

APPEALS UPDATE

A. LODGED

4/00069/16/FUL BRAYBEECH HOMES LTD
CONSTRUCTION OF SIX FOUR BED DWELLINGS
LAND REAR OF 27-33 GROVE ROAD, TRING
[View online application](#)

4/01629/16/OUT SWIERK
OUTLINE APPLICATION FOR THE DEMOLITION OF THE
EXISTING DWELLING (11 COVERT CLOSE) AND THE
DEVELOPMENT OF A BLOCK CONTAINING 6 FLATS (4 X 2-
BEDROOM, 2 X 3-BEDROOM) PLUS PARKING AND
COMMUNAL AMENITY SPACE.
THE CHILTERNES, 11 COVERT CLOSE, NORTHCHURCH,
BERKHAMSTED, HP4 3SR
[View online application](#)

4/02222/16/ENA RUSS
CHANGE OF USE FROM ANCILLARY PARKING TO CAR
SALES / CAR WASH.
LAND OPPOSITE 127 HEMPSTEAD ROAD, WD4 8AL
[View online application](#)

4/02321/16/ENA Eames
APPEAL AGAINST ENFORCEMENT NOTICE - CHANGE OF
USE OF BARN FOR VEHICLE STORAGE AND CREATION OF
HARDSTANDING
PIGGERY FARM, HAMBERLINS LANE, NORTHCHURCH,
BERKHAMSTED, HP4 3TD
[View online application](#)

B. WITHDRAWN

- 4/01123/15/FUL Smyth
CONVERSION OF AN EXISTING STABLES TO FORM A SINGLE FOUR BEDROOM
GARAGE AND WORKSHOP (REVISED SCHEME).
FLAUNDEN HOUSE STABLES, FLAUNDEN, HEMEL HEMPSTEAD, HP3 0PW
[View online application](#)
- 4/02986/15/FUL MR M SMYTH
CONVERSION OF EXISTING AGRICULTURAL BARN TO FORM A DETACHED TWO
DWELLING
AGRICULTURAL BUILDING NEAR TO FRONT ACCESS TO FLAUNDEN HOUSE :
FLAUNDEN, HEMEL HEMPSTEAD, HP3 0PW
[View online application](#)
- 4/02987/15/FHA MR SMYTH
SINGLE STOREY REAR EXTENSION
THE COACH HOUSE, FLAUNDEN HOUSE STABLES, FLAUNDEN
[View online application](#)

C. FORTHCOMING INQUIRIES

4/00488/16/ENA MR A MATHERS
APPEAL AGAINST ENFORCEMENT NOTICE, CONVERSION
OF ONE DWELLINGHOUSE TO SEVEN FLATS
1 AIREDALE, HEMEL HEMPSTEAD, HP2 5TP
[View online application](#)

4/02187/15/FUL CASH
CHANGE OF USE OF LAND TO A RESIDENTIAL CARAVAN
SITE FOR 8 GYPSY FAMILIES - EACH WITH TWO CARAVANS
WITH CONSTRUCTION OF A UTILITY BUILDING AND
ASSOCIATED HARD STANDING.
LAND WEST OF THE BOBSLEIGH HOTEL, HEMPSTEAD
ROAD, BOVINGDON, HEMEL HEMPSTEAD, HP3
[View online application](#)

4/02222/16/ENA RUSS
CHANGE OF USE FROM ANCILLARY PARKING TO CAR
SALES / CAR WASH.
LAND OPPOSITE 127 HEMPSTEAD ROAD, WD4 8AL
[View online application](#)

D. FORTHCOMING HEARINGS

E. DISMISSED

4/00118/16/RET

DOLLMAN
RETENTION OF AMENITY LAND AS RESIDENTIAL
GARDEN
1 CHEVERELLS CLOSE, MARKYATE, ST ALBANS, AL3
8RJ
[View online application](#)

Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of my visit, the change of use had already occurred and a fence erected around the southern edge of the appeal site. I have determined the appeal accordingly.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal site is located to the south of 1 Cheverells Close, a bungalow located at the entrance to a residential cul-de-sac on the outskirts of Markyate. The land was formerly an area of landscaping containing several mature trees that formed part of a pair of such verges on either side of the Cheverells Close/ Pickford Road junction.

