

6. APPEALS UPDATE

6.1 APPEALS LODGED

Appeals received by Dacorum Borough Council between 25 August 2023 and 03 November 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	23/00767/FHA	D/23/3328055	43 Highfield Road, Berkhamsted	Written Representations
2	23/00413/FUL	W/23/3328678	Land East Of Cyrita, Hogpits Bottom, Flaunden	Written Representations
3	22/02538/FUL		Frithsden Vineyard, Frithsden	Written Representations
4	22/02315/DRC	W/23/3329143	Unit 1b, 49A High Street, Northchurch	Written Representations
5	23/00149/FHA	D/23/3329414	Everglades, Old Watling Street, Flamstead	Householder
6	23/01261/UPA	D/23/3329934	Hillcrest, Stoney Lane, Chipperfield	Householder
7	23/00895/ROC	D/23/3329469	17 Granville Road, Northchurch	Householder
8	23/01357/FUL	W/23/3331301	Land To Rear Of 23- 26 Brook Street, Tring	Written Representations
9	22/03183/FUL	W/23/3322715	Land At Little Heath Lane, Little Heath Farm, Potten End	Written Representations
10	23/00125/FHA	D/23/3331469	Little Paddock, Frithsden Copse	Householder
11	23/00877/FUL	3331979	35 High Ridge Road, Hemel Hempstead	Written Representations
12	23/01330/FHA	D/23/3332110	7 Olivers Close, Potten End	Householder

6.2 PLANNING APPEALS DISMISSED

Planning appeals dismissed between 25 August 2023 and 03 November 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	22/02740/FUL	W/23/3315012	2 Lower Yott, Hemel Hempstead	Written Representations
	Date of Decision:		01/09/2023	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3315012			
	Inspector's Key conclusions:			
	<p>The development proposed is an extension to building to create a dwelling.</p> <p>The appeal property is an end terraced house located in a residential area where properties are generally of a similar style and period. Although the front elevation of the terrace is staggered with the end properties at either end being set back by a small distance from the front elevations of the middle properties, the row of houses are all set back on their plots with parking areas to the front. Some of the properties have been extended to the front at ground floor level, but at first floor dwellings have a largely uniform appearance which provides a simple, uncluttered appearance to the streetscene that contributes positively to local character.</p> <p>The proposed extension to the front, side and rear would replace an existing single storey side and rear extension. Because of the hipped roof design of the roof, the extent of the forward projection and its width, the front extension would appear as a prominent and incongruous feature against the simple form of the existing buildings.</p> <p>The proposal would be highly prominent being set forward and seen against the modest porch of the host property and located on a corner plot. The proposed development would appear disproportionate when viewed from the street. It would neither complement the appeal property, nor would it integrate into the streetscene. Consequently, the proposed development would look harmfully out of place.</p> <p>I have taken account of the fact that planning permission has now been granted for an extension to the existing dwelling to create a new dwelling. However, the approved scheme is materially different from the appeal proposal as it does not include the first floor side and first floor forward projections which would appear incongruous for the reasons set out above. As a result, although I accept that there is a greater than theoretical possibility that the approved scheme might take place and I attach significant weight to the existence of this extant planning permission, it does not alter my view that the proposal would unacceptably harm the character and appearance of the area.</p> <p>I therefore conclude that the proposal would have an adverse impact on the character and appearance of the host property and the area.</p>			

