officer recommendation	0	0

<b>APPEALS ALLOWED IN 2023</b>	<b>TOTAL</b>	<b>%</b>
Total	1	100
Non-determination	0	0
Delegated	1	100
DMC decision with Officer recommendation	0	0
DMC decision contrary to Officer recommendation	0	0

## 6.10 UPCOMING HEARINGS

No.	DBC Ref.	PINS Ref.	Address	Date
1	22/00456/FUL	W/23/3316262	Former Convent Of St Francis De Sales Preparatory School, Aylesbury Road, Tring	tbc

## 6.11 UPCOMING INQUIRIES

No.	DBC Ref.	PINS Ref.	Address	Date
1	E/21/00041/NPP	C/22/3290614	The Old Oak, Hogpits Bottom Flaunden	tbc
2	21/04770/FUL	W/22/3309745	Hamberlins Farm, Hamberlins Lane, Northchurch	tbc
3	22/01187/MOA	W/22/3309923	Land East of Tring	07.03.23 (scheduled for 16 days)

## 6.12 COSTS APPLICATIONS GRANTED

Applications for Costs granted between 01 January 2023 and 13 February 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	21/04756/FUL	W/22/3300850	1 Dale End, Box Lane, Hemel Hempstead	Hearing
	<b>Date of Decision:</b>		09/01/2023	
	<b>Link to full decision:</b>			
	<a href="https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3300850">https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3300850</a>			
	<b>Inspector's Key conclusions:</b>			
	<p>The application for costs is allowed in part.</p> <p>The applicants claim that the Council failed to deal with the application the subject of this appeal in a timely manner...the Council did not act proactively in engaging with the applicants to narrow down the reasons for refusal facilitating minor amendments to the scheme.</p>			



The applicants further submitted that the Council's pursuit of the sustainable transport main issue was unreasonable because it prevented or delayed development which should have clearly been permitted, they failed to produce evidence to substantiate this reason for refusal and made vague, generalised or inaccurate assertions about the proposal's impact, unsupported by any objective analysis...the Council should have accepted that the site was acceptable in sustainable transport terms.

It is clear from the extent of correspondence that the Council did attempt to negotiate improvements to the scheme to address issues identified with it. The applicants had to chase responses on several occasions, and it appears that in some instances the information provided was somewhat fragmentary and contradictory in nature, with the applicants' agent highlighting instances of the Council requesting information previously submitted, or where it differed in the way in which officers assessed the appeal proposal in comparison to developments on nearby sites. I have no doubt that this was frustrating, but where the Council did respond they were seeking amendments to try and resolve issues.

While the Council did not determine the application before the appeal was submitted, they have provided reasons for which they would have refused planning permission. It is clear, despite the applicants' efforts and the negotiations between the parties, that there were fundamental differences on certain issues.

The main parties were far apart in their positions on the acceptability of the proposed development. The Council would have refused permission for the application without substantial revisions or waited to determine it until the Chilterns Beechwoods matter could be resolved. Given those differences I do not consider that this appeal could have been avoided, even if the Council had been timelier in their communications. Accordingly, while there is evidence of unreasonable behaviour on the Council's part in the time taken to respond to correspondence on the application, I do not consider that this has caused the applicants to incur unnecessary or wasted expense in the appeal process.

However, in relation to the sustainable transport issue I consider that the Council acted unreasonably in pursuing this once the Boxmoor Lodge site had received permission. No access was secured to the appeal site as part of that permission, although both site owners had indicated an agreement in principle on their application plans. In continuing to pursue this point through a reason for refusal and onto the appeal, the Council has acted unreasonably and caused the applicant to incur additional costs when securing the access and route falls outside of the applicants' control.

### **6.13 COSTS APPLICATIONS REFUSED**

Applications for Costs refused between 01 January 2023 and 13 February 2023.

**None.**

### **6.14 FURTHER SUMMARY OF APPEALS IN 2023**

<b>APPEALS LODGED IN 2023</b>	<b>TOTAL</b>	<b>% OF TOTAL</b>
HOUSEHOLDER	3	23.1
MINOR	5	38.5
MAJOR	0	0
LISTED BUILDING	0	0
CONDITIONS	0	0
TELECOMMUNICATIONS	0	0
LAWFUL DEVELOPMENT CERTIFICATE	0	0
PRIOR APPROVAL	2	15.4
ENFORCEMENT	3	23.1
<b>TOTAL APPEALS LODGED</b>	<b>13</b>	<b>100</b>

<b>APPEALS DECIDED IN 2022</b> (excl. invalid appeals)	<b>TOTAL</b>	<b>%</b>
HOUSEHOLDER	1	33.3
MINOR	2	66.6
MAJOR	0	0
LISTED BUILDING	0	0
CONDITIONS	0	0
TELECOMMUNICATIONS	0	0
LAWFUL DEVELOPMENT CERTIFICATE	0	0
PRIOR APPROVAL	0	0
ENFORCEMENT	0	0
<b>TOTAL APPEALS DECIDED</b>	<b>3</b>	<b>100</b>