5. According to the Council, the site is allocated as Open Land. Policy CS4 of the 'Dacorum Borough Council Core Strategy 2013' (the CS) states that within such areas the primary planning purpose will be to maintain the generally open character.

6. The surrounding area although residential in nature has a semi-rural quality owing to its location on the edge of the village and proximity to open countryside to the south of Pickford Road. Dwellings tend to be well set back from Pickford Road behind grass verges interspersed by undeveloped parcels of land containing hedgerows and mature landscaping. Most properties in the area have open frontages. Where boundary treatments exist, they tend to be low post, wire or timber fences or hedges. The appearance of these types of fences are in keeping with the character of the area and reflect the transition from the more built up part of the village to the open countryside to the south and west. From the evidence before me it is apparent that prior to the development taking place the site played an important role in sustaining the verdant and semi-rural character of the area.

7. Rather than the principle of the change of use, it is the erection of a fence around the land which is the issue. The before and after photographs supplied by the Council starkly illustrate the effect of the development on its immediate surroundings. In contrast to the types of boundary treatments found in the locality, the high, close-boarded fence and concrete posts are unmistakably urban in appearance. Due to its siting close to the Pickford Road, it is an incongruous and prominent visual feature which has a significant urbanising impact on the character and appearance of the area.

8. Moreover, the widespread clearance of vegetation including tree pruning has completely transformed the leafy character of the land. In so doing it has significantly diminished the contribution the site makes to the area's character. The development has also removed an important landscaped buffer that once softened

the visual appearance of the Cheverells Close development.

9. I accept that the appearance of the timber may soften over time with weathering. However, this would not address the loss of vegetation nor the height or siting of the fence. I am not therefore persuaded that the visual impact of the fence would be mitigated by the passage of time. I agree with the Council that the continued use of the land as domestic curtilage is also likely to lead to further works to the trees to the overall detriment of the character and appearance of the area.

10. Based on the foregoing, I conclude that the development has adversely affected the character and appearance of the area. It thereby conflicts with Policies CS4, CS10 and CS12 of the CS and Saved Policies 99 and 116 of the 'Dacorum Borough Local Plan 2004' (the LP). Collectively, these seek high quality design that reinforces local distinctiveness, local landscape character and the use of materials that fit in with the character of the area. I am satisfied that these policies are consistent with the aims and objectives of the 'National Planning Policy Framework'.

11. The Council has cited conflict with Policies CS5 and CS24 of the CS and Policy 97 of the LP which are concerned with development in the Green Belt and the Chilterns Area of Outstanding Natural Beauty. However, the appellant has confirmed that the site is located outside these areas and therefore they do not apply to the appeal scheme.

12. I have had regard to arguments that the land was not adequately maintained and prone to fly-tipping prior to the change of use taking place. However, it strikes me that there are other, more straightforward and less invasive ways, to address this problem other than changing the use of the land and erecting a fence around it. I accept that it may be possible to erect a smaller fence under permitted development rights. Nonetheless this in no way justifies the works that have taken place. I have also considered the Appellant's offer to provide landscaping to screen the fence. However, there are no such proposals before me and it appears that if the fence were to stay in its current position any landscaping would be outside the site boundary presumably on the Public Highway and therefore not within the gift of the Appellant to deliver. It is likely that any such planting would interfere with sightlines for drivers egressing Cheverells Close. In these circumstances it would not be appropriate for me to impose a landscaping condition.

13. While I acknowledge the appellant's reasons for erecting the fence, including the original understanding that this could be undertaken without planning permission and in the interests of security, highway safety and to prevent structural damage to his property, these matters do not outweigh its harmful effects I have described.

