

6. APPEALS UPDATE

6.1 APPEALS LODGED

Appeals received by Dacorum Borough Council between 15 July 2024 and 15 September 2024.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	24/00554/FUL	W/24/3348159	35 Belswains Lane, Hemel Hempstead	Written Representations
2	24/00775/RET	D/24/3348119	Springholme, Cavendish Road, Markyate	Householder
3	24/00801/RET	W/24/3349035	Anthony Betts & Company Limited, Leighton Buzzard Road, Water End	Written Representations
4	22/02688/LBC	Y/24/3349178	Old Palace Lodge, 69A Langley Hill, Kings Langley	Written Representations
5	24/00614/RET	D/24/3349041	1 Frogmore Street, Tring	Householder
6	24/00693/RET	W/24/3349438	26 The Foxgloves, Hemel Hempstead	Written Representations
7	20/03584/FUL	W/24/3349517	Land At Albion Hill, Hemel Hempstead	Written Representations
8	23/02399/FUL	W/24/3349857	1 The Orchard, Kings Langley	Written Representations
9	24/01156/FHA	D/24/3350346	12A Fouracres Drive, Hemel Hempstead	Householder
10	23/02868/LDP	X/24/3350407	Little Champneys, Shootersway, Wigginton	Written Representations
11	24/01130/FHA	3350925	61 Akeman Street, Tring	Householder
12	24/01355/FHA	D/24/3351890	Lyme Lodge, New Road, Chipperfield	Householder

6.2 PLANNING APPEALS DISMISSED

Planning appeals dismissed between 15 July 2024 and 15 September 2024.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	23/02819/FUL	W/24/3339353	Land to r/o 23 High Street, Tring	Written Representations
	Date of Decision:		17/07/2024	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3339353			
	Inspector's Key conclusions:			
	<p>The development proposed is 2x two-bedroom dwellings together with parking and amenity space.</p> <p>The appeal site forms the rear part of the burgage plot of Clement House, a Grade II Listed Building. It is within the town centre of Tring, near the main shopping area and off High Street. It also lies within the Tring Conservation Area.</p> <p>The significance of the appeal site is its historic connection with the listed building. The site and surrounding area are made up of long burgage plots and the appeal site forms the rear of the plot associated with Clement House. The proposed development would, therefore, be within the setting of the listed building. The burgage plot would traditionally been used as ancillary space for the frontage building and, at the time of my visit, its use as parking and manoeuvring space retains this ancillary use. The significance of the Conservation Area is, in part, derived from its mixed character and built form, with short views of interest and character areas, and a strong relationship with Lord Rothschild.</p> <p>The site currently contributes positively to the significance of the setting of the listed building and the Conservation Area by reason of reflecting the pattern of burgage plots to the rear of the properties along High Street.</p> <p>The appeal proposal would run down the plot rather than across it and, in that regard, the layout of the development would reflect the grain of the burgage plots and their historic development, as advised in the CAMP and as required by Saved Policy 120 of the Dacorum Borough Local Plan 1991-2011 (the LP). However, the proposed development would fill almost all of the depth and width of this part of the plot which would result in the development on most of the rear of the burgage plot to Clement House. This would result in a cramped and overdeveloped form and so harming the setting of the listed building.</p> <p>Moreover, the proposed buildings would extend above the height of the boundary wall along the side of the site and also the adjacent outbuilding, albeit that the ridge heights would be lower than the adjacent nursing home building. The development would be overly dominant above the boundary wall and over dominate the other buildings in the rear of the burgage plots of the properties along High Street. These other buildings are, in the most, subservient in scale and appear as ancillary in form and function to the host</p>			

buildings. Consequently, the proposal would not reflect the scale and proportion of other buildings in the rear of burgage plots. Furthermore, the roof shapes of both proposed dwellings, would not reflect other buildings in the immediate area and would not respect the traditional form of buildings which are of a simple form and design.

The built form, massing, and roof forms of the proposal, albeit subservient to the nursing home next to the site, would not respect this historic character of development and would, therefore, harm the Conservation Area. Although the Conservation Area can absorb modest and managed change the proposal for two dwellings on this site would not be modest and the change would not be a positive addition to the Conservation Area. In my judgement, the proposal would be incongruous additions out of keeping with the character and appearance of the area and would not reflect the layout, design, character, or appearance of the other burgage plot development within the immediate area.

The development of two houses on the rear section of the burgage plot, which would be viewed within the context and setting of the listed building and would also be viewed from the listed building and the existing range of lower height buildings at the rear, in a form and scale that is not subservient to the listed building, would also cause harm to the setting of Clement House, detracting from the significance of this designated heritage asset.

The public benefits of the proposal are afforded limited weight and, therefore, would not outweigh the harm to the significance of the Listed Building and the harm to the Conservation Area.

For the above reasons, I find that the proposal would fail to preserve or enhance the character or appearance of the Tring Conservation Area and would adversely affect the setting of the Grade II Listed Clement House.

I acknowledge that emergency access is a matter for Building Regulations and that the appellant has been taking advice on this matter. I also accept that there may be other sites in the historic core of Tring with narrow accesses. However, I have not been made aware of any sites where the development is the same distance from the public highway and served by a narrow access.

Moreover, the appeal site currently provides parking and turning space for the existing uses in Clement House and the buildings to the rear and the plans indicate that parking would be retained for Clement House. While on site I saw a large delivery van enter the site, turn, and leave in a forward gear. However, the proposed development would remove the space available for turning anything larger than a large car, as shown on the proposed swept path analysis. The increased risk of vehicles reversing would also increase the risk to pedestrian safety.

The parking and access arrangements would not be acceptable, including its effect on pedestrian safety.

No.	DBC Ref.	PINS Ref.	Address	Procedure
2	23/01217/FUL	W/24/3337305	112 New Park Drive, Hemel Hempstead	Written Representations
	Date of Decision:		17/07/2024	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3337305			
	Inspector's Key conclusions:			
<p>The development proposed is 2 duplex flats within residential rear garden development.</p> <p>The proposal is for two, duplex flats on the parcel of land behind the rear gardens of the donor properties. The proposed dwellings would face the footpath and be sited behind the houses on New Park Drive and Masons Road. Albeit introducing additional dwellings into an existing built-up residential area the layout of the proposed development would, therefore, not be in keeping with the road fronting layout of the surrounding housing estate and would not respect the layout of adjacent properties. I have not been made aware of any other developments, including considering all of the examples submitted by the appellants, which are built in a similar back land location and do not front a road.</p> <p>Furthermore, the proposed development would be built close to the boundaries either side, with only a narrow path leading to the rear of the site. The front and rear gardens also appear to be shorter than any others in the immediate area and, in coming to this view I visited all of the other sites detailed in the appellants' statement and the original submission. Although there are other short gardens in the area, the site coverage and density of the proposal is materially different to the immediate area.</p> <p>The appeal proposal would be gable fronting but, due to the width of the frontage, the gable would be wider than any of the other front gables in the immediate area. The width of the front and the different pitch of the roof from others in the area results in the building appearing wide and squat, as can be seen from the illustrations provided in the appellants' statement of case. Even if I accept that the roof forms in the area are varied, and even though the proposal is for a two-storey building in an area of two-storey buildings, the proposal would not respect the surrounding area in terms of its bulk and would not enhance the character of the area. 10. Furthermore, the development would be highly visible from the footpath and also visible from New Park Drive and Masons Road and the increased density and out of keeping site coverage, scale, and bulk would be visually harmful.</p> <p>The proposed development would have an adverse effect on the character and appearance of the area.</p> <p>Although the proposal provides a reasonable total amount of outdoor space for each unit and the outdoor space provided on the roof would be functional, the rear garden depths fall significantly short of the 11.5m minimum advised in the LP. I acknowledge that there are other properties on the estate where the dwellings have gardens which are not 11.5m in length. Although I have not</p>				

been provided with the precise measurements of these gardens, from my observations they are all longer than the gardens proposed within the appeal scheme. Moreover, the immediate adjoining properties have longer gardens and the proposed garden depths would not be compatible with the surrounding properties as advised in the LP. That other properties have sought to utilise permitted development rights to reduce the garden length is also not determinative in this appeal.

Overall, the development proposes dwellings with uncharacteristically short gardens when compared to the surrounding houses. However, in my judgement the development would provide sufficient outdoor space in total due to the addition of the roof level spaces. In regard to outdoor space provision the living conditions of the future occupants of the development would be acceptable.

I have no substantive evidence that this waste collection facility is sufficient to accommodate the waste collection requirements for the proposed two dwellings and the existing three dwellings to meet the standards set out in the Dacorum Borough Council "The Storage of Refuse at Residential Development" advice note, issue June 2006 (the Refuse advice note). Moreover, the details before me do not show that the bins are the larger size used for communal waste storage. Furthermore, it is not clear that there is sufficient space within this area to provide more storage to enable the requirements for waste storage to be subject to a planning condition. The lack of refuse storage, or that refuse storage would be restricted, would be harmful to the living conditions of the future occupants of the proposed development.

The depth of the proposed development would extend the full width of the garden of 112b which would be oppressive and visually intrusive for the users of this small garden area. The proposal would not include any windows in the first-floor side elevations and the proposed roof terrace is to be screened with an obscure glazed panel. This would ensure that there is no direct overlooking between the development and its immediate neighbours to either side. The separation distance is also sufficient to ensure that the development would not result in an unacceptable overbearing feel from the existing properties or unacceptable loss of sunlight or daylight. However, this would not overcome the effect of the development on the garden of 112b.

The development would not result in a severe residual impact on highway safety or capacity. However, the scheme for nine parking spaces would result in some degree of harm and risk to highway safety from the lack of manoeuvring space, notwithstanding the Council Highway Authority advice on the previous scheme. For the above reasons, the proposal would result in an adverse effect on highway safety, with regard to the adequacy of the access and parking arrangements.

In my judgement, the adverse effects of the proposed development would significantly and demonstrably outweigh the benefits, when assessed against

	the policies in the Framework, taken as a whole. As a result, the presumption in favour of sustainable development does not apply.			
No.	DBC Ref.	PINS Ref.	Address	Procedure
3	23/02168/RET	D/23/3334767	New Lodge, Dunstable Road, Markyate	Householder
	Date of Decision:		14/08/2024	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3334767			
	Inspector's Key conclusions:			
	<p>The development is retention of existing boundary fence.</p> <p>[This appeal decision was conjoined with the two appeals below and details for all three appeals are provided in this entry].</p> <p>At the time of my site visit the fence had been erected and the containers were present within the site. The proposals seek their retention and are, therefore, retrospective.</p> <p>The fencing is distinctly industrial in its appearance and stretches over a significant length of the roadside. Given the rural character and appearance of the area the stark, industrial appearance of the fence appears visually incongruous and undermines the otherwise verdant, bucolic character of the area. The storage containers, which are box-like metal structures and again of harsh, manufactured appearance have a similar, though more localised effect. From within the site the structures are clearly visible and, again, incongruous and harmful features in the verdant, rural landscape.</p> <p>Further, many of the trees in the vicinity are within the ownership of the appellant. These have no specific protection by virtue of Tree Protection Orders or an encompassing Conservation Area. As such they could be removed by the landowner. This would result in the stark and urbanising industrial type fence and containers being located in a visually prominent frontage in the countryside.</p> <p>In the absence of a full method statement for the works I cannot be satisfied that the fence has been installed without damage to the root systems [of the roadside hedge]. Furthermore, as the works have already occurred, it is not possible to secure tree protection through a planning condition.</p> <p>Whilst the choice of colour of the fence and containers may, to a degree, reduce their visual impact, and this could be controlled by a suitably worded planning condition, the overall harmful urbanising effect that I have identified above would remain.</p> <p>I conclude that whilst the development does not have an adverse effect on the landscape character and scenic beauty of the Chilterns National Landscape, it has a harmful effect on the character and appearance of the site and the surrounding area.</p>			

I find that the special interest of the park, insofar as it relates to these appeals, and the contribution that the park makes to the setting of the LB, to be primarily associated with its aesthetic value as a landscaped setting for an important country house and the legibility of the phased development of the LB and its park. This directly contributes to its special interest for the reasons given. 34. The development and works add distinctly modern structures with an industrial appearance to the edge of the park. As I have identified above their appearance is visually incongruous and undermines the otherwise verdant, bucolic character of the area harming the landscaped setting of the LB. Whilst screened to a degree, by the hedge, as discussed above, they are nonetheless noticeable to passers-by and clearly visible within the site. 35. Further, the fence returns back from the road, cutting across the track. Given the solid nature of the fence, views along the drive from the gates at New Lodge are suddenly curtailed and any appreciation of the New Lodge as a gatehouse and the track as a former drive serving the LB are lost, harmfully eroding the legibility of the phased development of the park and the LB.

I find that each of the developments and the works fail to preserve the special interest of the registered park and garden and the listed building. I find, in this instance, the harm to be less than substantial but nevertheless of considerable importance and weight.

I give negligible weight to the public benefit to the community of discouraging or preventing crime resulting from the development and works. The appellant further postulates that the fence is needed to reduce noise and pollution from traffic. However, there is no evidence before me to demonstrate that current traffic noise or fumes are at unacceptable levels. Further, such nuisance could, again, be addressed by other designs of fence that may be less visually intrusive. This would in any case be a private benefit. Thus, I do not find that, in this instance, the public benefits are sufficient to outweigh the harm that I have identified.

No.	DBC Ref.	PINS Ref.	Address	Procedure
4	23/02373/LBC	Y/23/3334769	New Lodge, Dunstable Road, Markyate	Written Representations
	Date of Decision:		14/08/2024	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3334769			
	Inspector's Key conclusions:			
	The works are retention of existing boundary fence. This appeal decision was conjoined with the appeal above and below. See No.3 above for details.			
No.	DBC Ref.	PINS Ref.	Address	Procedure
5	23/02858/RET	D/24/3340265	New Lodge, Dunstable Road, Markyate	Householder
	Date of Decision:		14/08/2024	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3340265			
	Inspector's Key conclusions:			

	The development is retention of storage containers. This appeal decision was conjoined with the two appeals above. See No.3 above for details.			
No.	DBC Ref.	PINS Ref.	Address	Procedure
6	22/03069/FUL	W/23/3332517	Plot 1, Cupid Green Lane, Hemel Hempstead	Written Representations
	Date of Decision:		19/08/2024	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3332517			
	Inspector's Key conclusions:			
	<p>The development proposed is 'Building an agricultural barn from timber wood for animals and its care takers'.</p> <p>The plans show all the facilities to provide for day-to-day living at the site for several people. Although the appellants describe the building for agricultural purposes, the majority of its internal space is designed for residential use. Alongside the area shown for storage/livestock, it would provide for a mixed agricultural and residential use. I note the appellants reference to use the of the land for horticulture, including the growing of fruit, and the raising of livestock. However, without more, that does not provide the necessary justification for the change of use of the land for a mixed use of agriculture and residential.</p> <p>I conclude that the development would constitute inappropriate development within the Green Belt that would erode its openness.</p> <p>In addition to the existing frontage hedging, which could be retained and augmented by additional boundary landscaping secured through planning conditions, the green roof proposal would go some way to limiting the visual impact of the building. However, the number, form and treatment of the building's openings would cause it to appear distinctly of domestic character. In contrast to the predominant layout of agricultural development, it would be sited centrally in a small plot. These aspects of the proposal would distinguish it from the more utilitarian appearance and practical layout of traditional and modern agricultural buildings nearby. Furthermore, the design would fail to reflect the vernacular residential buildings which contribute positively to this part of the Dacorum landscape character. I find that the proposal would result in harm to the character and appearance of the locality.</p> <p>As the appellants have not provided such an undertaking, the contribution towards the mitigation measures is not secured. Consequently, I conclude that the proposal would adversely affect the integrity of the SSSI and SAC.</p> <p>The considerations presented by the appellant, including its contribution to housing need and facilitation of agriculture to support the rural economy and contribution to food production, whether taken singularly or together, do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission do not exist and the development is contrary to policies of the</p>			

	Dacorum Borough development plan and the Framework when read as a whole.			
No.	DBC Ref.	PINS Ref.	Address	Procedure
7	23/02475/ROC	W/24/3337121	Shootersway, Berkhamsted	Hearing
	Date of Decision:		20/08/2024	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3337121			
	Inspector's Key conclusions:			
	<p>The application sought planning permission for removal of a tower mast and associated cabins, relocation of two storage containers into a building with accommodation facilities at first floor and construction of a swimming pool building without complying with conditions attached to planning permission Ref 4/02425/18/FUL. The conditions in dispute are No.5 (archaeology) and No.7 ("The Bunkhouse facility should be limited to children attending Motorcross curriculum with accommodation use for one teacher parent/guardian").</p> <p>Appeal application 23/02475/ROC was made under s73 (the AA). This procedure allows planning permission to be granted for development of land without complying with conditions subject to which a previous permission was granted. In this case the appellant seeks modified wording for conditions No.5 and No.7 of planning permission 4/02425/18/FUL (the PP). The Council did not issue a decision for the AA. It has provided what would have been its officer report as part of its appeal case, including a recommendation to refuse the AA.</p> <p>I have no reason to doubt that in good faith the appellant relied on the HCC provision relating to the swimming pool part of the site and what he believed exchanges of emails or his previous archaeology report meant; including that he considered the Council's (and HCC's) focus was on this part of the site and was the only part of the site potentially important for archaeology. However, this is not borne out by the balance of the evidence before me. Furthermore, and in any event, the HCC provision relating to the rest of the site, including where development for building A and building B has now taken place, stands alone from the provision relating to the swimming pool part of the site and is embodied in the requirement for a WSI under condition No.5.</p> <p>There was at least a significant risk of potential adverse impact on important archaeology if any of the development in the PP was carried out in the absence of an approved WSI. There was therefore a clear justification for condition No.5 to be applied to the whole site and because the requirements of the condition, including the timing of compliance, were fundamental to the development permitted in order to safeguard nationally important archaeology. There is no evidence that the PP would have been granted without condition No.5 and no compelling argument that it was, or should be, limited in scope to only parts of the site as the appellant contends. No WSI has been submitted or approved by the Council in writing under condition No.5 for the development or part of the site containing building A and building B.</p>			

To grant planning permission in these circumstances in this appeal, with the modified wording of condition No.5 sought by the appellant, would also condone the carrying out of development in breach of condition No.5 and potential consequential harm to archaeology. Moreover, despite that some development has taken place there is no evidence that it has completely obliterated important archaeology and other parts of the site (including than the swimming pool part and that occupied by building A and building B) remain undeveloped. Condition No. 5 therefore still serves a useful planning purpose.

While the Council also indicated at the hearing that it did not have an in principle objection to general training of any children at the site, I share its concern that it is not clear in this appeal if this wider use would result in a significant intensification of use at the site, including beyond that which may already be possible under relevant planning history. For example, in the number of people at the site at any one time (not those just staying overnight) or activity and use over a more extended period of the day or year, including out of school term times or at weekends and beyond half-term daily sessions.

In the absence of evidence to the contrary, I consider that such increased activity could potentially materially affect traffic generation to and from the site and on the local road network or affect noise and general disturbance arising from such activity on the site or in travel to and from the site along nearby residential roads. While the Highway Authority did not object to the AA, these were matters of concern to some interested parties when the PP was granted. In these circumstances condition No.7 therefore still serves a useful planning purpose.

Accordingly, for the reasons set out above, I find that planning permission should be granted with the same conditions as those subject to which the previous planning permission 4/02425/18/FUL was granted. The appeal is therefore unsuccessful.

No.	DBC Ref.	PINS Ref.	Address	Procedure
8	23/02158/FHA	D/24/3338525	Little Brownlow Farm, Nettleden Road, Little Gaddesden	Householder
Date of Decision:			21/08/2024	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3338525				
Inspector's Key conclusions:				
<p>The development proposed is described as 'Construction of Extension'.</p> <p>The host property is identified within the Little Gaddesden Conservation Area Character Appraisal as a locally listed building...it makes a significantly positive contribution to the character and appearance of the local area, including the CA.</p> <p>While the initial barn conversion may have been positive given the apparent state of the building in the 1990's, that is not to say that every subsequent proposed change will also be. The addition of an extension to that extension</p>				

