

6. APPEALS UPDATE

6.1 APPEALS LODGED

Appeals received by Dacorum Borough Council between 14 February 2023 and 12 May 2023.

| No. | DBC Ref. | PINS Ref. | Address | Procedure |
|-----|--------------|--------------|---|----------------|
| 1 | 22/03007/FHA | W/23/3317033 | 49 Crouchfield, Hemel Hempstead | Fast Track |
| 2 | 22/03434/FHA | D/23/3316926 | 31 Cemetery Hill, Hemel Hempstead | Fast Track |
| 3 | 22/03131/RET | W/23/3316927 | 85-87 High Street, Berkhamsted | WREPS |
| 4 | 22/03773/TEL | W/23/3317771 | Site At Billet Lane, Gossoms End, Berkhamsted | WREPS |
| 5 | 22/01106/MFA | W/23/3317818 | Solar Array, Little Heath Lane, Little Heath, Berkhamsted | Public Inquiry |
| 6 | 22/00883/LDP | X/23/3318140 | Greymantle, Hempstead Road, Bovingdon | WREPS |
| 7 | 22/00869/FHA | D/23/3318147 | Greymantle, Hempstead Road, Bovingdon | Fast Track |
| 8 | 22/03691/FHA | D/23/3319249 | 5 The Shrubbery, Hemel Hempstead | Fast Track |
| 9 | 23/00139/FHA | | 31 Cemetery Hill, Hemel Hempstead | Fast Track |
| 10 | 22/03586/FHA | D/23/3319937 | 3 Chiltern Villas, Aylesbury Road, Tring | Fast Track |
| 11 | 22/02533/FHA | D/23/3320339 | Flinton, Lady Meadow, Kings Langley | Fast Track |
| 12 | 22/01080/FHA | | 5 Home Farm, Park Road, Tring | Fast Track |
| 13 | 23/00451/FHA | | 5 The Shrubbery, Hemel Hempstead | Fast Track |
| 14 | 22/01107/FUL | W/23/3321623 | Land Adjacent Lockers Cottage, Bury Hill, Hemel Hempstead | WREPS |

6.2 PLANNING APPEALS DISMISSED

Planning appeals dismissed between 14 February 2023 and 12 May 2023.

| No. | DBC Ref. | PINS Ref. | Address | Procedure |
|-----|---|--------------|--------------------------------------|-------------|
| 1 | 22/02721/FHA | D/22/3310774 | Green Bank, Gossoms End, Berkhamsted | Householder |
| | Date of Decision: | | 21/03/2023 | |
| | Link to full decision: | | | |
| | https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3310774 | | | |
| | Inspector's Key conclusions: | | | |
| | <p>The development proposed is a single storey side and rear extension. The proposed extension, due to its proximity with the shared boundary, height and significant length, would result in a visually dominant and overbearing structure when viewed from the rear ground floor of no. 87. Furthermore, this arrangement would also overshadow and thereby reduce the amount of daylight to the adjacent patio area and ground floor, rear facing habitable room at no. 87.</p> <p>I observed on my site visit that there is a ground floor side kitchen window at no. 87 that faces directly towards Green Bank. Whilst this window may experience some loss of daylight as a result of the proposed extension, the kitchen is also served by a second window. Due to the location and orientation of this second window, it would not be directly affected by the proposal. As a result of this arrangement, there would be no material loss of daylight to the kitchen as a result of the proposed development.</p> <p>The proposed extension would be within a line drawn at 45 degrees from the rear facing window of no. 87. This demonstrates that the amount of sunlight reaching that window would be reduced from what it receives at present. Having regards to the orientation of the properties, the sunlight would be most affected during the afternoons. Taking account of the extent of the conflict, I consider that the development would result in an unacceptable loss of sunlight to the room this window serves.</p> <p>For the above reasons, the proposed single storey side and rear extension would have a harmful effect on the living conditions of the occupiers of no. 87 Gossoms End, with regards to outlook and loss of sunlight and daylight.</p> | | | |
| No. | DBC Ref. | PINS Ref. | Address | Procedure |
| 2 | 21/03561/VAR | Q/21/3292021 | Flaunden House Stables, Flaunden | Hearing |
| | Date of Decision: | | 12/04/2023 | |
| | Link to full decision: | | | |
| | https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3292021 | | | |
| | Inspector's Key conclusions: | | | |
| | This decision concerns 2 appeals (Q/21/3292021 and W/22/3296310) which relate to the same site, most of which supports an equestrian use. This appeal | | | |

concerns planning obligations contained within a Unilateral Undertaking presented in relation to the MFA.

The existing obligations set out within clause 16 of the UU as modified by the DOV, collectively serve to restrict use of the stables, the conversion, and the grazing land, in connection to the broader equestrian use of the site. In so doing there is an obvious duplication of the controls imposed by Condition 9 of the MFA in relation to occupancy, by Condition 8 of the MFA in relation to permitted development rights, and in relation to normal planning controls governing changes of use. The only restriction not subject of some form of duplication is in relation to the specific use of the grazing land. The usefulness of the obligations is therefore limited, but no less so than when they were first drafted and/or modified.