No.	DBC Ref.	PINS Ref.	Address	Procedure
2	22/01766/DPA	W/23/3314903	Site of 1-31 Nightingale Walk, Hemel Hempstead	Written Representations
	Date of Decision:		09/10/2023	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3314903			
	Inspector's Key conclusions:			
<p>The development proposed is the construction of a part-one, part-two storey extension to the existing buildings to provide 16 new dwellinghouses.</p> <p>The appeal site is a three-storey block of flats that is located at the end of Berkley Square which is a residential road. The appeal site occupies a prominent position at a turning head that is surrounded by communal grassed areas and densely vegetated boundaries which results in an open and verdant character and appearance.</p> <p>The proposal seeks to raise the height of flats 1-12 and 26-31 by two storeys and flats 14-25 by an additional storey. The Council do not raise an objection to the two-storey element of the proposal, and I have no substantive evidence to conclude otherwise.</p> <p>The Council's main area of concern relates to the additional storey proposed above flats 14-25. The additional storey would result in the building being noticeably higher and therefore visible from the wider area, resulting in a dominant feature. The proposal would also enlarge the existing bin storage area, located opposite the turning area. While some benefit would be provided by increasing the amount of bin space for residents, this increase in size would stand out due to the prominent position and also draw further attention to the increase in height of the building.</p> <p>I therefore conclude that the proposal would have an unacceptable external appearance, having particular regard to its effect on the character and appearance of the area.</p> <p>The overall increase in height would result in as greater sense of enclosure, particularly due to the T-shape of the flats. The flats that are located at the interactions of the T-shape would be most affected. I accept the existing and established relationship and existing occupiers outlook from the windows in these areas. However, the greater sense of enclosure as a result in the increase in height, would result in an overbearing and intrusive outlook from these properties.</p> <p>The proposal would require the removal of a section of green space. The proposed loss of this green space and its replacement with hard surfaced car parking areas and vehicles would have a harmful effect on the outlook of the occupiers of flats 1 to 6, 14 to 19 and 20 to 25.</p> <p>I therefore conclude that the proposal would have an unacceptable impact on amenity of the occupiers of the existing building and neighbouring premises.</p>				

No.	DBC Ref.	PINS Ref.	Address	Procedure
3	22/00486/RET	W/22/3304627	Wood End Farm, Wood End Lane, Markyate	Written Representations
	Date of Decision:		09/10/2023	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3304627			
	Inspector's Key conclusions:			
<p>The development proposed is Change of use of paddock for the keeping of horses for equestrian use. Construction of stables for the keeping of horses and ancillary storage. Creation of hard standing area for vehicular access via existing gated entrance.</p> <p>The site is located within the AONB, which is characterised by large open fields (bounded by mature trees and hedgerows), areas of woodland interspersed with sporadic development.</p> <p>On my site visit, I observed that the access track, hardstanding, and stables were highly visible from the existing opening. I also observed that despite much of the vegetation being in leaf, the development was readily visible, in places, through the trees and shrubs from Puddephat's Lane. Views inward from the northeast, are restricted by existing built development. Consequently, although the site is partially screened by built form, it is visible from short and mid-range views, particularly from the site entrance on Wood End Lane and the wider views off Puddephat's Lane. This visibility is likely to be increased further during winter months.</p> <p>Sited away from the existing access opening and from buildings on Wood End Farm, much of the development occupies a somewhat centralised position within this area of the field, away from the existing built form. As a result of the distance from the surrounding built form and separate access, I do not consider the development to be visually associated with Wood End Farm but an independent feature within the landscape.</p> <p>Whilst it is not uncommon to find stables in rural locations, the erected stables' location alongside the access track and hardstanding results in a visually intrusive and incongruous form of development within the open landscape. Consequently, the proposed development as a result of its siting is demonstrably harmful to the character and appearance of the area and wider AONB.</p> <p>The change to equestrian use is not objected to by the Council. I also acknowledge that there are other equestrian-related developments found nearby. However, the presence of such uses does not overcome the detrimental harm to the AONB I have identified above.</p> <p>The use of the stables and field by private individuals for equestrian uses is likely to increase the intensity of the access. In the absence of any evidence to show that appropriate standards of visibility could be achieved and maintained, the development when in use, could lead to increased potential</p>				

	<p>for collisions between road users. I am, therefore not satisfied that the use of the access in this location would not give rise to highway safety concerns. It would also not be appropriate to condition these details given the uncertainty that achieving the visibility splays may require land outside of the appellant's ownership.</p> <p>Additionally, I have not been supplied with any cogent evidence to demonstrate that sufficient onsite parking and manoeuvring for larger vehicles can be undertaken within the appeal site. Or that the vehicular access is of a sufficient width. This would in turn likely lead to vehicles waiting in the highway or reversing onto the highway.</p> <p>As a result, based on the lack of substantive evidence to demonstrate that the proposal would not have implications for highway safety, I find that the proposal would be contrary to Policies CS8 and CS12 of the Core Strategy.</p>			
No.	DBC Ref.	PINS Ref.	Address	Procedure
4	22/02586/FUL	W/23/3314513	Land Adjoining Cyrita, Hogpits Bottom, Flaunden	Written Representations
	Date of Decision:		10/10/2023	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3314513			
	Inspector's Key conclusions:			
	<p>The development proposed is the erection of a dwelling.</p> <p>The proposed house would be concealed to a degree from the road by the vegetation to be retained to the front as well as new trees as shown on the plans. Nevertheless, it would be seen from Hogpits Bottom through the access gap onto the plot and through the access to Cyrita. However, the house would be most noticeable from the bridleway as its flank wall would be close to the side boundary. Therefore, the dwelling would have a significant visual effect within the immediate context of the site, particularly for users of the bridleway.</p> <p>The erection of the dwelling and the residential use of the site would clearly change the nature of the plot. This domestic character would not in itself be out of keeping as the proposal would represent the continuation of a line of houses. However, the style of the proposed house would be unusual to the locality. It would be as high as Cyrita and The Orchards but the dwelling would be narrower. As such, it would have a distinct vertical emphasis, reinforced by 2 projections to the front. This would be in contrast to Cyrita that has a wider frontage and more of a horizontal emphasis, despite being 2 storeys high. Also, the proposed house would have higher eaves and would appear taller than the other houses in the row apart from Cyrita and The Orchards.</p> <p>Furthermore, the dwelling would be close to the side boundaries of the plot and to Cyrita's flank wall. This close relationship along with the house's height and vertical emphasis would cause the development to appear less</p>			

spacious than other nearby properties. The hipped roof to the sides would not prevent a perception of the house being close to Cyrita and at odds with the more open layout seen in the row of houses.

From the bridleway, the side wall of the proposed house would appear obtrusive and overbearing. The provision of new planting along the side boundary would not address nor overcome the marked detrimental visual effect of the development to the users of the bridleway.

For these reasons, I conclude the development would be harmful to the character and appearance of the area.

A new tarmac surfaced access drive would lead from the road to the gated entrance onto a parking area for 3 cars. A pedestrian zone measuring at least 1m wide would be marked out by granite setts along the drive up to the gate and so to join the remainder of the bridleway. While the demarcation is noted, it would seem unlikely that walkers, cyclists and horse riders on the bridleway would remain in the pedestrian zone given its restricted width and lack of physical constraint to movement. As such, there is a risk that users of the bridleway would share the same parts of the drive as drivers coming to and from the proposed house.

For drivers entering the site from Hogpits Bottom, visibility of those on the bridleway would be restricted by roadside vegetation. It is likely that drivers would only be able to see people and animals on the bridleway once they have turned into the access. A sudden meeting between vehicles and users of the bridleway could be hazardous, particularly if horses and riders are involved who might be surprised by an unanticipated vehicle turning onto the route in front of them. In these regards, the proposed access would be unsafe.

Therefore, the vehicular movements associated with the proposal would pose a modest but unacceptable level of risk to users of the bridleway.

No.	DBC Ref.	PINS Ref.	Address	Procedure
5	23/00451/FHA	D/23/3321313	5 The Shrubbery, Hemel Hempstead	Householder
Date of Decision:			25/10/2023	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3321313				
Inspector's Key conclusions:				
<p>The development proposed is first floor front link extension, infill front extension and front and rear dormers.</p> <p>The Council raised no objection to the proposed first floor link extension, the infill front extension or the front dormers and I see no reason to disagree with this view.</p> <p>The proposed rear dormer would extend most of the width of the eastern section of the house and would be set down from the ridgeline. However, the</p>				

<p>submitted plans indicate that the set back above the eaves would be minimal and it would appear as though the main wall of the dormer would be in a similar plane to that of the main wall of the house, thus adding to the impression of disproportionate height and bulk. This proposal is a reduction in size from a previous scheme which extended across more of the width of the roof. However, I consider that, although it is smaller, it would still be a very large and bulky element in proportion to the house itself and would have a visually dominant impact on the street scene near the house.</p> <p>The layout of this group of houses is very compact, and although the dormer is nominally on the rear elevation of No. 5, it effectively fronts onto a short street and directly faces the front elevations of other houses in the group across a short distance of approximately 11 metres. The size, design and location of this large dormer would appear out of proportion with the house itself and in the context of the closely spaced group of houses.</p> <p>The appellants have drawn my attention to rear dormer windows in the surrounding area. I do not have any information regarding the circumstances under which these were permitted and I have considered this case on its own merits according to individual circumstances.</p> <p>I conclude that the proposed rear dormer window would harm the character and appearance of the existing house and the street scene,</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
6	23/01214/FHA	D/23/3327106	20 Bridle Way, Berkhamsted	Householder
Date of Decision:			26/10/2023	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3327106				
Inspector's Key conclusions:				
<p>The proposed development is proposed is a single storey front garage extension, single storey front, side and rear extension, two storey front and side extension, and extension to front dormer window.</p> <p>The appeal proposal includes the elements permitted under 23/00547/FHA, together with an additional element, namely the construction of a two storey extension to the front and side. The latter would be set back from the garage front but would be forward of the existing first floor part of the house and rise from the front wall of the permitted single storey front extension. It would run the full depth of the side elevation of the existing house with a front gable over the forward projection and a side gable of similar pitch to that of the existing main roof.</p> <p>I consider that the scale and design of the proposed two storey extension would appear as an incongruous element, particularly due to the front gable roof design and forward projection, out of keeping with the distinctive form and design of the existing house and the pattern of development of the other, similar houses nearby. The house is in a prominent location on the corner</p>				