<p>would further deviate from the pleasing simple form of the former barn, creating a wing like extension which would be comparable in length to historic main sections of the barn. While the roof would be stepped down, this would add substantial additional mass to the building and harm its historic form and proportions as a result.</p> <p>The extension would include a large expanse of modern glazing to its northeast elevation with a considerable proportion of the facing wall composed of glass. Alongside the bi-folding doors to the southeast elevation, this extensive use of modern fenestration would appear incongruous set against the more traditional proportions of the existing openings of the property which help to preserve its agricultural heritage. This element of the scheme would therefore harm the building's character by introducing an overtly modern feature.</p> <p>Although the proposed extension would not be visible from much of the CA, given the positive contribution that the high quality of well-preserved buildings and agricultural context make to the character and appearance of the CA, it follows that harm to the host building would harm the significance of the CA. Given the scale of the works, the proposal would lead to less than substantial harm to the significance of the CA.</p> <p>In the absence of sufficient public benefits that would outweigh the harm identified, I conclude that the proposal would fail to preserve the character or appearance of the CA. The proposal would also harm the character of the host building.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
9	23/02299/FHA	D/24/3343948	40 Kings Road, Berkhamsted	Householder
Date of Decision:			21/08/2024	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3343948				
Inspector's Key conclusions:				
<p>The development proposed is demolition of existing detached garage, single storey side extension and two storey front extension and erection of part single/part two storey front/side extension, raising of ridge height to facilitate conversion of roof space with associated rear dormer window, alterations to fenestration, erection of new garage/carport, alterations to driveway and landscaping works.</p> <p>The appeal property (No 40) is a large, detached house on the south side of Kings Road. The boundary of the Conservation Area runs to the front of the appeal site and includes the road and the houses opposite the appeal site. The appeal site is therefore part of the Conservation Area's setting.</p> <p>There is no objection in principle to a remodelling of No 40. As the house is of no particular architectural quality or historic interest, there are no reasons to disagree. The Council's concerns relate to the roof element of the proposal and the resulting height of the extended house.</p>				

<p>Within its context and having regard to the degree of separation between No 40 and its nearest neighbours, I am satisfied that the scale, design and increased roof height of the proposed development would respect the character and appearance of the street scene. For the same reasons and due to the set-back and higher level of the house compared to the road, I am satisfied that the proposed extensions to the host property would preserve the setting of the Conservation Area.</p> <p>Turning to the proposed 3-bay garage/carport. The ground levels and some limited screening from the raised garden bed at the front of the property would, to a degree, minimise views of the carport. However, overall, it would appear as a very wide, tall and prominent structure. The size and the materials used in the heavy, hipped roof would emphasise its visually unacceptable mass. I consider that the positioning, scale and design of the carport would result in an incongruous forward structure in the street scene. Due to its overall scale and closeness to the beech tree's trunk and its proximity to the road, the carport would visually compete with views of the tree and the wider landscaping of the area, thereby harming one of its most important characteristics. For the same reasons, the carport would cause less than substantial harm to the setting of the Conservation Area.</p> <p>No public benefits have been put forward which would outweigh the identified less than substantial harm to the setting of the Conservation Area arising from the carport element of the appeal proposal.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
10	23/02606/FUL	W/24/3338951	23 Howards Drive, Hemel Hempstead	Written Representations
Date of Decision:			28/08/2024	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3338951				
Inspector's Key conclusions:				
<p>The development proposed is New dwelling.</p> <p>The new dwelling would largely reflect local character in terms of its height, width, form, and appearance; and it would occupy a similar proportion of the plot to neighbouring dwellings. However, whilst it would be marginally set back from the Howards Drive frontage, the side elevation of the dwelling would project significantly forward of the terraces at 1-21 Howards Drive and 25-35 Howards Drive. It would therefore disrupt the linear character that is a distinctive feature of the area, and would fail to respect the prevailing pattern of development.</p> <p>At two-storeys high, and given its width, bulk, and side building line, the development would be a prominent feature in the street scene. Therefore, notwithstanding its distance from Nos 21 and 25, the new dwelling would disrupt the long and wide views that can currently be gained along this part of the road between Galley Hill and Fennycroft Road. Consequently, the proposal would detract from the sense of space near to the appeal site, which</p>				

<p>is an important feature in the local character. I conclude that the proposed development would cause harm to the character and appearance of the area.</p> <p>The appeal proposal includes external space to the rear of the dwelling, which in totality would be of a similar size to neighbouring rear garden areas. However, a large proportion of the external space would be used for vehicle parking. I acknowledge that there may be times of the day or night when the car parking space would not be occupied. However, this could not be guaranteed. Therefore, the car parking area and associated hardstanding could not be relied upon in terms of providing private outdoor amenity space for future occupants of the new dwelling.</p> <p>Whilst the proposed property would be of a modest size, it could feasibly house a small family who would typically expect to carry out a range of activities outdoors, including socialising, gardening, dining, and drying clothes, amongst other things. Due to the narrow width and shallow depth of the proposed useable external amenity area, there would be insufficient private outside space to cater for these needs. The rear garden area would therefore be too small to meet the functional needs of future occupants.</p> <p>I conclude that the proposed development would provide an inadequate standard of accommodation for future occupiers, with particular regard to the outdoor amenity space.</p> <p>With regard to the specific circumstances of this case, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. The presumption in favour of sustainable development does not therefore apply.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
11	22/02365/FUL	W/24/3338125	Land off Cupid Green Lane, Hemel Hempstead	Written Representations
Date of Decision:			09/09/2024	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3338125				
Inspector's Key conclusions:				
<p>The development proposed is erection of agricultural mushroom growing unit, storage container, water storage tanks.</p> <p>The proposed agricultural building would be a modest structure with a low profile. Its timber-clad exterior would be sympathetic to the appearance of some nearby buildings, as well as traditional agricultural barns in the wider landscape. Due to their limited height and size, the water bowsers would be discrete features; and I have no reason to conclude the storage container would be unduly large or of inappropriate appearance. The proposed Grasscrete surface would cover a small area that would be closely related to the main building. Its appearance would be softened by grass growth if carefully managed and maintained. Overall, in and of itself, the design and</p>				

	<p>appearance of the development would be broadly in-keeping with other agricultural developments that are typically observed in the countryside.</p> <p>However, the development would not exist in isolation. Rather, it would form part of the wider complex of buildings, structures, and other paraphernalia that have become established on the land around it. I cannot be certain as to the lawfulness of the surrounding uses. However, there is no substantive evidence before me to indicate which, if any, of the developments would not endure in the longer term. Therefore, I am not convinced the character of the surroundings would be subject to significant change. The proposal would reduce the undeveloped space between existing developments, thus exacerbating the sprawl of buildings and structures along the track from Cupid Green Lane. Consequently, it would contribute to the proliferation of incohesive development on uncharacteristically small plots in this countryside location.</p> <p>The site is reasonably well-screened to the north and east by well-established hedgerows and buildings. However, due to its elevated position, the development would be exposed in longer views from the south and west, including from parts of Cupid Green Lane where there is less roadside hedging. Moreover, partial views would be available from the footpath to the northeast of the site through gaps in the hedging. When observed cumulatively with neighbouring buildings and uses, the proposal would have an incongruent appearance that would detract from the scenic beauty of the countryside. As such it would cause unacceptable visual harm to the character of the wider rural landscape.</p> <p>Overall, I conclude that the proposed development would cause harm to the character and appearance of the countryside.</p>
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6.3 PLANNING APPEALS ALLOWED

Planning appeals allowed between 15 July 2024 and 15 September 2024.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	22/01865/LDE	X/23/3326177	The Lodge, 37A Cavendish Road, Markyate	Written Representations
	Date of Decision:		15/07/2024	
	Link to full decision:		https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3326177	
	Inspector's Key conclusions:			
	The use for which a certificate of lawful use or development is sought is a residential use for more than 4 years, using side gate and rear gate access.			

The appropriate standard for testing the evidence is made on the balance of probabilities, that is to say whether something is more likely than not.