The appellant clearly aspires to pursue other development opportunities on the site, however the modification of planning obligations is not a means by which a change of use requiring planning permission can be obtained, no matter how the obligation is redrafted. Though the proposed wording indicates planning criteria against which such uses would need to be assessed, the correct context for such an assessment would be in relation to a planning application made for a change of use. Though various planning applications seeking to achieve this have been made in the past, and though others may be made in the future, this does not make the proposed modifications any more legitimate in themselves, or in relation to the existing obligations.

I therefore conclude that whilst the usefulness of the existing obligations continues to be very limited, the proposed modifications would serve no obviously appropriate or useful purpose, and would clearly not achieve any kind of equivalence. The planning obligations shall therefore continue to have effect without modification.

| No. | DBC Ref. | PINS Ref. | Address | Procedure |
|-----|--|--------------|---|----------------------------|
| 3 | 21/04414/ROC | W/22/3296310 | Honeysuckle Barn, Birch Lane, Flaunden | Written Representations |
| | Date of Decision: | | 12/04/2023 | |
| | Link to full decision: | | https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3296310 | |
| | Inspector's Key conclusions: | | | |
| | <p>This decision concerns 2 appeals (Q/21/3292021 and W/22/3296310) which relate to the same site, most of which supports an equestrian use.</p> <p>The condition in dispute is No 9 which states that: The occupation of the two bed conversion shall be limited to a person solely or mainly working at the stables located immediately north-east of the dwelling or a widow or widower of such a person and to any resident dependants.</p> <p>Based on the evidence presented the site has hosted various equestrian enterprises across several decades, save for a brief hiatus during the period 2015-2019. The latter provided the context for the MFA, in relation to which the conversion of buildings on the site was partly justified on the basis that this</p> | | | |

would occur alongside a resumption of the equestrian use. The latter both was to be, and currently is facilitated by the tied accommodation and office space secured by Condition 9. Condition 9 serves to ensure the availability of accommodation in a context within which the availability of affordable accommodation is severely constrained by high property values.

The principal reason advanced by the appellant for removal of the tie is an envisaged change in the nature of the related equestrian use. In this regard it is claimed that a future focus on a small number of retired horses will remove the need for on-site accommodation. It is nonetheless accepted by the appellant that this will not remove the need for management of the use, or the requirement for an equestrian worker/manager. Thus, even if I was to accept that a 24-hour on-site presence was not required, which is itself a claim disputed by interested parties also in the equestrian business, the tie would still fulfil the function of providing necessary accommodation together with office space. The suggestion that outside contractors could alternatively be hired to do the work somewhat misses the point, and has not been fully evidenced.

Clearly, loss of any of the key components which support the equestrian use, including the tied accommodation with office space, would limit scope for anything other than downsizing. I have not been presented with any evidence which demonstrates that there is any separate need to downsize the equestrian use. . It remains the case that there is no basis upon which to require the appellant to manage the equestrian use in any particular way. However, there is equally no reason to accept that the long-term potential of the equestrian use to contribute to the rural economy should be permanently compromised on the basis of its current and/or proposed operation below potential. The fact that, in the absence of a change of use, the conversion would retain office space, means that it could continue to play some role in supporting the rural economy.

I conclude that Condition 9 continues to serve a necessary function in supporting the equestrian use at the site, and the contribution that this both makes and has the potential to make to the rural economy.

In the absence of Condition 9 the property could potentially be occupied by persons not employed at the stables, or without any other direct link to the equestrian use. Incoming occupants would obviously be aware of the stables, and it would seem unlikely that anyone would choose to live in such location unless they were comfortable around horses. The long-term implications of living directly adjacent to a working stables would however only become apparent over time. In this regard I agree with the Council that factors such as noise and odours may well give rise to nuisance, diminishing the quality of life for future occupants, and giving rise to conflict with the equestrian use.

I conclude that Condition 9 is not necessary to safeguard the character and appearance of the area or to preserve existing social infrastructure.

| No. | DBC Ref. | PINS Ref. | Address | Procedure |
|--|------------------------------|--------------|--|-------------------------|
| 4 | 21/03229/FUL | W/22/3296750 | Startop Farm, Long Barn, Lower Icknield Way, Marsworth | Written Representations |
| Date of Decision: | | | 24/04/2023 | |
| Link to full decision: | | | | |
| https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3296750 | | | | |
| Inspector's Key conclusions: | | | | |
| <p>The development proposed is redevelopment of the existing farm complex at Startop Farm to enable two replacement farm buildings to be constructed with hard standing and parking areas together with 9no dwellings and their car parking provision following the demolition of the existing farm, commercial, and equestrian buildings, and the demolition and removal of the existing single storey bungalow.</p> <p>Startop Farmhouse is Grade II listed building. The significance of the farmhouse derives from its age, dating from the early 16th century, its traditional details and materials including its timber frame as well as its historic farmhouse use. The Farmhouse is located within the collection of buildings within the farmyard and retains its agricultural surroundings and appearance, notwithstanding that the farmyard is now in separate ownership. As such its agricultural origins and farmhouse significance remain apparent. The Long Barn was built before 1948 and is within the curtilage of Startop Farmhouse and is curtilage listed. Given their historic functional link with the farm on this site, the location of Startop Farmhouse and the Long Barn within the farmyard and the surrounding land in agricultural use make a positive contribution to the appreciation of these properties' historic function. The appearance of the farmhouse and barn are also related to their traditional agricultural setting. These features therefore make a positive contribution to the setting of the listed building.</p> <p>The proposed development would introduce 9 houses in 4 different styles into this location. The appearance of the dwellings with clearly domestic windows and doors along with the associated parking, access and residential gardens result in the proposed development being clearly residential in character. The size and scale of this domestic appearance would be an urbanising feature, which would be visually jarring with the countryside character and appearance of the site.</p> <p>The proposed houses and their gardens would also sever the connection between Startop Farmhouse and The Long Barn and the agricultural use. This would significantly undermine the important farmyard setting of the listed Startop Farmhouse and this ancillary building.</p> <p>The bungalow would be replaced by two single storey dwellings fronting the road. These would be lower in height than Startop Farmhouse. Nevertheless, the proposed dwellings would extend built footprint into an area of existing open space in a highly visible position, further undermining the open rural character.</p> | | | | |

| <p>There is a public footpath that links Lower Ickneild Way with Watery Lane from which the site is highly visible. Furthermore, there is public access at a raised level around the reservoir, directly opposite the site, as well as the public views from Lower Ickneild Way. The proposed development would be clearly visible from these locations and as such the harm identified above would be experienced.</p> <p>Consequently, the proposed development would have a harmful effect on the character and appearance of the area and on the setting of the Grade II Farmhouse at Startup Farm.</p> <p>The modest public benefits [of the development] would not outweigh the unacceptable harm I have found to the setting of the listed building.</p> | | | | |
|--|------------------------------|--------------|-----------------------------------|-------------|
| No. | DBC Ref. | PINS Ref. | Address | Procedure |
| 5 | 22/02580/FHA | D/23/3314460 | 6 The Poplars, Hemel Hempstead | Householder |
| Date of Decision: | | | 19/01/2023 | |
| Link to full decision: | | | | |
| https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3314460 | | | | |
| Inspector's Key conclusions: | | | | |
| <p>The development proposed is a two-storey front, and a single storey rear, extension.</p> <p>The proposed front extension would extend across part of the host's face, and it would be finished in matching tiles and brickwork. However, as a result of this scheme, the resultant building's form would be markedly at odds with the other houses around the green, none of which have two storey front projections. Given that it would be set back only slightly from its attached neighbour at No.5 The Poplars, its layout, particularly at first floor, would also disrupt this terrace's distinctive and characteristic pattern of regularly stepped front faces. Whilst buildings in the wider area have a fairly diverse character, and the appellants have provided photographs of two storey and first floor front extensions elsewhere, for the above reasons, the scheme would significantly harm the character and appearance of this group.</p> <p>The proposed rear extension would abut the boundary with No 5 and would be around 5 metres deep in this location. However, it would have a modest height owing to its single storey, flat-roofed form, and only its upper section would be taller than the existing timber boundary fence. Moreover, no 5 is at a higher level compared to the appeal site, and its rear conservatory leads onto a raised area of decking. Consequently, whilst the scheme would slightly constrain the outlook looking out to the right from the rear of No 5 and its decking area, it would not be visually intrusive.</p> <p>The principal parties agree that the scheme would breach a 45-degree line drawn horizontally from the centre point of No 5's adjacent windows, contrary to the stance at Appendix 3 of the Dacorum Borough Local Plan 1991-2011 (2004). However, for similar reasons to those above, and on the basis of the limited available evidence, I am not persuaded that it would result in a</p> | | | | |

| | significant loss of natural light for those occupiers. The scheme would not therefore impact the living conditions at No 5 to a harmful degree. | | | |
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| No. | DBC Ref. | PINS Ref. | Address | Procedure |
| 6 | 22/03307/FHA | D/23/3315954 | 37 Cedar Walk, Hemel Hempstead | Householder |
| | Date of Decision: | | 26/04/2023 | |
| | Link to full decision: | | | |
| | https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3315954 | | | |
| | Inspector's Key conclusions: | | | |
| | <p>The development proposed is a roof extension with a gable and a rear dormer.</p> <p>The host property and No 39 form a semi-detached pair, which is prominently located on a corner of Cedar Walk. Although there are a few houses with a broadly single storey form in the road, the majority are two storeys high and semi-detached, and have a similar appearance in the streetscene to this pair. That appearance includes a shared two storey gable with bay windows, and one and a half storey side projections. Those side projections typically have a setdown hipped roof, along with a cat-slide over the front door. These characteristics, together with the buildings' common palette of facing materials, and their fairly regular spacing and set back from the highway, give the streetscene a pleasing sense of symmetry, rhythm and cohesion.</p> <p>As a result of the proposed infilling at first floor above the cat-slide roof, and the raising of the eaves in this location, the host would lose some of its articulation and locally distinctive form and character. This, together with the proposed raised section of main roof, which would not be set down from the principal roof line, and the introduction of a side facing gable, would significantly change the host's appearance and would substantially increase its scale and bulk. As a result, notwithstanding the proposed use of matching materials, the scheme would jar with the prevailing character of the similar style houses in Cedar Walk; and as No 39 has not been similarly altered, it would markedly unbalance the appearance of this semi-detached pair.</p> <p>The Council raises no objection to the proposed dormer. In the context of the area, and as it would be unobtrusively located to the rear, I agree that it would not be harmful. However, for the above reasons the scheme as a whole would cause significant harm to the character and appearance of this building and to the area.</p> | | | |

| No. | DBC Ref. | PINS Ref. | Address | Procedure |
|--|--------------|--------------|--|-------------|
| 7 | 21/03999/RET | D/22/3294559 | The Spinney, Hempstead Road, Bovingdon | Householder |
| Date of Decision: | | | 10/05/2023 | |
| Link to full decision: | | | | |
| https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3294559 | | | | |
| Inspector's Key conclusions: | | | | |
| <p>The development proposed is a pergola to the rear of the dwelling, and outbuildings to the rear of the existing detached garage.</p> <p>The pergola is a large metal and glass structure attached to the rear of the dwelling, this covers around half of the rear elevation and extends into the rear garden. Although the extension retracts to its sides, it is a substantial structure either open or closed. It is also likely to be largely closed during inclement weather and through the winter, extending its effect on the Green Belt throughout the year. This has a floor-area of around 56.6sqm and represents a volume increase to the existing dwelling of around 8.4%.</p> <p>The proposed pergola would be a modest and limited extension in comparison to the existing building. Nonetheless, it would further increase the mass of development on site when compared to the base line as set by the size of the original dwelling. On those terms, the proposed extension would result in a material degree of change in physical built development on site. This, in combination with former additions that were applied to the original dwelling, would result in a disproportionate increase in the quantum of built form on site. Consequently, the proposal would be a disproportionate addition to the size of the original dwelling.</p> <p>The pergola although well screened from the public realm, would result in limited to minor visual harm to the Green Belt. In spatial terms, the proposal adds a sizeable further mass to the dwelling causing moderate harm to the openness of the Green Belt.</p> <p>Due to its recessed location and having a low profile, the pergola is in scale with the main dwelling and would not represent a bulky addition. It would therefore retain the existing pleasant rural character of the area and complement the character and appearance of the surrounding area.</p> <p>The triple garage is a wide structure that faces the driveway. It is set some distance from the dwelling and is not deemed to be an extension but is rather a separate building in the Green Belt. Based on their scale and footprint, the extension and outbuilding combine to create a large structure that represents a disproportionate addition to the original garage. Accordingly, the rear extension and outbuilding would not meet an exception listed in Paragraph 149 of the Framework. These would also be inappropriate development in the Green Belt.</p> <p>The proposed extension to the garage and outbuilding would materially increase the footprint and size of this building, resulting in an encroachment of</p> | | | | |

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| | <p>built form and moderate spatial harm. As a result, although causing only minor visual harm, the proposed extension to the garage and its associate outbuilding, would also have a moderately harmful spatial effect. Consequently, the proposed extensions to the garage result in moderate harm to the openness of the Green Belt.</p> <p>I have concluded that the proposed pergola, garage extension and outbuilding would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that these additions would result in moderate harm to the openness of the Green Belt. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt.</p> <p>On the other hand, the other considerations, including finding no harm to the character and appearance of the area, are of limited to moderate weight in favour of the proposal. As such, the harm to the Green Belt is not clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development do not exist. Accordingly, the proposal fails to adhere to the local and national Green Belt policies.</p> |
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6.3 PLANNING APPEALS ALLOWED

Planning appeals allowed between 14 February 2023 and 12 May 2023.

| No. | DBC Ref. | PINS Ref. | Address | Procedure |
|------------|--|------------------|----------------------------------|------------------|
| 1 | 22/02066/FHA | D/22/3306349 | 4 Lombardy Drive, Berkhamsted | Householder |
| | Date of Decision: | | 14/02/2023 | |
| | Link to full decision: | | | |
| | https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3306349 | | | |
| | Inspector's Key conclusions: | | | |
| | <p>The development proposed is single and part two storey front extension and alterations. The proposed two storey front extension would project approximately 2.3m from the front elevation level with the front of the existing garage. The existing flat roof of the garage would be altered to a monopitch tiled roof. This would not be typical of the front elevations of the houses along the street. However, Nos. 4 and 6 are unusual in the immediate context as their roof ridges run parallel to the street in contrast to most of the rest of the houses on both sides of the street which have gables facing the street and garages more or less flush with the front elevation, apart from those at the far end to the north. I consider that although the proposed two storey projecting gable would not be typical, it would not be unacceptable.</p> <p>The proposal would respect the character of the existing house and of the street as a whole in terms of its scale, height, bulk and materials. Although it</p> | | | |

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| | would be larger than normally considered acceptable in the context of the advice on front extensions in Appendix 7, I consider that it would not dominate the street scene and has the benefit of replacing an existing flat roof over the garage with a pitched roof. The proposed materials and fenestration would be appropriate. | | | |
| No. | DBC Ref. | PINS Ref. | Address | Procedure |
| 2 | 22/00015/FHA | D/22/3305547 | 36 Belham Road, Kings Langley | Householder |
| Date of Decision: | | | 21/02/2023 | |
| Link to full decision: | | | | |
| https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3305547 | | | | |
| Inspector's Key conclusions: | | | | |
| <p>The development proposed is first floor, part two storey side extension and a first floor rear extension, garage conversion. Work to also include erection of rear facing dormer with Juliette balcony to extend existing loft conversion, extension of existing chimney stack and infill of existing raised patio area.</p> <p>I consider that the proposed two storey side extension incorporating the existing garage and extending to the rear elevation of the main house would be of a scale, height, bulk and design in keeping with the character of the existing house itself and the prevailing pattern of development along the street. The extended hipped roof would reflect the existing roof pitch and would be a visual improvement over the existing side dormer when viewed from the street. The size of the plot is ample to accommodate the increase in built form.</p> <p>The proposed first floor rear extension over the existing single storey extension would be relatively modest in scale with a hipped roof and would be in keeping with the main house. It would be visible from the rear windows of properties in Hempstead Road over the long rear gardens but not from the street. I conclude that the proposed extensions, together with the minor alterations to the chimney and rooflights and other openings, would not harm the character and appearance of the street scene or the wider area</p> | | | | |
| No. | DBC Ref. | PINS Ref. | Address | Procedure |
| 3 | 21/02968/FHA | D/22/3290876 | Greenbanks, Toms Hill Road, Aldbury | Householder |
| Date of Decision: | | | 17/04/2023 | |
| Link to full decision: | | | | |
| https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3290876 | | | | |
| Inspector's Key conclusions: | | | | |
| <p>The development proposed is erection of a part single storey, part two storey front, side and rear extension.</p> <p>The conservation area's significance, insofar as relevant to this case, is derived from the historic development around the medieval core of the village. This is affected by views into and out of the village, spaces around buildings, the permeable townscape and green planting.</p> | | | | |

| <p>Greenbanks comprises a modern two-storey detached dwelling, with flat roof single storey garage. Greenbanks and the neighbouring properties, Trinity and Ridgeways, have broad front elevations. These properties are sited within wide plots, which are set back some distance from Toms Hill Road, behind predominately soft, green frontages. The scale and layout of these properties, together with the topography of the area, allows for views over and between these. Greenbanks therefore contributes to the character of the conservation area.</p> <p>The proposed two storey side extension reinforces the broad front elevation of Greenbanks. The front elevation at ground floor of the side extension would be in line with the frontage of the main property, with the first floor contained within the roofspace. The scale of the extension is further reduced through the low eaves to the front elevation. Due to the single storey height of the rear extension, this element of the proposal would be viewed against the backdrop of the existing property and would not affect views over or between Greenbanks and Trinity.</p> <p>The proposed extension is sited broadly on the same footprint as the existing garage it is to replace. Whilst the footprint of the proposed extension is slightly larger, it would still maintain a noticeable gap between the side of Greenbanks and the shared boundary with Trinity. This gap, the subservient design and scale of the extension, combined with the topography, ensures the development would not result in a continuous frontage along this section of Toms Hill Road.</p> <p>The overall design of the extension appears subservient to the main property. Subject to appropriate materials, the extension as a whole would not result in a prominent feature in the street scene and would maintain the soft, green frontage of Greenbanks. It would not therefore be detrimental to the character and appearance of the street scene. Similarly, the design and scale of the extension would maintain the permeability and existing views in and out of the village, including the view from the allotments and recreational ground. For the above reasons, I conclude that the proposed development would preserve the character and appearance of the conservation area.</p> | | | | |
|--|------------------------------|--------------|---|-------------|
| No. | DBC Ref. | PINS Ref. | Address | Procedure |
| 4 | 22/02563/FHA | D/22/3313976 | 147 George Street, Berkhamsted | Householder |
| Date of Decision: | | | 18/04/2023 | |
| Link to full decision: | | | | |
| | | | https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3313976 | |
| Inspector's Key conclusions: | | | | |
| <p>The development proposed is the erection of a two storey rear extension.</p> <p>The property is situated within the extensive Berkhamsted Conservation Area where special attention must be paid to the desirability of preserving or enhancing the character or appearance of that area.</p> | | | | |

| <p>When viewed from Paxton Road and the rear footway access, there are clear variations in the appearance of the rear elevations of the dwellings in the Conservation Area and there is also a lack of consistency in design of the outriggers adjacent to the property. The proposed development would not disrupt any clear building line associated with the terraces of properties fronting George Street. This is particularly the case because the property is not an integral part of a terrace. By reason of the topography of Paxton Road, the appeal scheme would not unacceptably obstruct views towards the rear elevations of the terraced dwellings fronting George Street. The streetscape of Paxton Road would be protected. Subject to the use of appropriate external materials, which can be secured by condition, the scale, height and bulk of the proposed extension would harmonise with the original design and character of the property.</p> <p>For the reasons given, the proposed development would preserve the character and appearance of this part of the Conservation Area and, as such, it would not cause harm to the significance of this designated heritage asset.</p> | | | | |
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| No. | DBC Ref. | PINS Ref. | Address | Procedure |
| 5 | 21/04768/FUL | W/22/3304045 | October Cottage, Barnes Lane, Kings Langley | Written Representations |
| Date of Decision: | | | 18/04/2023 | |
| Link to full decision: | | | | |
| https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3304045 | | | | |
| Inspector's Key conclusions: | | | | |
| <p>The development proposed is 'the change of use of land located to the west of October Cottage, from agricultural land (Sui Generis) to ancillary residential (Use Class C3) land, to be used as garden land for use by October Cottage'.</p> <p>Certain other forms of development are also identified at paragraph 150 which are not inappropriate, provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Whilst the change of use to residential garden land is not explicitly mentioned, the list is not exhaustive and as such I am satisfied that it would constitute a form of development which would fall within paragraph 150 e).</p> <p>I note the Council's concern regarding the siting of domestic paraphernalia, such as furniture or play equipment in connection with the use of the land as garden, which would be more difficult to control. Nonetheless, in the event that this does occur, any such paraphernalia would be likely to be small scale and would not be permanent fixtures. Due to its size and position between the existing residential properties the appeal site benefits from a high degree of enclosure. Moreover, as a consequence of the narrowness of the lane, the site is only visible from a short section of Barnes Lane, from where it would be viewed within the context of the adjoining residential properties, rather than perceived as part of the agricultural land beyond. Nevertheless, the proposal would maintain the spatial separation between the properties and would be unlikely to have a significant impact upon views across the site from the lane</p> | | | | |

| <p>to the front towards the open countryside. As such it would not harm the openness of the Green Belt having regard to the visual aspect.</p> <p>Permitted development rights for the erection of incidental buildings, as well as walls, fences and other means of enclosure could be controlled by a planning condition. Therefore, subject to a suitably worded condition to remove permitted development rights for incidental buildings and means of enclosure, the openness of the Green Belt would be preserved.</p> <p>Whilst it is possible that the change of use of the land would increase the potential for manicuring of the land, due to the location of the site between two residential properties, its limited size and the fact that it is not discernible as part of the open countryside beyond due to its existing and historical appearance, this would not have a significant effect on the countryside in terms of encroachment. I find that the proposal would not result in unacceptable encroachment into the countryside. I therefore conclude that the proposal would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. As such it would constitute a type of development that is not inappropriate in the Green Belt.</p> <p>Whilst the appellant has not demonstrated that the proposal would not result in the loss of the best and most versatile agricultural land, the appeal site is modest in size and located between existing residential properties. As such the proposed change of use would be unlikely to have any significant effect on the provision of agricultural land as an important economic resource for the longer term.</p> <p>Previous enforcement matters on the site, historic boundary disputes or whether or not the site has been known as a different name have no bearing on my decision.</p> | | | | |
|---|------------------------------|--------------|------------------------------------|----------------------------|
| No. | DBC Ref. | PINS Ref. | Address | Procedure |
| 6 | 21/04777/RET | W/22/3305887 | 34 Coniston Road, Kings Langley | Written Representations |
| Date of Decision: | | | 18/04/2023 | |
| Link to full decision: | | | | |
| https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3305887 | | | | |
| Inspector's Key conclusions: | | | | |
| <p>Planning permission was granted for the erection of an outbuilding at the appeal site which included a condition removing permitted development rights for the erection of outbuildings under Class E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO). The Council considers the condition is necessary to protect the Green Belt. The appellant objects to the condition as they consider that exceptional circumstances have not been demonstrated to justify the condition. The main issue is therefore whether the condition is reasonable or necessary in the interests of protecting the Green Belt.</p> <p>Schedule 2, Part 1 of the GPDO sets out the permitted development rights for development within the curtilage of a dwellinghouse. Whilst there are specific</p> | | | | |

exceptions for some classes where permitted development rights do not apply, the GPDO does not withdraw permitted development rights for land within the Green Belt. It can therefore be surmised that land within the Green Belt is regarded by the Government as being no different in terms of the application of permitted development rights to land outside of it. Moreover, the fact that permitted development rights have not been removed from land in the Green Belt suggests that the Government's fundamental Green Belt aim of preventing urban sprawl by keeping land permanently open does not extend to preventing permitted development within a domestic curtilage.

The National Planning Policy Framework (the Framework) sets out that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance (PPG) also advises that conditions of this nature will rarely pass the test of necessity and should only be used in exceptional circumstances. Therefore, the starting point is that permitted development rights should remain in place, even in the Green Belt, unless clear justification for their removal is advanced which is specific to the site.

Having regard to the limitations of Class E of the GPDO in terms of the dimensions and position of permitted development, I am not persuaded that the erection of further ancillary buildings at the site would have such an effect on the openness of the Green Belt or its purposes that removal of permitted development rights is justified. Furthermore, I find that the permitted development fallback position itself would provide very special circumstances which clearly outweigh the harm to the Green Belt by reason of inappropriateness to justify the granting of planning permission for the outbuilding. For the above reasons, it has not been shown that there is clear justification for the removal of permitted development rights under Class E as set out in the Framework and the PPG. I therefore conclude that condition 4 is not reasonable or necessary in the interests of protecting the Green Belt.

| No. | DBC Ref. | PINS Ref. | Address | Procedure |
|---|------------------------------|--------------|--|-------------|
| 7 | 21/04643/FHA | D/22/3297951 | Felden Orchard, Bulstrode Lane, Felden | Householder |
| Date of Decision: | | | 19/04/2023 | |
| Link to full decision: | | | | |
| https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3297951 | | | | |
| Inspector's Key conclusions: | | | | |
| <p>The development proposed is a single storey side extension.</p> <p>The proposed single storey extension would seem to be the first extension added to the dwelling. It would be recessed from the projecting frontage and would be narrower than the width of the dwelling. Due to its low-profile roof, and relatively modest size, the proposal would be a subservient and discreet addition. It would therefore be a limited extension that would not be disproportionate to the size of the original dwelling. Consequently, the proposal would comply with paragraph 149(c) of the Framework and would not amount to inappropriate development in the Green Belt.</p> | | | | |

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| | By virtue of being not inappropriate development, the proposal would not be regarded as being harmful to the openness of the Green Belt nor would it require to be justified by very special circumstances. |
|--|---|

6.4 PLANNING APPEALS WITHDRAWN / INVALID

Planning appeals withdrawn or invalid between 14 February 2023 and 12 May 2023.

| No. | DBC Ref. | PINS Ref. | Address | Procedure |
|------------|-------------------------------------|------------------|---|----------------------------|
| 1 | 22/00869/FHA | D/23/3318147 | Greymantle, Hempstead Road, Bovingdon | Householder |
| | Date of Decision: | | 21/03/2023 | |
| | Link to full decision: | | | |
| | n/a | | | |
| | Inspector's Key conclusions: | | | |
| | Turned away as late appeal. | | | |
| No. | DBC Ref. | PINS Ref. | Address | Procedure |
| 2 | 22/03131/RET | W/23/3316927 | 85-87 High Street, Berkhamsted | Written Representations |
| | Date of Decision: | | 20/04/2023 | |
| | Link to full decision: | | | |
| | n/a | | | |
| | Inspector's Key conclusions: | | | |
| | Turned away as late appeal. | | | |

6.5 ENFORCEMENT NOTICE APPEALS LODGED

Enforcement Notice appeals lodged between 14 February 2023 and 12 May 2023.

| No. | DBC Ref. | PINS Ref. | Address | Procedure |
|------------|-----------------|------------------|--|----------------------------|
| 1 | E/22/00293/NAP | C/23/3316713 | Martlets, The Common, Chipperfield | Written Representations |
| 2 | E/19/00229 | C/23/3316925 | 85-87 High Street, Berkhamsted | Written Representations |
| 3 | E/20/00157/NAP | C/23/3317404 | Plot 1 Cupid Green Lane, Hemel Hempstead | Written Representations |

6.6 ENFORCEMENT NOTICE APPEALS DISMISSED

Enforcement Notice appeals dismissed between 14 February 2023 and 12 May 2023.

None.

6.7 ENFORCEMENT NOTICE APPEALS ALLOWED

Enforcement Notice appeals allowed between 14 February 2023 and 12 May 2023.

None.

6.8 ENFORCEMENT NOTICE APPEALS WITHDRAWN

Enforcement Notice appeals withdrawn between 14 February 2023 and 12 May 2023.

None.

6.9 SUMMARY OF TOTAL APPEAL DECISIONS IN 2023 (up to 12 May 2023).

| APPEALS LODGED IN 2022 | |
|-------------------------------|----|
| PLANNING APPEALS LODGED | 24 |
| ENFORCEMENT APPEALS LODGED | 6 |
| TOTAL APPEALS LODGED | 30 |

| APPEALS DECIDED IN 2022 (excl. invalid appeals) | TOTAL | % |
|--|--------------|----------|
| TOTAL | 17 | 100 |
| APPEALS DISMISSED | 9 | 52.9 |
| APPEALS ALLOWED | 8 | 47.1 |
| APPEALS PART ALLOWED / PART DISMISSED | 0 | 0 |
| APPEALS WITHDRAWN | 0 | 0 |

| | TOTAL | % |
|---|--------------|----------|
| APPEALS DISMISSED IN 2023 | | |
| Total | 9 | 100 |
| Non-determination | 3 | 33.3 |
| Delegated | 5 | 55.5 |
| DMC decision with Officer recommendation | 1 | 11.1 |
| DMC decision contrary to Officer recommendation | 0 | 0 |

| APPEALS ALLOWED IN 2023 | TOTAL | % |
|---|--------------|----------|
| Total | 8 | 100 |
| Non-determination | 0 | 0 |
| Delegated | 6 | 75 |
| DMC decision with Officer recommendation | 1 | 12.5 |
| DMC decision contrary to Officer recommendation | 1 | 12.5 |

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 – may not be required |

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 | 22/01106/MFA | W/23/3317818 | Solar Array, Little Heath Lane, Little Heath, Berkhamsted | 18-20 July & 25-26 July |

6.12 COSTS APPLICATIONS GRANTED

Applications for Costs granted between 14 February 2023 and 12 May 2023.

None.

6.13 COSTS APPLICATIONS REFUSED

Applications for Costs refused between 14 February 2023 and 12 May 2023.

| No. | DBC Ref. | PINS Ref. | Address | Procedure |
|-----|---|--------------|--|-------------------------|
| 1 | 21/04414/ROC | W/22/3296310 | Honeysuckle Barn, Birch Lane, Flaunden | Written Representations |
| | Date of Decision: | | 12/04/2023 | |
| | Link to full decision: | | | |
| | https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3296310 | | | |
| | Inspector's Key conclusions: | | | |
| | The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal | | | |

process. Both the costs application and the Council's response were submitted in writing in advance of the Hearing. Neither party made any further addition.

The applicant asserts that the Council acted unreasonably on a number of grounds which I shall consider below with reference to the bullets used to order them within the application.

Grounds (i) and (ii): The applicant claims that there is no evidence that occupation of the conversion as an open market dwelling would conflict with Policy CS5 of the Core Strategy 2013 (the CS), and that the Council failed to evidence its view that Condition 9 served a useful planning purpose. Whilst Ground (i) is based on both a misreading of Policy CS5, and an incorrect identification of the existing use as Class C3, it was for the applicant to provide sound economic justification for removal of the tie. I have otherwise found that Condition 9, whose imposition ensured compliance with Policy CS5(d)(ii) of the CS, continues to serve a necessary economic purpose. Grounds (i) and (ii) therefore fail.

Grounds (iii) and (iv) each identify the drop-in permissions subsequently granted as being indicative of the acceptability of open market housing, and thus the acceptability of the proposal to remove Condition 9. Whilst misidentification of the existing use as Class C3 again underpins Grounds (iii) and (iv), the relevant question was not whether open market housing would be acceptable, but whether the explicit tie that Condition 9 imposed between occupancy of the conversion and employment at the stables was necessary. Grounds (iii) and (iv) therefore fail.

Grounds (v) and (vi): Neither of these Grounds are properly explained. Indeed, whilst they state that the Council misunderstood the main issue, and focused on irrelevant considerations, they say little more. It is not otherwise obvious what is meant. Grounds (v) and (vi) therefore fail.

Ground (vii) takes issue with the Council's implied suggestion that a holistic application, or one applicable to the whole of the site subject of the original planning permission, would have been more appropriate. This was not an unreasonable suggestion in itself, and how or why the applicant incurred any related expense in the appeal process is unclear. Ground (vii) therefore fails.

Ground (viii): The applicant claims that the Council acted unreasonably in introducing an additional reason for refusal at appeal based on social infrastructure. I agree that this was unreasonable. Nonetheless, as set out in my main Decision, the reasons for imposing Condition 9 included 'to ensure the stables opposite will be retained and offered to local people for the stabling of their horses'. This was therefore a matter which broadly fell to be considered and addressed. Therefore, even though I do not share the Council's view that Condition 9 serves a necessary purpose in relation to the preservation of social

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| | <p>infrastructure, the applicant did not incur unnecessary expense in dealing with the matter within the context of the appeal.</p> <p>My findings above indicate that though the Council unacted unreasonably in relation to Ground (viii), the applicant did not incur any unnecessary or wasted expense in the appeal process.</p> <p>For the reasons set out above I conclude that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated, and that an award of costs is not therefore justified.</p> |
|--|--|

6.14 FURTHER SUMMARY OF APPEALS IN 2023

| APPEALS LODGED IN 2023 | TOTAL | % OF TOTAL |
|--------------------------------|--------------|-------------------|
| HOUSEHOLDER | 12 | 40 |
| MINOR | 7 | 23.3 |
| MAJOR | 1 | 3.3 |
| LISTED BUILDING | 0 | 0 |
| CONDITIONS | 0 | 0 |
| TELECOMMUNICATIONS | 1 | 3.3 |
| LAWFUL DEVELOPMENT CERTIFICATE | 1 | 3.3 |
| PRIOR APPROVAL | 2 | 6.7 |
| LEGAL AGREEMENT | 0 | 0 |
| ENFORCEMENT | 6 | 20 |
| TOTAL APPEALS LODGED | 30 | 100 |

| APPEALS DECIDED IN 2023 (excl. invalid appeals) | TOTAL | % |
|--|--------------|------------|
| HOUSEHOLDER | 10 | 58.8 |
| MINOR | 4 | 23.5 |
| MAJOR | 1 | 5.9 |
| LISTED BUILDING | 0 | 0 |
| CONDITIONS | 1 | 5.9 |
| TELECOMMUNICATIONS | 0 | 0 |
| LAWFUL DEVELOPMENT CERTIFICATE | 0 | 0 |
| PRIOR APPROVAL | 0 | 0 |
| LEGAL AGREEMENT | 1 | 5.9 |
| ENFORCEMENT | 0 | 0 |
| TOTAL APPEALS DECIDED | 17 | 100 |