<p>and the siting of the extension close to the side boundary, fronting Haynes Mead, would result in it being highly visible from public viewpoints.</p> <p>I have taken account of the examples of other two storey side extensions nearby and find that the houses differ in their original design characteristics and are not directly comparable to the appeal property. I have considered this proposal on its own merits.</p> <p>I conclude that the proposed two storey extension would harm the character and appearance of the existing house and the street scene.</p>
--

6.3 PLANNING APPEALS ALLOWED

Planning appeals allowed between 25 August 2023 and 03 November 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	22/02159/FHA	D/22/3311270	The Old Stables, Delmer End Lane, Flamstead	Householder
	Date of Decision:		19/10/2023	
	Link to full decision:		https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3311270	
	Inspector's Key conclusions:			
	<p>The development proposed is the construction of double garage.</p> <p>The appeal site is located within the Green Belt. The proposed garage would occupy an area of hardstanding which is currently used for vehicular parking. Although the proposed garage would be detached from the main dwelling, it would have a functional and close relationship both physically and visually and its scale would be domestic. Consequently, it would appear as a normal domestic adjunct. Under these circumstances, and having regard to relevant case law, I am satisfied that the appeal development could be considered as an extension of a building.</p> <p>There are no plans of the former barn and stables before me. Nevertheless, the appellant indicates that the replacement dwelling largely occupies the footprint of the original buildings and is of a lesser floor space and volume. Based on the available evidence, I have no reason to doubt this. The proposed garage would increase both the footprint and volume of the original building. However, given the limited scale of the proposal both in terms of its footprint and height, I find that the overall increase would be relatively modest. Consequently, having regard to the scale of the original building together with proposed garage, I am satisfied that the overall addition would be limited and would not result in a disproportionate addition over and above the size of the original building.</p> <p>For these reasons, the proposal would not be inappropriate development in</p>			

	the Green Belt as defined by paragraph 149 of the Framework. It would also comply with Core Strategy Policy CS5 in so far as the appeal proposal would be a limited extension to an existing building.
--	--

6.4 PLANNING APPEALS WITHDRAWN / INVALID

Planning appeals withdrawn or invalid between 25 August 2023 and 03 November 2023.

None.

6.5 ENFORCEMENT NOTICE APPEALS LODGED

Enforcement Notice appeals lodged between 25 August 2023 and 03 November 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	E/22/00179/COB	C/23/3331206	Hillside View, Old Watling Street, Flamstead	Written Representations
2	E/22/00382/ENG	C/23/3332255	Land Adj. Row Beech Cottages, Watling Street, Kensworth	Written Representations

6.6 ENFORCEMENT NOTICE APPEALS DISMISSED

Enforcement Notice appeals dismissed between 25 August 2023 and 03 November 2023.

None.

6.7 ENFORCEMENT NOTICE APPEALS ALLOWED

Enforcement Notice appeals allowed between 25 August 2023 and 03 November 2023.

None.

6.8 ENFORCEMENT NOTICE APPEALS WITHDRAWN

Enforcement Notice appeals withdrawn between 25 August 2023 and 03 November 2023.

None.