In the 4-year period in the run up to the relevant date, the Council's evidence highlights that the appellant was abroad for some length of time in the latter part of 2019, for numerous months in 2020, and possibly extending into March 2021. This is not disputed by the appellant and seems to be reflected in the appellant's record of Council Tax payments for that period. Rather, it is the appellant's position that periods of holidays, absence due to ill health, or for reasons beyond his control do not alter the status of the dwelling.

However, the case of *Swale BC v FSS & Lee* [2005] EWCA Civ 1568; [2006] JPL 886, established that any change of use to a dwellinghouse must be 'affirmatively established' over a [here] four-year period before an occupier does not have to be continuously or regularly present in order for it to remain in such use. The correct approach is to ask whether there was any period during the four years when the LPA could not have taken enforcement action against the use, because the building was not physically occupied, even though available. As a matter of judgement, it is necessary to make a finding as to whether any periods of non-occupation were de-minimis.

It is equally valid to consider any other 4-year period prior to the relevant date. If consistent residential use was established over an earlier 4-year period then, following *Panton & Farmer*, any subsequent period of absence should be considered a dormant or inactive lawful use unless otherwise shown to be lost by abandonment, the formation of a new planning unit, or a different intervening use. Correspondence with the Council indicates that the extended period abroad occurred some time prior to 29 November 2019. It is notable that the regular payments of Council Tax in 2019 extended up until 1 October 2019, after which regular payments stopped. A 4-year period prior to that would be a corresponding date some time in 2015.

The site record shows that an enforcement investigation, Ref. E/16/00344, was carried out by the Council. In concluding that investigation, an email from the Council, dated 14 February 2019, states that it was satisfied that the site has been occupied for at least four years. Although the email stops short of describing the use of the site as 'lawful', if the Council's conclusion was that no enforcement action could be taken on the basis of consistent residential occupation, then a distinct parallel can be drawn to the LDC claim.

The Council do not dispute that the building is laid out in a manner that would facilitate day-to-day living.

Taking all of the above together, I find that for the earlier part of that period, there is little to contradict the appellant's claim that the building has been used continuously for residential purposes. The responses to the PCNs, supporting evidence of use of the address as a registered dwelling for the purposes of the appellants personal administration, Council Tax and other bills, leads me to the conclusion that, on the balance of probabilities, the land identified on the

	location plan has been consistently used for residential purposes for a period of 4 years or more.			
No.	DBC Ref.	PINS Ref.	Address	Procedure
2	23/01222/ROC	D/24/3336853	15 Home Farm, Park Road, Tring	Householder
	Date of Decision:		07/08/2024	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3336853			
	Inspector's Key conclusions:			
	<p>The condition in dispute is No 7 which states that: "Notwithstanding the provisions of the Town and Country Planning General Permitted Development order 1988 or any amendments thereto, there shall be no extension or addition to the building(s) hereby permitted without the express written permission of the local planning authority."</p> <p>The appeal is allowed. However, the disputed condition is deleted and substituted for a modified condition. The effect of this is that the permitted development rights continue to be removed from the development. However, the condition is more specific than the original to ensure that it is precise:</p> <p>"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, C, D and E of Part 1 of Schedule 2 to the Order shall be undertaken".</p> <p>I consider that the buildings are of sufficient historic interest and merit, as described in the original planning permission, to be considered as a non-designated heritage asset. The buildings do now have a distinctly domestic appearance. However, there remains visual clues to the former agricultural use and the consistent appearance of the buildings, which is a result of the sensitive conversion works, also contributes positively to their appearance and the character of the area. The appeal property makes a positive contribution to the significance of the Conservation Area.</p> <p>The condition on 4/1587/94 does refer to the Order which was in force at the time. Albeit not specifically referring to the parts of the Order it is clear that extensions and additions are not permitted. The condition on 4/01606/96/FUL is more precise and specifies the Classes of the Order which are removed (A to H inclusive). The reason for the condition was clear, precise, and justified. It was reasonable and necessary and wholly related to the development approved at the time.</p> <p>If the permitted development rights were reinstated for No 15 this would likely lead to alterations and additions that may not respect the character or appearance of the existing buildings. Any such alterations or additions would be likely to be conspicuous within the group of buildings, albeit not conspicuous beyond the site. Furthermore, the removal of permitted development rights for one of the properties within the group would increase</p>			

<p>the likelihood of other property owners seeking to remove the condition. This could lead to a mismatch of extensions and alterations onto a group of buildings which currently has a high quality and consistent appearance.</p> <p>Furthermore, the reinstatement of permitted development rights would likely risk reducing the high standard of amenity for existing and future users required by paragraph 135(f) of the Framework.</p> <p>In my judgement the condition remains necessary, reasonable, enforceable, and relevant to planning and the development. However, condition 7 on planning permission reference 4/1587/94, as worded, is not precise and I have, therefore, re-worded the condition to ensure that it meets the tests within the PPG to be precisely defined.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
3	22/02538/FUL	W/23/3327060	Frithsden Vineyard, Frithsden	Written Representations
Date of Decision:			02/09/2024	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3327060				
Inspector's Key conclusions:				
<p>The development proposed is 'Replacement Dwelling'. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to the setting of the Frithsden Conservation Area (FCA).</p> <p>Most of the appeal site is not located within the FCA, although a section at the entrance from Roman Road is. Given the situation, I see no reason to disagree that the proposal would be located within the setting of the FCA.</p> <p>Although a pleasant and somewhat unassuming structure, the removal of the existing property would not be harmful in and of itself.</p> <p>I find no harm with the proposed material palette [of the proposed building]. In any event, the appeal property is distinctly separate from the main built form of the settlement due to distance and dense boundary screening. As such, the appeal property is not read in conjunction with other properties as closely. An increased spread of glazing may be a departure from the set style of smaller openings seen elsewhere but there is little explanation as to why this is harmful, particularly given the existing building's later origins. Due to the specific characteristics of the appeal site I see no reason why the increased height, area and materials are harmful. Moreover, while the boundary screening may fade in winter when trees are not in leaf, I have concluded that the design would not harmful regardless. As such, it follows that this increased permeability of the site in winter months would also not be harmful. Additional planting is proposed to be secured by condition and while this is not intended to hide the property, it will further aid in the integration of the new dwelling in its location.</p> <p>Furthermore, as the design is acceptable and there would be no harm to the character and appearance of the area, it follows that there would be no harm</p>				

	<p>to the setting of the FCA and the significance of the designated heritage asset would be preserved.</p> <p>I have had regard to the comments of interested parties. Most of these relate to the main issue and have been addressed. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). However, impact upon the AONB was not given as a reason for refusal in the decision notice by the Council, nor were matters of highway safety. Based on all that I have seen and read, I see no reason to disagree.</p>			
No.	DBC Ref.	PINS Ref.	Address	Procedure
4	23/01845/FHA	D/24/3339457	50A Leverstock Green Road, Hemel Hempstead	Householder
	Date of Decision:		10/09/2024	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3339457			
	Inspector's Key conclusions:			
	<p>The development proposed is erection of rear dormer roof extension, three rooflights to the front and alterations to height of the roof to facilitate a loft conversion.</p> <p>The proposed loft conversion would involve an increase in the ridge height of the dwelling from 7.1m to 7.7m. This would be a relatively modest increase and in view of the staggered building line of the similar dwellings, the slope of the ground and the different ridge heights of other dwellings nearby I am satisfied that the difference between the ridge height of the appeal dwelling and its similar neighbours would not be unduly apparent and would not detract from the character or appearance of either the host dwelling or the street scene which is not uniform in either design or layout.</p> <p>The development would also include a flat roofed dormer to the rear elevation. Owing to the staggered building line this would be visible from the street when approaching from the direction of St Albans Road. Nevertheless, its noticeable set in from the side eaves and set up from the rear eave would ensure that it did not overwhelm the rear roof slope of the dwelling or result in an unduly bulky or top heavy appearance. Its effect on the dwelling would therefore be satisfactory.</p> <p>Although large dormers are not common in Leverstock Green Road and adjoining streets, a number are clearly visible, including one prominent example on a nearby dwelling in the same street view as the appeal dormer. In addition, box dormers are visible on the front elevations of chalet bungalows opposite the appeal dwelling. This form of development is not therefore alien in the area and the proposed dormer, on the rear of the appeal dwelling and only partially visible from the side, thus limiting its prominence in the street scene, would not be incompatible and would have a satisfactory effect on the character and appearance of the area.</p>			

	<p>It is concluded on the first main issue that the proposed loft conversion would have no materially detrimental effect on the character or appearance of the host dwelling or the street scene and surrounding area.</p> <p>The proposed loft conversion would add one bedroom, resulting in a five bedroom dwelling. In my view, no more than four spaces could therefore be expected. agree with the appellant that, on the basis of the evidence including my site visit, the frontage of the dwelling would readily accommodate three cars, possibly more. Moreover, although the dwelling lies within accessibility Zone 3 (least accessible) I note that it lies in an urban setting, close to a bus route and within walking or cycling distance of local shops and amenities, thus providing an alternative to transport by private car for some journeys. In addition, there is ample, unrestricted street parking on Leverstock Green Road that could accommodate visitor parking without any material harm to highway safety. I therefore consider that, notwithstanding the lack of submitted parking surveys, the SPD standard would be met by the three to four on-site spaces which would be sufficient in this case.</p> <p>It is concluded on the second main issue that the proposed loft conversion would have no materially harmful effect on highway safety with respect to parking provision.</p>
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6.4 PLANNING APPEALS WITHDRAWN / INVALID

Planning appeals withdrawn between 15 July 2024 and 15 September 2024.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	23/02723/FUL	W/24/3339131	36 London Road, Hemel Hempstead	Written Representations
	Date of Decision:		19/07/2024	

6.5 ENFORCEMENT NOTICE APPEALS LODGED

Enforcement Notice appeals lodged between 15 July 2024 and 15 September 2024.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	E/18/00225	C/24/3348493	Land Adj. Waters Toyota, Water End, Hemel Hempstead	Written Representations
2	E/22/00173/NAP	C/24/3348971	A And B Sports, The Promotional Centre, Church End, Markyate	Written Representations
3	E/24/00151/NPP	C/24/3350930	Land Adjacent to The Old Brickworks, Spring Garden Lane, Northchurch	Written Representations

6.6 ENFORCEMENT NOTICE APPEALS DISMISSED

Enforcement Notice appeals dismissed between 15 July 2024 and 15 September 2024.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	E/19/00444/NAP	C/23/3314025	Plot 1 Cupid Green Lane, Hemel Hempstead	Written Representations
	Date of Decision:		22/08/2024	
	Link to full decision:			
			https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3314025	
	Inspector's Key conclusions:			
	<p>The breach of planning control as alleged in the notice (Notice B) is 'Without planning permission, the change of use of the Land from agricultural to a mixed use of agriculture, domestic, and commercial uses not reasonably associated with agriculture'.</p> <p>The appellant has pleaded ground (b) only. To succeed on ground (b) the appellant must prove that the alleged material change of to a mixed use has not occurred.</p> <p>The appellant states that all buildings and items are used for agricultural purposes. He highlights that he planned to produce his own food but have an abundance to sell or donate to food banks. I accept that the use of the external growing frames, planters and kept fowl could fall within the Town and Country Planning Act 1990 s336 definition of 'agriculture'.</p> <p>However, alongside the content and layout of building A, the evidence strongly indicates that its primary purpose is to provide for domestic accommodation.</p>			

<p>The interior layout of the building appears primarily concerned with the domestic functions of cooking, washing, shelter and comfort.</p> <p>[In Building A] there is little evidence of any agricultural production taking place there with the majority of the building being arranged as living space. In building B, the use and/or storage of various domestic furniture, tools and materials has little apparent or suggested relevance to the activities within the s336 definition of agriculture.</p> <p>The appellant has also failed to demonstrate that the domestic and commercial activities taking place on the site could be incidental to agriculture. Given the limited area of agricultural production and the scale and range of residential and business items within the buildings and elsewhere about the site, the domestic and commercial uses are likely to be primary uses, meaning that the site is probably in a mixed use as alleged.</p> <p>For the above reasons, on the balance of probability, the evidence leads me to the conclusion that the alleged mixed use of the site was taking place on the date that Notice B was served.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
2	E/19/00444/NAP	C/22/3313454	Plot 1 Cupid Green Lane, Hemel Hempstead	Written Representations
Date of Decision:			22/08/2024	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3313454				
Inspector's Key conclusions:				
<p>The breach of planning control as alleged in the notice is 'the erection of buildings on the Land'. Planning permission is only sought for the buildings... and not the mixed use.</p> <p>Paragraph 154 of the Framework confirms that the construction of new buildings should be regarded as inappropriate in the Green Belt. However, it lists a number of exceptions. Buildings for the purposes of agriculture are identified as one exception. As identified above, Buildings A and B are not used for that purpose. Their use for domestic, commercial or a mixed use (even when including agricultural use) does not fall within any of the exceptions set out in Paragraph 154. For those reasons, I conclude that Buildings A and B constitute inappropriate development in the Green Belt which, as described in the Framework, is harmful to the Green Belt by definition. That harm carries substantial weight.</p> <p>The buildings are visible from Cupid Green Lane through the wide gated opening into the field in which the site is located. In winter months they may be visible from a public right of way a short distance to the north-east of the site when boundary vegetation to the wider field is bare. Broader landscape views of the buildings are also available from the south.</p>				

	<p>As buildings on land that was previously undeveloped, their presence has an adverse effect on both the spatial and visual aspects of the openness of the Green Belt. I also consider that the form, external materials and colour of building A are not typical of the predominantly agricultural or residential buildings characteristic of the locality.</p> <p>Within the unusually small plot bordered by domestic style fencing, the arrangement of the buildings appears out of keeping with both characteristic agricultural or domestic development in the wider rural landscape. Furthermore, that arrangement contributes to a proliferation of unrelated buildings and structures that together also result in visual harm to the natural and established character of the wider rural landscape and departs from the characteristic layout of development in the local countryside area.</p> <p>In my view, the considerations presented by the appellant, including the buildings' construction from recycled materials, the difficulties in communications with the Council and claims of discrimination, or planning permissions granted elsewhere, whether taken singularly or together, do not clearly outweigh the totality of the harm that I have identified. Accordingly, I find the very special circumstances necessary to justify granting planning permission do not exist.</p>
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6.7 ENFORCEMENT NOTICE APPEALS ALLOWED

Enforcement Notice appeals allowed between 15 July 2024 and 15 September 2024.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	E/19/00229	C/23/3316925	85-87 High Street, Berkhamsted	Written Representations
	Date of Decision:		15/07/2024	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3316925			
	Inspector's Key conclusions:			
	<p>The breach of planning control as alleged in the EN is: without planning permission, the replacement of a ground floor bay window, ground floor window and entrance door on the principle elevation.</p> <p>The ground (a) appeal and the deemed planning application.</p> <p>The main issue is the effect of the replacement fenestration on the significance of 85-87 High Street, a non-designated heritage asset, and the significance, character or appearance of Berkhamsted Conservation Area (BCA), a designated heritage asset.</p> <p>The replacement entrance door has a painted timber frame but most of it consists of a single glazed sheet. At the time of my visit that glazing had an</p>			

obscured/etched finish and has applied writing on it. The design of the door that it replaced was significantly different and that design is reflected in the remaining doors that are within the main elevations of the ensemble. This is because those doors have timber panels with chevron planking at the bottom and 2 relatively small, glazed panels at the top with a dividing vertical bar. The amount of glazing in the replacement door exaggerates its vertical proportions, its reflective qualities and the writing on it draw the eye. Therefore, it appears in stark contrast to the remainder of the ensemble.

I acknowledge that the High Street elevation of the ensemble is asymmetrical. However, the use of common materials and consistent design detailing to the previous fenestration ensured that the ensemble was well-balanced and attractive. Overall, the replacement fenestration has eroded the significance of the non-designated heritage asset. Consequently, the contribution that this traditional building in a prominent location makes to the significance, character or appearance of BCA has also been eroded. Therefore, the significance, character or appearance of BCA has not been preserved. In this case I conclude that limited harm has been caused to the designated heritage asset in the context of the significance of the asset as a whole. Nevertheless, in the language of the National Planning Policy Framework (the Framework), that harm is less than substantial. In these circumstances, paragraph 208 of the Framework says that this harm should be weighed against the public benefits of the development proposal.

As the appellant suggests, it may be the case that these improvements increase the vitality and viability of the eastern end of the town centre by providing a high-quality retail unit which supports increased footfall to the area. It may also be the case that the replacement fenestration may be as energy efficient as possible and be of sustainable design. Whilst these matters can reasonably be considered public benefits, in my judgement, similar public benefits could be achieved through alternative designs so avoiding the harm identified to the designated heritage asset. As such, I consider that little weight can be given to these appreciable public benefits.

The appellant has suggested as part of his ground (f) appeal that the replacement entrance door could be altered to create / introduce a timber (chevron pattern if considered necessary) panel across the lower part, black painted to match the original. Furthermore, he has stated that the canted bay window and ground floor window could be altered by inserting glazing bars to create transom lights in the upper section of the canted bay window and horizontal glazing bars in the casements of the other window. In my opinion the alteration of the door, if possible, to include timber chevron panelling to the same design as that existed previously would overcome its harm to the significance of the heritage assets. The introduction of horizontal glazing bars to the ground floor window casements would also overcome the harm to the significance of the heritage assets in that respect.

With regards to the canted bay window the introduction of a transom and small lights above that transom would minimise the incongruity of that window. I acknowledge that the transom that exists on the traditional windows is

<p>moulded and projects noticeably forward of the casements. However, the transom on the replacement windows in the remainder of the appeal building is not moulded and does not project noticeably. There is no evidence before me to indicate that the Council considers that the installation of those replacement windows constitutes a breach of planning control. To ensure that there is a consistency in the design of the fenestration within the appeal building I consider that the transom design for the bay window would need to match that of those replacement windows.</p> <p>I consider that the imposition of a planning condition would ensure that a scheme can be required to be submitted for the written approval of the Council within 3 months of the date of this decision.</p>				
No.	DBC Ref.	PINS Ref.	Address	Procedure
2	E/20/00157/NAP	C/23/3317404	Plot 1 Cupid Green Lane, Hemel Hempstead	Written Representations
Date of Decision:			16/08/2024	
Link to full decision:				
https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3317404				
Inspector's Key conclusions:				
<p>The breach of planning control as alleged in the notice is 'Without planning permission, the unauthorised change of use from agricultural to carpentry business and unauthorised erection of miscellaneous outbuildings within the Green Belt'.</p> <p>The site identified in the Notice includes a number of buildings set about a kept grassed area. The Land is substantially bordered by post and rail timber fencing. The allegation in the Notice alleges a material change of use from agriculture to a single use as a carpentry business.</p> <p>At the time of my site inspection, tomato growing was occurring in the building along the site's north-western boundary and chickens were present in a purpose-built building towards the rear of the site.</p> <p>In this instance, it is clear that there were separate, unrelated activities taking place. However, a generator housing (wired to the carpentry workshop) is integrated with the chicken coop structure. The use of the kept grass area is unclear but, as with the site access, potentially serves both uses. At the time of my site visit some egg storage, albeit minor, was observed in the building being used as a carpentry workshop. It is not therefore possible to establish clear physical and functional separation between the uses.</p> <p>As such, the Land identified in the Notice appears as a single unit of occupation in a mixed use. Where there is more than one primary use taking place on a planning unit, the Notice should refer to all uses taking place. It is established in caselaw³ that in those circumstances it is not open to the Council to decouple a mixed-use taking place within a single planning unit.</p>				

<p>In practice, this effectively prevents any correction of the Notice by reduction of the area of Land subject of its requirements. Accordingly, the absence of reference to the primary use of agriculture as an element of the site's mixed use is a flaw in the Notice.</p> <p>I conclude that the enforcement notice fails to specify with sufficient clarity the alleged breach of planning control. The matter alleged in the Notice has not occurred as stated and the appeal on ground (b) therefore succeeds. Furthermore, I am unable to make the necessary corrections to the Notice without them resulting in injustice to any party. The enforcement notice is invalid and will be quashed.</p> <p>It is open to the Council to serve a further notice which clearly sets out the nature of the breach and the requirements, should it consider it expedient to do so.</p>
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6.8 ENFORCEMENT NOTICE APPEALS WITHDRAWN

Enforcement Notice appeals withdrawn between 15 July 2024 and 15 September 2024.

None.

6.9 SUMMARY OF TOTAL APPEAL DECISIONS IN 2024 (up to 15 September 2024).

APPEALS LODGED IN 2024	
PLANNING APPEALS LODGED	57
ENFORCEMENT APPEALS LODGED	5
TOTAL APPEALS LODGED	62

APPEALS DECIDED IN 2024 (excl. invalid appeals)	TOTAL	%
TOTAL	54	100
APPEALS DISMISSED	34	63.0
APPEALS ALLOWED	16	29.6
APPEALS PART ALLOWED / PART DISMISSED	0	0
APPEALS WITHDRAWN	4	7.4

	TOTAL	%
APPEALS DISMISSED IN 2024		
Total	34	100
Non-determination	2	5.9
Delegated	30	88.2
DMC decision with Officer recommendation	1	2.9
DMC decision contrary to Officer recommendation	1	2.9

APPEALS ALLOWED IN 2024	TOTAL	%
Total	16	100
Non-determination	1	6.2
Delegated	13	81.25
DMC decision with Officer recommendation	0	0
DMC decision contrary to Officer recommendation	2	12.5

6.10 UPCOMING HEARINGS

None.

6.11 UPCOMING INQUIRIES

No.	DBC Ref.	PINS Ref.	Address	Date
2	21/04508/MOA	W/24/3345435	Land west of Leighton Buzzard Road, Hemel Hempstead	15.10.24

6.12 COSTS APPLICATIONS GRANTED

Applications for Costs granted between 15 July 2024 and 15 September 2024.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	22/03069/FUL	W/23/3332517	Plot 1, Cupid Green Lane, Hemel Hempstead	Written Representations
	Date of Decision:		19/08/2024	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3332517			
	Inspector's Key conclusions:			
	[This is a Costs application made by the Council]			
	<p>The Council's concerns relate to the appellants' pursuit of the appeal in clear conflict with national and local Green Belt policy, and the failure to address its second reason for refusal in relation to the regulatory requirement to consider the effects on the Chiltern Beechwoods Special Area of Conservation (SAC), European designated site.</p> <p>A reference to the Council's second reason for refusal was made in the appellants' statement but no argument was forwarded by them in support of the appeal made. As a matter of legal duty explained by the Council in the officer report, the absence of any defence to that reason for refusal would leave any appeal hopeless given the regulatory burden imposed on the Competent Authority. The appellants' reference to the building's design and appearance had little relevance to the recreational effect of residential development on the integrity of the SAC.</p> <p>Although the appellant offered to pay the necessary obligation towards mitigation, this was only in response to the Council's claim for costs. The offer</p>			

did not form part of the appellants' case. The Council's guidance: Chilterns Beechwoods Special Area of Conservation Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest sets out the requirements for securing mitigation measures by way of an obligation under s106 of the Act. It was therefore open to the appellant to utilise that guidance to address the Council's second reason for refusal when lodging the appeal.

I find the absence of any contention or attempt to address the Council's duty in respect of the SAC was tantamount to unreasonable behaviour causing the Council to incur unnecessary or wasted expense in the appeal process.

Despite the appellants' professional representation and the informative provided by the Council's Decision Notice and officer report, the appeal was submitted on the argument that the development proposed was entirely 'agricultural'. I find the persistence with that argument in clear contrast to the statutory definition set out in s336 of the 1990 Act, was misguided. It contrasts with the appellants' position for the purposes of the costs claim which acknowledges a mixed use of the site was proposed.

I find that substantial lack of engagement with the residential element of the proposal, as a concern raised by the Council, was unreasonable. National and local policy and the PPG are clear in relation to the requirements in relation to justification for isolated homes and those associated with accommodation for agricultural workers. The appellants' claims that that element of the proposed development was agricultural was entirely unsupported. Subsequent claims that the Council could have imposed a condition were therefore ill-considered and contrary to the advice in the PPG and established caselaw. In having to address those matters in the appeal, the Council has been caused wasted expense.

I note the appellants' claim that there was unreasonable behaviour by the Council during the planning application process, which led to unnecessary or wasted expense at that time. However, there is little before me to qualify that claim or explain how it has led to wasted expense in the appeal proceedings.

I also acknowledge that defence of appeals are part and parcel of the Council's remit. However, that is not to say that they should need to elucidate on substantive matters which the applicants failed to address. Furthermore, where this relates to a legal duty, as described above, any assumption by the Council that the appeal should be dismissed is, perhaps, unsurprising.

For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

6.13 COSTS APPLICATIONS REFUSED

Applications for Costs refused between 15 July 2024 and 15 September 2024.

No.	DBC Ref.	PINS Ref.	Address	Procedure
1	22/02538/FUL	W/23/3327060	Frithsden Vineyard, Frithsden	Written Representations
	Date of Decision:		02/09/2024	
	Link to full decision:			
	https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3327060			
	Inspector's Key conclusions:			
	<p>The applicant's claim is based on substantive grounds; that the Council's planning committee made vague, generalised or inaccurate assertions about a proposal's impact, which were unsupported by any objective analysis including substantive reasons for refusing the application.</p> <p>The planning application was referred to the Council's planning committee for determination with a recommendation to approve, subject to conditions. As such, the officer's report is supportive of the scheme. The application was subsequently refused by the committee, with the reasons for refusal given in the decision notice.</p> <p>The refusal reasons in the decision notice were mostly clear and concise, citing the 'bulk, scale and height of the proposed dwelling' as the main causes of harm to the local area and the setting of the Frithsden Conservation Area. The relevant policies of the development plan are also given. The reasoning goes on to explain how this harm would be exacerbated in winter months 'or in the event of the loss of trees'.</p> <p>As the planning officer's report recommended approval, I would not expect reasoning for refusal here, but the committee meeting minutes are frustratingly vague and offer nothing substantive as to the discussions of the committee members at the meeting. While I would not expect a detailed transcript of every word, the text only cites the same reason for refusal and as the appellant points out, there are no trees proposed to be felled.</p> <p>I am informed that the committee misidentified dormers in the design, which the Council's costs application response confirms, and that the property is subject to an agricultural tie with the land. Evidently, this tie was removed a long time ago while the design clearly shows no dormers. This is concerning that a standard design feature could be misunderstood by decision makers in this manner. In this regard, I agree that the planning committee did make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis at application stage.</p> <p>However, the refusal reasons are supported by a more substantive analysis by the planning officer in the Council's appeal statement of case. As such, at appeal stage there is no failure to produce evidence to substantiate each reason for refusal on appeal. Moreover, while there was no objection from the</p>			

Council's Design and Conservation Officer or Historic England to the scheme, the committee is still entitled to refuse the application as long as these reasons are substantiated. At appeal stage, this has occurred.

I have disagreed with the decision of the planning committee and have allowed the appeal, granting planning permission in the process. However, this refusal of planning permission was ultimately the result of a fundamental disagreement between the parties which could have only been resolved by way of an appeal.

Although I have had regard to the list of work undertaken and commissioned by the appellant at application stage, including by a planning consultancy, Historic Environment specialist, Landscape Visual Assessment specialist and a Visually Verified Media specialist, the dates of the reports indicate these were all drawn up prior to the application being determined. The PPG is clear that costs cannot be claimed for the period during the determination of the planning application, although all parties are expected to behave reasonably throughout the planning process. As such, although I agree with some of the arguments made by the appellant and understand their frustrations, unnecessary or wasted expense, as described in the PPG, has not been sufficiently demonstrated. Therefore, an award of costs is not justified.

Bringing things together, I agree that the Council has seemingly made vague, generalised assertions which were not substantiated at application stage. However, this has not necessitated additional unnecessary expense for the applicant at appeal stage. Therefore, the Council did not act in an unreasonable manner in the appeal process to a sufficient degree that would be given any significant weight in determining this costs decision. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been sufficiently demonstrated. Accordingly, I determine that the costs application should fail, and no award is made.