Conclusion

14. For the reasons given above I conclude that the appeal should be dismissed.

4/02893/15/ENA

MR J ROBB
APPEAL AGAINST ENFORCEMENT NOTICE
LAND NORTH OF HOME FARM, FLAUNDEN BOTTOM,
LATIMER, CHESHAM, HP5
[View online application](#)

This appeal related to the terracing of a hillside in the Green Belt and AONB at Flaunden Bottom. The Enforcement Notice also required the removal of a mobile home and this was complied with prior to the appeal. The remaining matter was the

engineering works and the requirement to reinstate the land and its levels to its original condition prior to the breach of planning control.

In dismissing the planning merits appeal the Inspector concluded that due to the reduction in openness the development is inappropriate development in the Green Belt which, by definition, is harmful to the Green Belt. Furthermore the Inspector stated that the development fails to recognise the intrinsic character and beauty of the countryside and also fails to protect and conserve the landscape and scenic beauty of the Chilterns AONB. The appellant's very special circumstances (relating to agricultural need) were not given any weight by the Inspector due to the lack of any detailed evidence as to the agricultural activity taking place on the land (the Council considered the land to be primarily in equestrian use).

The appellant also appealed on the legal ground that the alleged matters did not constitute a breach of planning control because it was permitted development under Class 6 of the GPDO and because the works did not comprise operational development. However, the Inspector agreed with the Council that the cutting-in to the hillside to form terraces, the creation of a retaining wall at the entrance of the site, and the resulting creation of spoil piles, as alleged, are substantial physical alterations to the land as a whole having a significant degree of permanence. As such, the Inspector concluded, they are all engineering operations within the definition of development. Furthermore, Class 6 PD rights had been removed by virtue of an Article 4 Direction.

The appellant also appealed under the procedural grounds e, f and g. The Inspector accepted that a 12 month period to comply with the requirements of the Enforcement Notice was more appropriate than the stated three. However, the Inspector dismissed the appeals on the grounds that the Notices had been incorrectly served or that the requirements of the Notice were excessive.

4/02894/15/ENA

MR J ROBB
APPEAL AGAINST ENFORCEMENT NOTICE
LAND NORTH OF HOME FARM, FLAUNDEN BOTTOM,
LATIMER, CHESHAM, HP5
[View online application](#)

This appeal related to the terracing of a hillside in the Green Belt and AONB at Flaunden Bottom. The Enforcement Notice also required the removal of a mobile home and this was complied with prior to the appeal. The remaining matter was the engineering works and the requirement to reinstate the land and its levels to its original condition prior to the breach of planning control.

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4/03999/15/FUL

Mitchell

CONSTRUCTION OF TWO-STOREY 2-BEDROOM HOUSE ON LAND ADJACENT TO THREEFIELDS.

SITE ADJACENT THREEFIELDS, SHEETHANGER LANE, FELDEN, HEMEL HEMPSTEAD, HP3 0BJ

[View online application](#)

1. The appeal is dismissed.

Main Issues

2. The main issues are: 1) the effect of the proposal on the character and appearance of the area and; 2) the living conditions of future occupiers with particular regards to outlook and light.

Reasons

Character and appearance

3. The appeal site comprises a narrow strip of land between two large detached properties known as The Lodge and Pans Place. It has a narrow frontage to Sheethanger Lane and is sited parallel to a private driveway which gives access to a group of residential properties to the east. The site is undeveloped and mainly laid to grass. It is lined on both sides by rows of mature trees which consist mainly of Silver Birch.

4. The wider area is distinguished by an array of large detached houses occupying generous plots. This settlement pattern along with the presence of large numbers of mature trees along the roadside and set further into many of the plots are principal components of the locality. These features lend the area a spacious and verdant quality which is further enhanced by grass verges and a wide variety of building types and architectural styles. It is undoubtedly a residential environment of the

highest order which conveys a sense of tranquillity and exclusivity. Many of these qualities are reflected in the Felden East Character Appraisal for the area.

5. The two-storey dwelling would be sited towards the front of the plot on roughly the same building line as its immediate neighbours to the north and south. However, due to its orientation the dwelling would front onto the private drive rather than Sheethanger Lane. To some extent the visual impact of the dwelling would be softened by the existing landscaping much of which would be retained. Nonetheless and notwithstanding its design credentials, the siting of the dwelling on the land along with the gravel driveway and parking area would completely change its open character and diminish the positive contribution it makes to the character and appearance of the area.

6. Although not prominent, the dwelling would be apparent from the private driveway and along the proposed access to Sheethanger Lane. In contrast to the spacious surroundings, it would be hemmed in on all sides by its site boundaries. Due to the constraints of the site's size and shape and the amount of tree cover, there would be little 'breathing' space for the dwelling and limited opportunity to provide a meaningful amount of outdoor amenity space.

7. A key component of good design is the appreciation and understanding of context. In this regard, the cramped layout would fail to respect local distinctiveness. I therefore conclude that the proposal would unacceptably harm the character and appearance of the surrounding area, contrary to Policies CS10, CS11 and CS12 of the 'Dacorum Borough Council Core Strategy 2013' (the CS). Amongst other things these policies state that development should be of a high quality that respects the typical density intended in an area, landscape character and retain important trees.

8. In coming to that view I have also considered the effect of the proposal on trees on the appeal site. It is evident that these play an important role in sustaining the leafy character of the area. As I observed when I conducted my site visit, the number of trees and the extent of their canopies are such that they cast a considerable amount of shade. I accept that the pile foundations may well, subject to the advice in BS 5837:20121 being strictly followed and secured by planning condition, allow the dwelling to be built in a way that safeguards the health of these trees. However, the outlook of the garden and the dwelling, despite careful pruning and replanting, would still be dominated by the trees and as a consequence would be overshadowed for much of the day. Along with the perceived safety risk by future residents from falling branches together with the inconvenience of seasonal leaf litter would I believe inevitably lead to pressure to fell if a useable garden were to be maintained and the living conditions of future occupiers to be safeguarded. These concerns add weight to my findings in relation to the first main issue.

Living conditions

9. Such is the abundance of retained and proposed landscaping that future occupants will inevitably be subjected to a significant degree of enclosure and overshadowing particularly in the summer months when the trees are in leaf. I accept that some windows in the east and west elevations might benefit from some direct sunlight from gaps between the trees. However, if this were to occur it would be ephemeral and would not compensate for the overall lack of sunlight throughout the remainder of the day particularly to main habitable room windows. In my view this would result in unacceptable living conditions for future occupiers.

10. Given the landscaping between the development and The Lodge and Pans Place, which would be retained and in places strengthened, I am not persuaded

there would be any unacceptable loss of privacy or outlook to neighbouring occupiers.

11. I therefore conclude on the second issue that the development would not provide satisfactory living conditions for future occupiers with particular regards to light and outlook. Policy CS12 of the CS seeks to protect the amenity of surrounding properties rather than future occupiers and is not therefore applicable. Policy CS11 is also cited by the Council but as this relates to design matters, it is also of little relevance to the refusal reasoning. Nonetheless, the 'National Planning Policy Framework' is a significant material consideration and seeks a good standard of amenity for all existing and future occupants of land and buildings. The proposal would thus conflict with these aims.

Conclusion

12. I accept that the development would be constructed to high design standards and deliver a dwelling in an area of need with reasonable access to public transport. These matters weigh in favour of the proposal. However, they do not outweigh the harm to the character and appearance of the area and the living conditions of future occupiers and the conflict with the local plan and national policy in that regard.

13. For the reasons given above and taking into account of all other matters raised, I conclude that the appeal should be dismissed.

