

6. APPEALS UPDATE

A. LODGED

4/02360/16/ENA MR MUBASHAR HUSSAIN
APPEAL AGAINST ENFORCEMENT NOTICE
17 TANNSFIELD DRIVE, HEMEL HEMPSTEAD, HP2 5LG
[View online application](#)

B. WITHDRAWN

None

C. FORTHCOMING INQUIRIES

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

None

E. DISMISSED

4/00269/16/ENA

MR N MARTIN
APPEAL AGAINST ENFORCEMENT NOTICE - SCAFFOLDING USE
WOODLANDS, NOAKE MILL LANE, WATER END, HEMEL
HEMPSTEAD, HP1 3BB
[View online application](#)

This appeal related to the serving of an Enforcement Notice requiring the cessation of the commercial scaffolding business at Woodlands, Noake Mill Lane.

There were preliminary discussions before and during the first day of the Public Inquiry (25 May 2016) regarding the wording and attached map of the Enforcement Notice with the end result being that the allegation was altered to be a change of use of the site from residential to a mixed use of residential and commercial scaffolding business. The map was similarly varied so that the Notice not only attacked the area where the scaffolding use took place (originally hatched green) but the entire land within the planning unit (outlined in red). The Public Inquiry resumed on 09 August 2016. Due to the need to adjourn the Public Inquiry the Inspector awarded a partial award of costs to the appellant for their work in preparing for and attending the first date.

The Inspector agreed with the Council that the appellant's business in relation to the storage and distribution of golf equipment at no point reached a scale whereby it became a primary use of the planning unit. As such the Inspector considered the description of the alleged breach (as amended in May) to be correct.

The appellant did not dispute that the operation of the commercial scaffolding business has occurred and is part of a mixed use. Accordingly, the appeal on ground (b) failed. The ground (d) appeal also failed as the appellant could not demonstrate 10 years continuous usage for the alleged use (mixed use residential / commercial scaffolding business).

In terms of the ground (c) appeal the assessment to be made related to the change, if any, in the definable character of the use of the land between the primary residential use and the commercial scaffolding business. The Inspector was not persuaded that, on the balance of probability, outside storage was a regular feature of the appellant's business for the storage and distribution of golf equipment. The evidence indicated that, on the balance of probability, a significant percentage of the appellant's business for the storage and distribution of golf equipment took place entirely off-site and that the stock which was delivered to Woodlands was largely stored within the outbuildings. In contrast, the scaffolding business results in a significant amount of outside storage in the yard, a visible presence from outside of the site, frequent deliveries by large vehicles and the generation of noise through the handling of metallic products. In the Inspector's view, as a matter of fact and degree, the character of the use of the appeal site for a mixed use of residential and commercial scaffolding business is materially different from the use of site for residential with an ancillary business use for the storage and distribution of golf equipment. As such the Inspector concluded that the introduction of the scaffolding business has resulted in a material change in the definable character of the residential use of the land, that a material change of use has occurred, and that the ground (c) appeal had to fail.

The ground (f) appeal was also unsuccessful as the Inspector agreed with the Council that the Notice did not attack an office use ancillary to the residential use of the site and that varying the Notice was unnecessary. Finally the Inspector extended the period for compliance from 2 months to 4 months, balancing out the need for the appellant to find alternative premises and the harm the scaffolding use causes to the neighbouring property.

4/00645/16/FUL

RiverGate Homes Ltd and Paul and Elizabeth Rooksby
CONSTRUCTION OF 4 DWELLINGS AND ASSOCIATED PARKING
AND LANDSCAPING.
LAND ADJ. TO 26, STATION ROAD, BERKHAMSTED, HP4 2EY
[View online application](#)

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:

? Whether the proposed development would provide suitable living conditions for the future occupiers; and

? The effect of the proposed development on highway safety in the surrounding area.

Reasons

Living conditions of the future occupiers

3. The appeal site is a long narrow strip of land between Station Road and a railway line to the north. The site tapers from north-west to south-east and has a significant change in level between the road frontage and the rear of the site. This becomes more pronounced at the south-east end of the site. A number of large nature trees are present just outside the boundary of the appeal site to the north east. Due to the ground level changes on the site it would be necessary to provide substantial retaining structures at the rear of the properties to allow the houses to be built.

4. Policy CS12 of the Dacorum Core Strategy 2013 (Core Strategy) and the Saved Appendix 3 of the Dacorum Borough Local Plan 2004 (Local Plan) seek to ensure that high quality development is achieved which provides suitable living conditions for future residents and protects the living conditions of existing residents. The National Planning Policy Framework (the Framework) also seeks high quality new housing and that new development provides a good standard of amenity for all occupiers. Appendix 3 addresses the matter of private amenity space at new dwellings and recommends that rear garden areas should have a minimum depth of 11.5 metres. This is not achieved by any of the proposed dwellings with the rear gardens ranging between three and six metres in depth.

5. The Appendix does allow on infill developments garden depths which are below 11.5m but of equal depth to adjoining properties. The appeal site would be considered an infill development and the garden depths are similar to those at the adjacent properties at 26 and 27 Station Road. I saw on my site visit that the gardens of properties on the south side of Station Road also vary in depth, with those at the west end also being relatively short. My attention has been drawn to other properties in the wider area with smaller rear gardens and yards, although I saw these were, in general, older properties that were constructed before the Local Plan was adopted.

6. The Appendix also requires that all gardens should be of a width, shape and size to ensure the space is functional and compatible with the surrounding area. Although the rear gardens of the proposed dwellings are not deep, it is evident from the submitted drawings that in overall area they are not disproportionately small as the proposed dwellings would have frontages approximately 7.5 metre wide. and the length of appeal site allows for amenity space to be provided at the side of the dwellings. However, due to the ground level changes on the site, the garden areas would have to be terraced and retaining structures introduced, which would in some respects limit the functionality of the amenity space, particularly to the immediate rear of the dwellings.

7. Although amenity space is provided at the side of the dwellings, in the case of Plots 1 and 2, this is a narrow space enclosed between the gable of the house and a 1.8 metre high fence adjacent to the driveways. Whilst, the overall area of the gardens is not dissimilar to other gardens in the vicinity, they are irregular shapes and defined by gable walls, high fences and retaining structures which would diminish the quality and utility of the spaces.

8. There are public open spaces within reasonable walking distance of the appeal site and Appendix 3 does make allowances for reduced rear garden depths where the development is in proximity to open space or amenity land. Nevertheless, whilst this would cater for some recreational needs and to a certain extent compensate for the poorer quality of the external spaces adjacent to the dwellings, the function of amenity space around a dwelling has to be considered within the context of the development as a whole.

9. Whilst I am satisfied that the retaining structures could be designed in such a way that, where they are visible from Station Road, they would not cause harm to the appearance of the area, the extensive use of retaining structures within the amenity spaces would have an effect on the living conditions of the occupiers of the new dwellings, particularly on Plots 3 and 4, which I shall turn to next.

10. The proposed houses on Plots 3 and 4 would have a small open space to the rear that would be approximately 2 to 2.5 metres deep and bounded by the retaining structure which would be approximately 3 metres high at this point. The ground floor of the proposed houses would be a combined kitchen and dining with a window in the kitchen area and a French window in the dining area facing onto the retaining structure. The combination of the very small external area to the rear of the living accommodation with the height and proximity of the retaining structure would, in my view, result in an excessively overbearing effect on the ground floor rear of the proposed houses and

provide a very poor outlook from them. Additionally, as the rear of the properties face north east, they would receive little or no direct sunlight and consequently the interior of the ground floor rear of the houses on Plots 3 and 4 would be very dark.

11. This would be exacerbated by the presence and proximity of the trees beyond the site boundary, which are very tall and have dense canopies in addition to being at a higher level than the proposed dwellings. The upper floor rear windows of all of the proposed dwellings, whilst being above the level of the retaining structure would still experience a significant degree of shading from these trees. Although the trees are deciduous, the upper floors of all of the plots would experience this shading for a substantial part of the year.

12. The site backs onto a main railway line and an area used for the storage of timber and building products. A noise and vibration study was submitted with the planning application and I note that the Council's Environmental Health Officer did not disagree with the findings of this. From the evidence before me, I have no reason to reach a different conclusion.

13. This notwithstanding, I consider that the combination of the restricted functionality of the amenity areas and the effect of the retaining structures and the trees beyond the site boundary would result in the development not providing satisfactory living conditions within the proposed houses. The proposal would as a consequence be inconsistent with Core Strategy Policy CS12 and the Framework.

14. I therefore find that the proposal would not provide satisfactory living conditions for the future occupants of the dwellings. It would not comply with the relevant requirements of Core Strategy Policy CS12, the guidance in Saved Appendix 3 of the Local Plan and the requirements of the Framework to deliver high quality homes and provide a good standard of amenity for the future occupiers of buildings.

Car Parking and highway safety

15. Saved Policy 51 of the Local Plan requires that development proposals be assessed specifically in highway and traffic terms and should have no significant impact upon, among others, the design and capacity of parking areas and the implications for on-street parking. Core Strategy Policy CS12 further requires that development should provide a safe and satisfactory means of access for all users.

16. The area of land between the carriageway and the appeal site is currently within the highway boundary and is used on an informal basis for the parking of cars. It is finished in unbound stone chippings and is not formally marked out. At the time of my site visit, this area was fully occupied with parked vehicles, as was another smaller area to the west beyond 26 and 27 Station Road. Vehicles parked on the south side of Station Road restricted the effective width of the carriageway along a substantial proportion of its length.

17. There are parking restrictions in the form of double and single yellow lines on Gravel Path and around the junctions with Station Road, Ellesmere Road and George Street. At the time of my site visit the available on street parking on Station Road and the nearby streets was very heavily used and only a limited number of spaces were available.

18. It is not suggested that the proposed development does not provide sufficient on-site parking to accommodate the car parking associated with the new dwellings, or that the accesses to the new dwellings from Station Road are unsatisfactory, and the reason for refusal focusses on the loss of on-street parking.

19. The appeal proposal would formalise the publically available parking on this land and would provide 10 parking spaces. The parking survey submitted by the appellant shows that the capacity of the informal parking on the site frontage is approximately 17 spaces and that it is mainly used by residents in the area with between 11 and 13 cars being parked in the evenings and at the weekend. Whilst the Council question the validity of some elements of the survey, this part is not in dispute.

20. The proposal would result in a small loss of between 2 and 4 parking spaces available to these residents, however, the use of these spaces is on an informal basis and not limited to residents. There is a very limited amount of on-street parking capacity nearby which could accommodate some of the displaced cars. Whilst it is evident that there is a high demand for parking in the area, the proposed development would lead to only a very small reduction in the overall level parking provision, which would not, in my view, be so significant as to warrant refusing planning permission on this ground.

21. The number of vehicle movements and manoeuvres generated by the development would not significantly exceed the number of manoeuvres arising from the current use of the frontage for parking. Whilst vehicle conflicts currently occur on Station Road, due to its width being restricted by vehicles parked on the south side, the vehicle movements generated by the site would not significantly worsen this situation. I also note that the Highways Authority have not raised an

objection to the proposal in this regard.

22. I therefore find that the proposed development would not cause harm to highway safety in the area and would comply with the relevant requirements of Saved Policy 51 of the Local Plan and Core Strategy Policy CS12 which seek to ensure that new development has a safe and satisfactory access and has no significant impact on the capacity of the road network or on street parking.

Other Matters

23. The appeal site is located within the Berkhamsted Conservation Area which covers a large part of the central area of the town. The scale and external appearance of the proposed dwellings take clear design cues from the surrounding buildings. The appeal site in its present form makes a positive contribution to the character and appearance of the conservation area, however, the proposed development would retain the mature trees at the rear of the site which make a strong visual contribution and the design of the proposed new dwellings would be consistent with the surroundings. Therefore, I am of the opinion that the development would not cause harm to the character and appearance of the conservation area and I note that the Council's Conservation Officer had no objections to the proposal.

24. I also note that the appeal site is within an established residential area with good transport and accessibility to shops, services and facilities. However, none of these factors either singly or cumulatively outweigh the unsatisfactory living conditions that would result for future occupiers of the development.

Conclusion

25. I have found that the proposed development would not cause harm to road safety in the vicinity of the appeal site. However, Policy CS12 and the Framework are clear that new development should provide high quality homes that provide a good standard of amenity for future occupiers and I have found that the development would not provide acceptable living conditions for future occupants. This significantly and demonstrably outweighs any small scale benefits that would result from the development.

26. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

4/00752/15/LBC

Crossley-Smith

INSTALLATION OF CONSERVATION ROOFLIGHT.

1 THE RED HOUSE, NETTLEDEN ROAD NORTH, LITTLE
GADDESSEN, BERKHAMSTED, HP4 1PL

[View online application](#)

Decision

1. The appeal is dismissed.

Preliminary matter

2. The appeal proposal is a resubmission of a previous proposal which was refused listed building consent by the Council. That decision was upheld on appeal. Bearing in mind the need for consistency in planning decisions, the previous appeal decision is of some materiality to my assessment. However, I have assessed the appeal proposal on the basis of the evidence which has been provided to me, which includes a planning and heritage statement.

3. At appeal the appellants have expressed dissatisfaction with the manner in which the Council handled the application. Whilst I note their concerns, my assessment is limited to the merits of the proposal.

Main Issues

4. The main issues in this case are whether the proposed works would preserve the Grade II listed building known as The Red House or any features of special architectural or historic interest that it possesses, and whether or not they would preserve the character or appearance of the Little Gaddesden Conservation Area.

Reasons

5. The Red House dates from 1870 and was originally the Agent's house and estate office for the Ashridge Estate. It has subsequently been divided into three dwellings: the appellants occupy Nos 1 and 2, which have been recombined, whilst No 3 is occupied separately. The principal elements of this impressive house are of two storey height with attic accommodation. They possess a complex form which features steeply pitched gable roofs and prominent ornate chimneys, and the principal garden-facing elevations also possess an exuberant and richly detailed approach to design, featuring extensive use of polychrome brickwork. I saw on my visit that there are other houses in the vicinity

which share some features of this design approach, together with some dwellings of obviously greater antiquity. The character of the locality is clearly influenced by its location and role within the estate of nearby Ashridge House, which can be glimpsed across The Green through a gap between trees. It follows that The Red House makes an important positive contribution to the conservation area.

6. The proposed rooflight would be installed in the rear roof slope of a single storey element (the outbuilding) of the listed building. This lies to the rear of the principal elements of the house and adjoins the boundary with the extensive plot of Lutece, a detached dwelling. I understand that the outbuilding was originally detached from the house, but was quite recently attached to it during the 1990s by a linking projection which has also extended the outbuilding by a modest amount to the south west. This modern element provides a kitchen and breakfast room to Nos 1 and 2: the rooflight would serve an adjoining utility room within the larger historic section of the outbuilding. The remainder of this section now forms part of No 3. The outbuilding has always formed part of the listed building, albeit initially by virtue of being a structure within the building's curtilage, although this does not of itself indicate that it makes any particular contribution to the significance of the listed building.

7. The list description records that the yards behind the house were the estate workshops. The appellants refer to a review of historic OS maps and other documents which are suggestive that the workshop buildings were located close to the former traction engine shed. However, I have not been provided with any details of the review. The scale and position of the historic element of the outbuilding does not seem to me obviously inconsistent with use for estate operations as opposed to merely ancillary domestic functions. There is thus some possibility that the former use was the original purpose of the outbuilding, which would enhance its importance, noting also that the Red House was not built simply as a dwelling but for the undertaking of estate functions through the estate office.

8. The historic section of the outbuilding has a plain and modest appearance, this being particularly apparent at the rear, where the rear elevation consists of a plain brick wall, the only modern intervention here being a small air vent. This is a location where there are no public views, but this is not a matter which counts materially in favour of the proposal given that listed buildings are designated in the light of their inherent qualities, not the extent to which these can be appreciated by the public. