

6. APPEALS UPDATE

6.1 APPEALS LODGED

Appeals received by Dacorum Borough Council between 03 July 2023 and 24 August 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	23/00046/FUL	W/23/3325248	6 Lawn Lane, Hemel Hempstead	Written Representations
2	22/03228/FUL	W/23/3325819	39 Crouchfield, Hemel Hempstead	Written Representations
3	22/02355/FUL	W/23/3320281	2 Chalkdell Cottages, Puddephats Lane, Flamstead	Written Representations
4	22/01865/LDE	X/23/3326177	The Lodge, 37A Cavendish Road, Markyate	Written Representations
5	22/03574/FUL	W/23/3326421	1 The Orchard, Kings Langley	Written Representations
6	23/00621/FHA	D/23/3326747	The Grange, Frithsden Copse, Potten End	Householder
7	23/00736/FHA	D/23/3327021	Grey mantle, Hempstead Road, Bovingdon	Householder
8	21/04038/FUL	W/233326830	10 Church End, Markyate	Written Representations
9	23/01214/FHA	D/23/3327106	20 Bridle Way, Berkhamsted	Householder
10	23/00741/FHA	D/23/3327652	1 Tower Hill, Chipperfield	Householder
11	23/00307/FHA	D/23/3327777	54 Nettleden Road, Little Gaddesden	Written Representations
12	23/00308/LBC	Y/23/3327780	54 Nettleden Road, Little Gaddesden	Written Representations
13	23/00277/FUL	W/23/3327913	Kingsway, London Road, Bourne End	Written Representations

6.2 PLANNING APPEALS DISMISSED

Planning appeals dismissed between 03 July 2023 and 24 August 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	22/02125/RET	D/22/3309955	212 Cotterells, Hemel Hempstead	Householder
Date of Decision:			04/07/2023	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3309955				
Inspector's Key conclusions:				
<p>The application is for construction of single storey timber framed outbuilding in garden.</p> <p>I saw on my site visit that the scheme sits noticeably higher than any other ancillary type structure that I could see. The building also appeared to protrude significantly over the adjacent boundary fences that demark the side boundaries. This may have been exacerbated by the generous plinth deck upon which the building stands and which force its bulk to be higher.</p> <p>From the space within I was able to clearly see towards the rear private rooms at both first and ground floor of the immediately adjoining neighbours at 214 and 210 Cotterells. I consider that such a view would represent a harmful level of overlooking of these private rooms to a degree that would not have existed prior to this building being constructed. Moreover, I consider that, when seen from the lower levels of the site the building appears more intrusive due to its height and the level of ground that it sits upon. I consider therefore that the building would cause a more overbearing impact upon adjoining neighbours as a result.</p> <p>In terms of design and materials, although the building appears to have the potential to appear somewhat contemporary in its design, I cannot accept that the grey UPVC type cladding is responsive to the character and appearance of the area. By contrast the cladding would represent an alien intervention into the area and this is made worse through the attempts to disguise through plastic foliage material.</p> <p>Ultimately this scheme has introduced a large building, upon a significant plinth, into what was previously a simple garden within a high density terraced area. Due to this density the proximity to neighbours and the distances between dwellings are all the more sensitive. I consider that the scheme would represent an overdevelopment of this site that would fail to integrate well into the local area and that would cause harm to the living conditions of neighbours.</p>				

No.	DBC Ref.	PINS Ref.	Address	Procedure
2	22/03586/FHA	D/23/3319937	3 Chiltern Villas, Aylesbury Road, Tring	Householder
Date of Decision:			04/07/2023	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3319937				
Inspector's Key conclusions:				
<p>The application is for demolition of single storey rear extension. Construction of single storey rear extension and rear dormer.</p> <p>In assessing the single storey rear extension, I consider that it represents a sound response to both the character of the original property and the wider Conservation Area through its modest scale and fusion of traditional and modern design aesthetics. As such this element of the proposal would not appear to give rise to any specific harm to the historic environment.</p> <p>However, the proposed dormer extension, whilst attempting very hard to mitigate its scale and bulk, ultimately results in a contrived form of development that I consider would be harmful to the Conservation Area. This is largely due to the overall scale and massing of the proposed dormer window as well as its contrived design that I do not believe effectively mitigates this bulk and massing.</p> <p>Such an extension therefore would appear overly bulky and is not successful in its attempt to alleviate the appearance of what is still effectively a large box dormer through the integration of partial pitched roof elements. Although I saw on my site visit that there are other large dormers within the streetscene I do not know the precise reasons as to why these were constructed and I consider that following their example would not help preserve or enhance the character of the area.</p> <p>The proposal before me would result in an overly dominant dormer extension that would not only dominate the roof form and chimneys but would have a harmful impact upon the wider character and appearance of the area, most specifically when the rear of the property is seen from Longfield Road.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
3	21/00701/FUL	W/21/3279608	Land At 28 Hall Park, Berkhamsted	Written Representations
Date of Decision:			12/06/2023	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3279608				
Inspector's Key conclusions:				
<p>The development proposed is a detached dwellinghouse and associated parking.</p> <p>The proposed dwelling would have a slender front façade that would contrast appreciably with the broader front elevations nearby, at Nos 28 and 30A. Moreover, it would sit within a plot that would be much narrower than those</p>				

<p>either side and along the length of Hall Park. Consequently, the dwelling's more compact scale together with the plot's slender proportions would give rise to a development with an unacceptably cramped appearance, that would fail to preserve the distinctive qualities of the streetscape in which it would be located or, relate well to the scale of adjoining houses...the proposed development would be harmful to the character and appearance of the area.</p> <p>Due to the increased recreational pressures which would result from the occupation of an additional dwelling on the site, and without mitigation, the proposed development, alone and in combination with other developments, would be likely to have an adverse effect on the features of interest of the SAC. I cannot rule out adverse effects on the integrity of the SAC.</p> <p>the proposed development would not have a materially harmful effect on the living conditions of the occupiers of 30A Hall Park, with particular regard to outlook.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
4	21/02155/FUL	W/22/3304081	Land Adj. 8 Haywood Drive, Hemel Hempstead	Written Representations
Date of Decision:			25/07/2023	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3304081				
Inspector's Key conclusions:				
<p>The development proposed is the change of use of land to residential and construction of a two storey dwelling raised on stilts. External decks, walkways, bike and bin store, hard standing area for three car parking space and new access from Haywood Drive.</p> <p>Whilst I recognise that the incorporation of a green roof and timber cladding would reflect the verdant character of the appeal site, the introduction of a flat roof would nevertheless be uncharacteristic of the area. Moreover, the roof structure together with the elongated footprint, would create a block like form and appearance which would read as a bulky and disproportionate addition to the street scene, particularly when viewed from the nearby road junction, where the existing tree coverage is most sparse. Therefore, whilst it has been put to me that the proposal would be a discrete piece of architecture, for the above reasons, I find that the proposal would be visually obtrusive.</p> <p>I acknowledge that the existing landscaping within the appeal site would provide a reasonable level of screening throughout the year. However, there would be periods during the winter when the tree canopies are reduced during which time, the incongruous form of the proposal would be more apparent.</p> <p>In coming to this view, I have had regard to the 2018 planning permission. Although the design concept is similar, unlike the appeal proposal, the previous scheme was separated into two, relatively modest buildings and featured a pitched roof. Consequently, whilst the height of the dwelling exceeded the appeal scheme, the overall mass and form of the 2018 proposal</p>				

<p>was notably different and therefore did not read as a prominent and incongruous addition. To this end, even if this permission remained extant, the previous acceptance of this less harmful option does not weigh in favour of this proposal. Accordingly, I find that the proposed development would adversely affect the character and appearance of the area.</p> <p>As the competent authority, I need to be certain that the proposal would not have an adverse effect on the integrity of the Chilterns Beechwoods SAC. However, in the absence of an appropriate legal agreement, I cannot ascertain this. In such circumstances, the Habitat Regulations set out that the competent authority may only agree to the project if there are no alternative solutions, and the project must be carried out for imperative reasons of overriding public interest. Although no alternative solutions have been put to me, the available evidence does not indicate that the proposal meets the tests of overriding public interest. Therefore, under the Habitat Regulations, I cannot agree to the proposal.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
5	21/04770/FUL	W/22/3309745	Hamberlins Farm, Hamberlins Lane, Northchurch	Written Representations
Date of Decision:			01/08/2023	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3309745				
Inspector's Key conclusions:				
<p>The development proposed is the demolition of existing buildings to form five residential units alongside access, parking and landscaping.</p> <p>It is undisputed that Plots 1 and 3 of the scheme, on the south side of the site, are not PDL. None of the exceptions within paragraphs 149 and 150 of the Framework apply to Plots 1 and 3 and these areas would consequently form inappropriate development in the Green Belt, which would conflict with its aims by failing to safeguard the countryside from encroachment. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.</p> <p>Turning to the effect of the development of Plots 1 and 3 on openness, this assessment has both a spatial and a visual aspect. The two plots currently hold barns, a mobile home and the remnants of a collapsed structure. The proposed development at the plots would have a similar height to existing development. Whilst the proposed development would bring about a limited increase in the developed footprint of the plots, it would significantly reduce the volume of built form. It would additionally substantially increase the quantity of soft landscaping, and the proposed buildings would have a similar alignment to existing development, allowing for the retention of most sightlines through the two plots. Therefore, in overall terms, the proposed development would not harm openness at Plots 1 and 3.</p> <p>The remaining plots (2, 4 and 5) of the scheme are considered by the parties to form PDL and I see no reason to disagree with that assessment. This</p>				