F. ALLOWED

4/00689/16/FHA Mr Kilich
TWO STOREY FRONT EXTENSION, TWO STOREY REAR
EXTENSION AND ALTERATIONS TO ROOF TO CREATE A
THIRD FLOOR INCLUDING TWO FRONT AND TWO REAR
DORMER WINDOWS, AND THREE ROOF LIGHTS TO EACH
SIDE ELEVATION
BRIARS ORCHARD, SHOOTERSWAY LANE, BERKHAMSTED,
HP4 3NW
[View online application](#)

Decision

1. The appeal is allowed and planning permission is granted for a double storey extension to the front elevation, double storey extension to rear elevation and roof modification to create a third floor at Briars Orchard, Shootersway Lane, Berkhamsted HP4 3NW in accordance with the terms of the application, Ref 4/00689/16/FHA, dated 11 March 2016, subject to the following conditions:

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1/1250 location plan, 1/500 layout plan, 1623/2/5288 and 5A.

3) No windows other than those expressly shown on the approved plans shall be formed in the side elevation of the dwelling without the prior written approval of the local planning authority.

- 4) All new windows in the side elevations including dormer windows in the roofspace shall be fitted with obscure glazing unless otherwise agreed in writing by the local planning authority. Once provided, the glazing shall be retained thereafter.
- 5) Twenty one days before any development is commenced resulting in any excavation within the site, written notice shall be given to the Local Planning Authority, where upon the local planning authority shall, within 21 days of receipt of such notice, specify in writing to the developer which persons authorised by the local planning authority shall be allowed access to the site whilst any excavations are in progress for the purpose of arboricultural investigation. If tree roots are found to be present details of suitable protection measures shall be submitted to and approved in writing by the local planning authority. These measures shall be adhered to throughout the construction phase of the development.

Main Issues

2. The main issues are the effect of the development on, firstly, the character and appearance of the area and, secondly, the living conditions of neighbouring occupiers with particular regards to outlook, privacy and overshadowing.

Reasons

Character and appearance

3. The appeal property, Briars Orchard, is a two-storey, brick built dwelling located within a wider residential estate which is notable for its low density, diversity of architectural styles and prevalence of mature trees. Most dwellings are sited inconspicuously behind large front gardens and landscaped boundary treatments. In common with most other dwellings in the vicinity, Briars Orchard stands on a deep plot and leaves little space between its flank walls and site boundaries.

4. The Council and others argue that the extension is unacceptable as the appeal property occupies what was once an infill plot. Whilst this maybe so, there is no substantive evidence before me to suggest the current or proposed plot ratio would be materially different to that which prevails in the locality. Even if I am wrong about that, the changes to the footprint of the existing dwelling are relatively small bearing in mind that permission has already been granted for the rear 2 storey extension (LPA ref: 4/00751/15/FHA).

5. The submitted plans show a 2.5 storey property with rooms in the roof space as opposed to a 3 storey property. When I visited the area, I saw that such an arrangement is not unusual. Currently the height of the appeal property is less than a number of its neighbours including the adjacent house known as Briars. In the absence of any compelling evidence to the contrary, I am satisfied that the height of the development would be within the range of that found locally. I do not therefore consider that the height or scale of the development would be so out of character with its surroundings as to justify the dismissal of the appeal. In any event, given its set back and the presence of mature hedging to the site frontage, the changes to the dwelling would not be readily apparent from public spaces and therefore its impact on the wider area would be limited.

6. Based on the foregoing, I concur with the Council's overarching comment that the development would improve the appearance of the dwelling. That being the case, I conclude that the development would not unacceptably harm the character and appearance of the area. It would thus accord with Policies CS11 and CS12 of the 'Dacorum Borough Council Core Strategy 2013' (the CS). Amongst other things these policies states that development should be of a high quality that respects the typical density intended in an area and enhance general character. It would also

comply with Appendix 3 of the Saved 'Dacorum Borough Local Plan 2004' (the LP) insofar as respecting the character of the surrounding area.

Living conditions

7. On my site visit I was able to view the appeal site from the neighbouring properties Briars, White Oaks, Puddledocks and The Firs. I saw that these properties as well as Briars Orchard all currently enjoy a high degree of privacy due to the presence of mature landscaping to site boundaries. The rear extension would be roughly the same as that previously approved and thus this element of the scheme would not cause unacceptable harm to the amenity of neighbouring occupiers.

8. I acknowledge that the overall increase to the height and mass of the rear elevation may well be visible from certain locations such as upper floor bedroom windows of The Firs. However, given the orientation between the appeal property and those to the north, any views would be at a distance and even then restricted to glimpses over the top or through the thick band of landscaping that runs along the northern boundary of the appeal site. In residential areas a degree of intrusion into views is almost inevitable. In this instance there would be some changes to the rearward views from neighbouring dwellings. However, the scale of that change would be modest and not at a level that could reasonably be described as overbearing or unusual in a built-up area. There would thus be no unacceptable impact with regards to outlook.

9. In terms of loss of privacy, there are no details of any local privacy distances that might be breached if I were to allow the appeal. I therefore find based on the orientation and distance between the properties and the existence of an extant planning permission for the rear extension, little to support the view that the development would impinge unacceptably on the privacy of neighbouring occupiers.

10. Finally, I have considered the objection from the occupiers of Briars with regards to the loss of light to the row of windows in the side elevation facing the appeal property. However, these windows appear to be fitted with obscure glass and are north facing. Moreover, there would be no reduction in the separation distances between the two dwellings or any increase in the height of the side wall. On this basis, whilst there may be some loss of background light, this would not be at a level to undermine the living conditions of the occupiers of Briars.

11. Whilst I understand the concerns of local residents, for the reasons given above, there is no compelling evidence before me which would lead me to conclude that the development would have an unacceptable effect on the living conditions of neighbouring occupiers with particular regards to outlook, overshadowing or privacy. The development thereby accords with the requirements of Policies CS11 and CS 12 of the CS and Appendix 3 of the LP in terms of the need to avoid visual intrusion and a loss of daylight and privacy to surrounding properties.

Conditions

12. The Council has not provided a list of recommended conditions. I have therefore imposed conditions limiting the life of the planning permission and specifying the approved plans in the interests of proper planning and to provide certainty.

13. I have also imposed a condition to ensure the implementation of tree root protection measures if roots are found to be an issue. Finally, I have imposed conditions preventing the formation of further windows in the side elevations and to ensure that those new windows shown on the approved plans are fitted with obscure glazing to protect the privacy of neighbouring occupiers.

Conclusion

14. For the reasons given above and taking account of all other matters raised, I conclude that the appeal should succeed.

4/02690/15/FUL E L MORGAN
CHANGES TO FLAT ROOF TO FORM SUNKEN TERRACE
AND NEW DOORS TO REPLACE EXISTING WINDOW TO
BEDROOM
313A HIGH STREET, BERKHAMSTED, HP4 1AL
[View online application](#)

The proposal is to create a rear second floor roof terrace with railings and doors in place of the dormer window, located mid terrace within the Berkhamsted CA.

The main issues are the impact on the CA and the affect on residential amenities of the adjacent dwellings.

The Inspector considered the rear aspect not to be highly visible in the street scene.

She / he considered that the installation of railings around the dummy pitch and the introduction of a door in place of the window would have little overall effect on the character and appearance of the CA. She / he stated that 'the argument that the insertion of a door would disrupt the consistency of the building is overplayed. The flat roof dormers are not of a consistent size and the presence of extraction flues, downpipes and velux windows have compromised any consistency that might once have existed.'

With regards to concerns of overlooking, the Inspector shared the Council's concerns that the terrace would afford direct views into the adjacent neighbours windows but agreed with the appellant that these could be overcome by additional screening to the sides of the terrace. She / he accepted that this may increase the visual impact of the development but considered that as the terrace would primarily be for sitting out, the height of the additional screening ought not to be significantly higher than the railings.

With regards to noise and disturbance, the Inspector considered that as this was a residential area a certain amount of noise is therefore inevitable. 'No evidence has been adduced to suggest that users of the terrace would generate unacceptable levels of noise.'

She / he attached no great weight to the setting of a precedent.