6.9 SUMMARY OF TOTAL APPEAL DECISIONS IN 2023 (up to 03 November 2023).

APPEALS LODGED IN 2023	
PLANNING APPEALS LODGED	58
ENFORCEMENT APPEALS LODGED	14
TOTAL APPEALS LODGED	72

APPEALS DECIDED IN 2023 (excl. invalid appeals)	TOTAL	%
TOTAL	51	100
APPEALS DISMISSED	32	62.7
APPEALS ALLOWED	17	33.3
APPEALS PART ALLOWED / PART DISMISSED	0	0
APPEALS WITHDRAWN	2	3.9

	TOTAL	%
APPEALS DISMISSED IN 2023		
Total	32	100
Non-determination	3	9.4
Delegated	27	84.4
DMC decision with Officer recommendation	1	3.1
DMC decision contrary to Officer recommendation	1	3.1

APPEALS ALLOWED IN 2023	TOTAL	%
Total	17	100
Non-determination	0	0
Delegated	15	88.2
DMC decision with Officer recommendation	1	5.9
DMC decision contrary to Officer recommendation	1	5.9

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	13.12.2023

6.12 COSTS APPLICATIONS GRANTED

Applications for Costs granted between 25 August 2023 and 03 November 2023.

None.

6.13 COSTS APPLICATIONS REFUSED

Applications for Costs refused between 25 August 2023 and 03 November 2023.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	22/02586/FUL	W/23/3314513	Land Adjoining Cyrita, Hogpits Bottom, Flaunden	Written Representations
	Date of Decision:		21/08/2023	
	Link to full decision:			
			https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3314513	
	Inspector's Key conclusions:			
	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. This application claims unreasonable behaviour by the Council due to it refusing planning permission partly because of concerns on the safety of users of an adjacent bridleway.

Before the planning application leading to the appeal, a previous planning application was submitted to the Council that proposed a dwelling on the appeal site. This previous proposal was for a house of a different design to that subject of the appeal but the access arrangements for both are the same. The Council refused planning permission for the previous scheme but not due to the proposal's effect on the safety of users of the bridleway.

The Council's explanation is that the officer for the previous planning application had not properly assessed whether the proposed access would be safe for all users. It is suggested that a different case officer considering the planning application leading to the appeal is entitled to form a different view on the matter. This is particularly the case given the uncertainty on the level of traffic generated by any existing use rights and as interested parties had raised concerns.

As an example, the PPG states that not determining similar cases in a consistent manner may give rise to a substantive award of costs against a local planning authority¹. Clearly in this case, the Council's decision leading to the appeal is inconsistent with its previous decision as it includes an access safety objection. The applicant's grievance over the inclusion of this refusal reason is understandable. The Council is entitled to come to a different view on the matter but the inconsistency in its decisions leads to uncertainty that is unfair on the applicant.

However, it is noteworthy that interested parties as well as the Council have raised objections over the access and how the development would affect users of the bridleway. As such, I would have needed to consider the matter in my determination of the appeal, regardless as to the Council's stance on the issue. Also, as explained in my appeal decision, I too have found the proposal would adversely affect the safety of users of the bridleway and so the concerns raised are not unsubstantiated. Given this context, I find the applicant has not been put to unnecessary expense in responding to access safety concerns, even though the Council's objection on these grounds is inconsistent with its previous decision.

For the above reasons, I find that any unreasonable behaviour by the Council in terms of objecting to the proposal on access safety grounds has not led to the applicant incurring unnecessary or wasted expense in the appeal process. Therefore, I conclude an award of costs is not justified.

6.14 FURTHER SUMMARY OF APPEALS IN 2023

APPEALS LODGED IN 2023	TOTAL	% OF TOTAL
HOUSEHOLDER	24	33.3
MINOR	24	33.3
MAJOR	1	1.4
LISTED BUILDING	1	1.4
CONDITIONS	2	2.8
TELECOMMUNICATIONS	2	2.8
LAWFUL DEVELOPMENT CERTIFICATE	2	2.8
PRIOR APPROVAL	2	2.8
LEGAL AGREEMENT	0	0
ENFORCEMENT	14	19.4
TOTAL APPEALS LODGED	72	100

APPEALS DECIDED IN 2023 (excl. invalid appeals)	TOTAL	%
HOUSEHOLDER	22	43.1
MINOR	16	31.4
MAJOR	1	1.9
LISTED BUILDING	1	1.9
CONDITIONS	3	5.9
TELECOMMUNICATIONS	2	3.9
LAWFUL DEVELOPMENT CERTIFICATE	1	1.9
PRIOR APPROVAL	1	1.9
LEGAL AGREEMENT	1	1.9
PERMISSION IN PRINCIPLE	1	1.9
ENFORCEMENT	2	3.9
TOTAL APPEALS DECIDED	51	100