<p>element of the site would be completely redeveloped and would not contribute to meeting an identified affordable housing need within the area. It is consequently necessary, in accordance with paragraph 149g) of the Framework, to consider whether the development of plots 2, 4 and 5 would have a greater impact on the openness of the Green Belt than the existing development.</p> <p>I consider that in both spatial and visual terms the proposed development of Plots 2, 4 and 5 only would not have a greater impact on the openness of the Green Belt than the existing development at those plots. It would consequently be not inappropriate development in the Green Belt, which complies with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.</p> <p>Nevertheless, the proposed development of Plots 1 and 3 would cause harm to the Green Belt by reason of inappropriate development.</p> <p>The appeal site lies within a valley in the Chilterns Area of Outstanding Natural Beauty (AONB). The scale, layout and homogenous design of the proposed development of five dwellings would give rise to a contemporary and suburban appearance which would draw the eye within an area of open countryside which allows for panoramic and scenic views across a valley of the AONB from a number of publicly accessible points. Such views are identified as a special quality of the Chilterns in its Management Plan. The proposed landscaping would only partially screen the scheme, for the reasons given above. Furthermore, any screening would be reduced for part of the year due to leaf loss from the proposed deciduous species, so that the development would be visible or glimpsed within several views in the vicinity over an enduring period. The proposal would therefore form an incongruous feature of undue prominence within views across the AONB. The scheme as a whole would consequently cause unacceptable harm to the appearance of the area with particular regard to its effect on the AONB.</p> <p>Whilst I have considered the Green Belt implications for the relevant part of the site only, in concluding I am considering the proposed development as a whole. The very special circumstances necessary to justify the development of Plots 1 and 3 do not exist. The proposal in respect of Plots 2, 4 and 5 conflicts with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
6	21/02825/FUL	W/22/3293715	Church Farm, Station Road, Aldbury	Written Representations
Date of Decision:			14/08/2023	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3293715				
Inspector's Key conclusions:				
The proposed development is proposed is Demolition of Building 1 and construction of mixed used development of offices and 4 No. two-bedroom flats.				

The replacement building would be U-shaped but on a different alignment to the parallel ranges of the Church Farm buildings. It would also have numerous openings facing towards the surrounding AONB countryside, as well as an elongated built edge alongside the adjacent footpath. The proposed building would have a contrived appearance, with a complicated pattern of fenestration, roof articulation, gables and mix of contemporary and modern materials. Broadly, the proposed materials would be suggestive of a barn conversion, and the proposal would neither successfully emulate the authenticity of a traditional agricultural building, nor achieve a successful contemporary aesthetic. Rather, the extent of glazing, balconies, parking forecourt, large bin store and enclosed communal amenity area would create the appearance of a two-storey block of flats.

Even with offices on the ground floor, a smaller footprint and overall built volume, the form, solidity and permanence of the proposed building would be an uncharacteristic and domestic intrusion at Church Farm. Looking towards the appeal site from the adjacent footpath, the surrounding AONB countryside and the churchyard, the overtly domestic form and uncharacteristic impact of the proposal and associated activity would be obvious, especially at night.

Even if materials could be conditioned and new hedgerows planted, overall I consider that the proposal would cause harm to the character and appearance of the area. The proposal would fail to achieve a satisfactory assimilation into the AONB landscape, the natural beauty of which would be neither conserved nor enhanced. There would be a weakening of the legibility of the 'model farm' arrangement and strong sense of place at Church Farm, thus the significance of the NDHAs at Church Farm would be indirectly harmed through development within their settings, and the character and appearance of the CA as a whole would not be preserved or enhanced. While I am aware of the intervening distances and that the Council did not find harm to the setting of the listed Church, in my judgement, the urbanising and domestic impact of the proposal would in a small way diminish from the wider rural context of the Church, failing to preserve and causing some harm to its setting. I do agree with the Council that the setting of the School would be preserved.

Owing to the scale and nature of the proposal and the impact on the significance of the listed Church, the Church Farm NDHAs and CA as a whole, I consider the degree of harm to each as designated heritage assets would be less than substantial.

I do not consider that the amenity space would be harmfully overlooked by the offices, nor that future occupiers would lack a sense of privacy having to walk past office windows to access it.

Considerable importance and weight attach to the desirability of preserving the significance of a designated heritage asset (and the more important the asset, the greater the weight should be). Less than substantial harm should not be equated with less than substantial planning objection. The public benefits associated with the appeal proposal do not cumulatively present sufficient

	weight to offset the harm to the CA and listed Church as designated heritage assets.			
No.	DBC Ref.	PINS Ref.	Address	Procedure
7	22/01347/FHA	D/22/3313973	Lower Farm End, Luton Road, Markyate	Householder
	Date of Decision:		21/08/2023	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3313973			
	Inspector's Key conclusions:			
	<p>The development proposed is a replacement roof extension.</p> <p>The proposed development can be described as the extension of an existing dwelling. The Framework is clear that the extension or alteration of a building might not be inappropriate, provided that it does not result in disproportionate additions over and above the size of the original building. Although the proposed development would not result in an increase in the footprint of the dwelling. However, this is not the only means by which the size of an extension can be assessed. In this case, the proposed development would result in a significantly larger dwelling. This is because, as part of the development, there would be a notable increase in the height of the eaves and the overall height of the dwelling.</p> <p>In addition, the proposed development would also include the insertion of two, large, dormers on two different elevations of the proposed development. These would have a height comparable to the overall height of the proposed development. This means that the development would create a dwelling that would result in a significantly greater height, mass and bulk than the existing dwelling. The proposed development would therefore result in the creation of a disproportionate addition. I therefore conclude that the proposal would be an inappropriate development within the Green Belt.</p> <p>The proposed developments would result in a notable increase in the overall level of built form. This would comprise the increase in floor space in addition to the greater height and massing of the new dwelling. In result of this, the proposed development would result in an erosion of the spatial sense of openness that is an intrinsic feature of the Green Belt.</p> <p>In result, the proposed development would create a more urbanising form of development which would conflict with the general purposes of including land within the Green Belt given that it would erode the predominantly open character of the vicinity of the appeal site. I therefore conclude that the proposed development would have an adverse effect upon the Green Belt sense of openness.</p>			

6.3 PLANNING APPEALS ALLOWED

Planning appeals allowed between 03 July 2023 and 24 August 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	22/01432/FHA	D/22/3310048	The Old Stables, Norcott Hill, Northchurch	Householder
Date of Decision:			20/07/2023	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3310048				
Inspector's Key conclusions:				
<p>The development proposed is a rear extension and minor changes to existing windows.</p> <p>Dormers of a limited scale are present within the grouping and appear in keeping with the agricultural character of the buildings. Overall, the farm grouping contributes positively to the rural landscape and scenic beauty of the AONB.</p> <p>The proposed dormer would be located on the western roof slope, minimally visible from public view. The design and scale of the dormer would be similar to a number of other dormers located within the farm group. It would be set down significantly from the ridge line with the overall scale limited to the size of the window and would appear subservient to the main linear mass. Further, rooflights appear throughout the farm group and due to their low profile, would not distract from the overall simplicity of the roof form adjacent the highway.</p> <p>Although the proposed extension would project beyond the historic building line of the property, it would continue the strong linear pattern of development seen along Norcott Hill and would not affect the existing enclosed farmyard character of the wider grouping. The proposal would extend the built mass of the farm grouping to the north, however it would not encroach on open countryside and would be disguised in long views by the neighbouring properties and mature garden. The proposed gable would be visually prominent in short views when approaching from the north, however this would replicate the current prominence of the existing gable.</p> <p>Due to its use of traditional materials, detailing and simple linear form, the extension would be sympathetic to the host property and would be in keeping with the rural context. The host property and the adjoining dwellings would continue to be read and understood as a large complex of former farm buildings.</p> <p>Overall, the proposed extension would maintain the simple agricultural character of the host property as well as the wider farm grouping and would not harm the significance of the host property. The proposal would conserve the landscape and scenic beauty of the AONB.</p>				

No.	DBC Ref.	PINS Ref.	Address	Procedure
2	22/02079/TEL	W/22/3307694	Redbourn Road Street Works, Hemel Hempstead	Written Representations
	Date of Decision:		15/08/2023	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3307694			
	Inspector's Key conclusions:			
	<p>The development proposed is 5G telecoms installation: H3G street pole and additional equipment cabinets.</p> <p>Under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.</p> <p>There is no requirement within either the GPDO 2015 or the Framework for a developer to demonstrate that they have identified the best feasible siting for the proposed installation, unless harm is identified.</p> <p>The proposed installation would include the erection of a tall mast within the grass verge. The proposed mast would be viewed alongside other tall items of street furniture and the commercial properties. Visually the mast would appear in keeping with other street furniture and alongside the commercial properties and given the extent of existing items would not lead to views appearing cluttered.</p> <p>The proposed installation would be sited away from the tall trees and dense shrubbery, which would partially screen the proposed installation in wider views. The provision of telecoms equipment is expected within what is a busy, urban, roadside environment and, in this instance, it would reflect the existing public realm.</p> <p>I therefore consider that no harm would be caused by the siting and appearance of the proposed installation; the Council also agree with this view. As no harm has been identified, in this instance, the appellant is not required to demonstrate that they have identified the best feasible siting for the proposed installation.</p>			
No.	DBC Ref.	PINS Ref.	Address	Procedure
3	22/03773/TEL	W/23/3317771	Site At Billet Lane, Gossoms End, Berkhamsted	Written Representations
	Date of Decision:		18/08/2023	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3317771			
	Inspector's Key conclusions:			
	The proposed development is 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.			

Under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.

The proposed development would be of functional appearance, typical of telecommunications equipment seen in urban areas generally. The height of the proposed monopole would be some 5 metres taller than nearby existing street lights and it would be taller than the adjacent commercial building. Whilst the proposal would be read as being grouped with this existing street furniture against a backdrop of a commercial use when travelling toward the junction, it would be noticeably taller and wider than the existing street furniture, and it would be taller than neighbouring buildings.

Due to its height and prominent siting within the footway, the proposal would be readily visible from various points along Billet Lane and the A4251. Given its height and width, and relatively prominent siting, the proposed monopole would be somewhat at odds with the prevailing smaller scale mixed use nature and verdant character of the area. The siting and appearance of the proposal would be moderately harmful to the character and appearance of the surrounding area.

It is evident from the appellant's submission that there is a need for improved network coverage in the area. The proposal would provide significant benefits through the upgrade to digital telecommunications in this area allowing for additional coverage and capacity.

The appellant has supplied information and maps regarding the site selection process and has explored several other siting options. Contrary to the Council's view, the appeal submission details that the appellant has conducted a desktop survey and physical inspection of the area to assess opportunities for mast sharing and the use of buildings. This concluded that there were no mast sharing opportunities or existing buildings to utilise, as such a new mast would be required. After due consideration all were discounted for various reasons including pavements being too narrow, the proximity of residential properties, obstruction of and by junction visibility splays and overhead lines.

There is no substantive evidence that challenges the rationale for discounting the alternatives that have been considered and I have no robust evidence before me to suggest that there would be other more suitable sites. The lack of realistic alternative options to deliver much needed improved coverage and capacity is a consideration which weighs strongly in favour of the development. To the extent that it would be sufficient to justify it against the moderate harm that would arise from the siting and appearance of the proposal.

No.	DBC Ref.	PINS Ref.	Address	Procedure
4	22/03390/ROC	W/23/3316329	26 Hempstead Lane, Potten End	Written Representations
	Date of Decision:		21/08/2023	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3316329			
	Inspector's Key conclusions:			
<p>The condition in dispute is No 6 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order amending or re-enacting that Order with or without modification) no development falling within the following classes of the Order shall be carried out without the prior written approval of the Local Planning Authority: Schedule 2 Part 1 Classes [A,AA, B and E].</p> <p>Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development (PD) rights unless there is clear justification to do so. The GPDO sets out the PD rights for development within the curtilage of a dwellinghouse. These rights apply generally to all dwellinghouses, with some exceptions. Given that land within the Green Belt was omitted from these exceptions, land within the Green Belt is regarded as no different in terms of the application of PD rights as land outside of it.</p> <p>The appeal site's location within the Green Belt, does not, in itself, represent an exceptional circumstance to warrant removal of PD rights. I have considered the particular characteristics of the dwelling and its surroundings. The proposed dwelling would sit on a large plot and would be large in scale. However, it would be located between similar size dwellings. The immediate area has a wide range of dwelling types and scales, with larger dwellings noted in close proximity. During my site visit I noted that nearby properties also had a variety of extensions and outbuildings.</p> <p>Bearing in mind the limitations of the GPDO in terms of size and position of development, I am not persuaded that the specific circumstances of this site, being part of a built up frontage with a variety of scales, design and outbuildings, are such that extensions and alteration to the approved dwelling would have such an effect on the openness of the Green Belt or its purposes that removal of PD rights is justified.</p> <p>Therefore, a condition restricting PD rights is not reasonable or necessary in the interests of the openness and visual amenities of the Green Belt or the living conditions of nearby residents.</p>				

6.4 PLANNING APPEALS WITHDRAWN / INVALID

Planning appeals withdrawn or invalid between 03 July 2023 and 24 August 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	22/03241/FUL	W/23/332209	Abilea Meadows, Friendless Lane, Flamstead	Written Representations
	Date of Decision:		31/07/2023	
	Link to full decision:			
	n/a			
	Inspector's Key conclusions:			
	Appeal withdrawn by appellant.			

6.5 ENFORCEMENT NOTICE APPEALS LODGED

Enforcement Notice appeals lodged between 03 July 2023 and 24 August 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	E/23/00096/NPP	C/23/3326355	2 Bulstrode Close, Chipperfield	Written Representations
2	E/23/00096/NPP	C/23/3326356	2 Bulstrode Close, Chipperfield	Written Representations

6.6 ENFORCEMENT NOTICE APPEALS DISMISSED

Enforcement Notice appeals dismissed between 03 July 2023 and 24 August 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	E/21/00302/NPP	C/22/3311899	45 Lawn Lane, Hemel Hempstead	Written Representations
	Date of Decision:		14/07/2023	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3311899			
	Inspector's Key conclusions:			
	In an appeal on ground (d), the onus is on the appellant to demonstrate, on the balance of probabilities, that at the time the notice was issued, it was too late to take enforcement action in respect of the alleged breach of planning control. There is no documentary evidence of rent paid or received for this period...There is no explanation about why payments are registered against a			

name other than the one on the Tenancy Agreements... There is no presented evidence of payments made or received from or relating to the tenant.

There is ambiguity with the evidence presented. The TAs cover a period from January 2018 to April 2022 (assumed to be 2023) and there is a gap of 4 months and 3 months where there is no TA in place and no indication of rental payments being made. Gaps are explained as being 'between tenancies'. However, it seems to me that a gap of 4 months and one of 3 months is a significant period when the building may have been put to a different use. Notwithstanding these gaps, the evidence of rent paid or an income received is intermittent for the periods during which the building is said to have been occupied by a tenant. Complete evidence of payments made or received during the pertinent period should be available to support the appellant's case with Herts Lettings having some form of control/management of the appeal building since early 2018.

While I acknowledge that a Statutory Declaration has been provided by the appellant stating that the outbuilding has been continuously rented out to tenants since at least January 2018, except for vacant periods between lets, the content does not accord with the evidence provided, and this casts doubt on its accuracy. In these circumstances I give it limited weight.

Prior to the Council's enforcement investigation, its private housing team had conducted a site visit on 31 May 2019, and it was reported that at this time the outbuilding was not in a condition to be used as residential and was being used for storage. The appellant justifies this matter with a screenshot of an email dated 29 May 2019 from Zachary Owens (listed as the tenant in the TA) to the appellant explaining that they were using the building for 'mini storage for a few days' and that their residential use would resume.

The photographs taken in May 2019 by the Council show the building in use for storage, with furniture piled up and stacked rolls of insulation. It also shows the filter hood above a space where the cooker should be and there is wiring hanging from the duct and the equipment is missing the splash back and duct casing. Furthermore, the 2019 photographs show the exterior of the building without the horizontal cladding and windows with tape on the frames, which indicates to me that they were a recent addition to the building and that the building works had not been completed to provide a waterproof structure.

Overall, I find that the submitted evidence lacks precision and is ambiguous. Consequently, I am unable to conclude on the balance of probabilities that the use of the outbuilding as a self-contained dwelling has existed for more than 4 years beginning with the date of the breach. Accordingly, the appellant has not shown, as a matter of fact and degree, that when the notice was issued, no enforcement action could be taken in respect of the breach of planning control.

No.	DBC Ref.	PINS Ref.	Address	Procedure
2	E/21/00430/NPP	C/22/3302653	1 The Orchard, Kings Langley	Written Representations
Date of Decision:			21/07/2023	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3302653				
Inspector's Key conclusions:				
<p>There is no appeal on ground (a) therefore the planning merits of the matters alleged do not fall to be considered.</p> <p>The appeal on ground (c) is a claim that the development does not constitute a breach of planning control. The appeal fence is made of 'hurdles' which the appellant says are temporary in nature due to their life span of 7-8 years. They maintain that the intended use of the hurdles is to allow the hedge to establish over one or two years. It is also suggested by the appellant that the hurdles are a form of hoarding for the site while building works are in progress. Thus, the gist of the appellant's case under their appeal on ground (c) is that the fence does not constitute a breach of planning control because it is not a permanent structure.</p> <p>The hurdles are physically attached to posts that are set into the ground and are performing a function of enclosing the space. The fence provides a physical barrier enclosing the open space to the front of the house and has remained in the same position for some time. Consequently, taking into account the evidence before me, I am satisfied that, as a matter of fact and degree, the fence comprises a physical alteration to the land of sufficient permanence that it constitutes development for the purposes of section 55 of the 1990 Act.</p> <p>In this case the fence along with the wall, which it exceeds in height, are clearly intended as a means of enclosure to the appellant's land. Having seen the location in conjunction with the highway, it is my view that the fence would, as a matter of fact and degree, be 'adjacent' to the highway and, despite the intervening lower-level brick boundary wall, would be perceived as such. Consequently, I find that the development does not constitute development permitted by Class A of Part 2 of Schedule 2 of the Order. Planning permission for it is not therefore granted by virtue of Article 3. I conclude that the alleged breach does constitute a breach of planning control and express planning permission is required. The appeal on ground (c) therefore fails.</p> <p>The basis for an appeal on ground (f) is that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or any injury to amenity. There is nothing short of either removing the fence in its entirety or reducing its height that would achieve the purpose behind the requirements. Accordingly, the appeal on ground (f) fails.</p> <p>An appeal on ground (g) is that the period for compliance specified in the notice falls short of what should be reasonably allowed. The notice gives a period of six weeks. The appeal on ground (g) does not succeed.</p>				

6.7 ENFORCEMENT NOTICE APPEALS ALLOWED

Enforcement Notice appeals allowed between 03 July 2023 and 24 August 2023.

None.

6.8 ENFORCEMENT NOTICE APPEALS WITHDRAWN

Enforcement Notice appeals withdrawn between 03 July 2023 and 24 August 2023.

None.

6.9 SUMMARY OF TOTAL APPEAL DECISIONS IN 2023 (up to 24 August 2023).

APPEALS LODGED IN 2023	
PLANNING APPEALS LODGED	46
ENFORCEMENT APPEALS LODGED	12
TOTAL APPEALS LODGED	58

APPEALS DECIDED IN 2023 (excl. invalid appeals)	TOTAL	%
TOTAL	44	100
APPEALS DISMISSED	26	59.1
APPEALS ALLOWED	16	36.4
APPEALS PART ALLOWED / PART DISMISSED	0	0
APPEALS WITHDRAWN	2	4.5

	TOTAL	%
APPEALS DISMISSED IN 2023		
Total	26	100
Non-determination	3	11.5
Delegated	21	80.8
DMC decision with Officer recommendation	1	3.8
DMC decision contrary to Officer recommendation	1	3.8

APPEALS ALLOWED IN 2023	TOTAL	%
Total	16	100
Non-determination	0	0
Delegated	14	87.5
DMC decision with Officer recommendation	1	6.25
DMC decision contrary to Officer recommendation	1	6.25

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	In progress

6.12 COSTS APPLICATIONS GRANTED

Applications for Costs granted between 03 July 2023 and 24 August 2023.

None.

6.13 COSTS APPLICATIONS REFUSED

Applications for Costs refused between 03 July 2023 and 24 August 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	22/01347/FHA	D/22/3313973	Lower Farm End, Luton Road, Markyate	Householder
	Date of Decision:		21/08/2023	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3313973			
	Inspector's Key conclusions:			
	In this instance, the Council identified areas of national and local planning policies that are relevant to the proposed development. In addition, the Council explained how they considered that these policies were breached and the			

<p>harm that would arise from these breaches. Therefore, I find that the Council properly substantiated the reasons for refusal.</p> <p>Although the Council referenced the presence of an outbuilding in their delegated report, it is clear that this is only one of the material considerations that the Council considered relevant to the determination of the planning application. In consequence, I cannot find that the references to this building by the Council to be unreasonable.</p> <p>The applicant has suggested that the Council's Planning Officer indicated that the scheme was acceptable prior to the determination of the planning application. Whilst this may be the case, the Council's reasons for refusal are properly substantiated and have relied upon relevant policies. This is therefore not evidence of unreasonable behaviour that has created wasted expense.</p> <p>I understand that the Council has previously permitted other developments at the appeal site. However, it is clear from the Council's delegated report that these have differing forms and purposes to the appeal scheme. In result, a differing approach is justified in this instance. I therefore do not find that this is evidence of unreasonable behaviour.</p> <p>In consequence, I cannot agree that the Council has acted unreasonably in this case. As such, I do not believe that the appellant was put to unnecessary or wasted expense. Therefore, an award of costs is not justified.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
1	E/21/00430/NPP	C/22/3302653	1 The Orchard, Kings Langley	Written Representations
Date of Decision:			21/08/2023	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3302653				
Inspector's Key conclusions:				
<p>Parties in planning appeals normally meet their own expenses. However, 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.</p> <p>The applicant submits that the Council behaved unreasonably by taking enforcement action and issuing the notice one or two weeks earlier than expected. The applicant has also detailed numbers of cases within the borough relating to enforcement notices issued, retrospective planning permission granted, resolution of breaches and expediency not to enforce for matters concerning fences. They consider that with the rarity of issued notices, the temporary nature of their fence and the fact that the fence was to be screened with Heras style fencing, action was 'unjustified and bizarre'.</p>				

The Council confirmed in a letter dated 8 December 2021 to the applicant that the fence should be removed, or an application submitted. The applicant was given 28 days to respond. This complies with the Council's Local Enforcement Plan (LEP). Further email correspondence dated 5 January 2022 between the parties confirmed the Council's stance and again provided a deadline of 28 days after which time enforcement action would be taken. The applicant was therefore aware that an enforcement notice could be issued from early February 2022, having been given 28 days in which to apply for planning permission or to remove the hurdle style fence.

The planning enforcement investigating officer's report on the expediency of taking formal action, dated 28 January 2022, outlines the breach and attempted resolution. It states that following non-compliance with the Council's requests, enforcement action was considered necessary because of the harm caused by the development in terms of its adverse effect upon the character and appearance of the surrounding area. The notice was subsequently issued on 5 July 2022. While it may have been better practice to issue the notice in a timelier manner, the Council's LEP provides no guidance on the period within which a notice should be issued.

From the evidence before me, the applicant was fully aware that enforcement action was proceeding and that a notice would be issued at some point from the end of the 28-day period referred to by the Council in their correspondence dated 5 January 2022. Whether or not it was ultimately issued one or two weeks before expected by the applicant seems to me to make little difference to any outcome. The applicant had sufficient opportunities to apply for a certificate of lawfulness, apply for planning permission or remove the fence but they had not.

Notwithstanding this, an appeal against the enforcement notice has allowed the applicant the opportunity to bring an appeal against grounds that the development does not constitute a breach of planning control. They also had the opportunity to appeal against grounds that planning permission ought to be granted, although this ground was not pursued.

The power to issue an enforcement notice is discretionary. An enforcement notice should only be issued where the local planning authority is satisfied that it appears to them that there has been a breach of planning control and it is expedient to issue a notice, taking into account the provisions of the development plan and any other material considerations.

The Council acknowledges a high proportion of alleged breaches of planning control are investigated and then closed, for reasons that enforcement action would not be expedient to pursue. Nevertheless, the Council clearly deemed the appeal fence harmful in its context and contrary to the National Planning Policy Framework and development plan policies with reasons set out within the notice. This course of action meets with the guidance contained within the Council's Local Enforcement Plan (LEP) and the PPG2.

For these reasons, I find that unreasonable behaviour resulting in unnecessary

	or wasted expense, as described in the PPG, has not been demonstrated and having regard to all other matters raised, an award of costs is not justified for the appeal.
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6.14 FURTHER SUMMARY OF APPEALS IN 2023

APPEALS LODGED IN 2023	TOTAL	% OF TOTAL
HOUSEHOLDER	18	31
MINOR	19	32.7
MAJOR	1	1.7
LISTED BUILDING	1	1.7
CONDITIONS	1	1.7
TELECOMMUNICATIONS	2	3.4
LAWFUL DEVELOPMENT CERTIFICATE	2	3.4
PRIOR APPROVAL	2	3.4
LEGAL AGREEMENT	0	0
ENFORCEMENT	12	20.7
TOTAL APPEALS LODGED	58	100

APPEALS DECIDED IN 2023 (excl. invalid appeals)	TOTAL	%
HOUSEHOLDER	19	43.2
MINOR	13	29.5
MAJOR	1	2.3
LISTED BUILDING	1	2.3
CONDITIONS	3	6.8
TELECOMMUNICATIONS	2	4.5
LAWFUL DEVELOPMENT CERTIFICATE	1	2.3
PRIOR APPROVAL	0	0
LEGAL AGREEMENT	1	2.3
PERMISSION IN PRINCIPLE	1	2.3
ENFORCEMENT	2	4.5
TOTAL APPEALS DECIDED	44	100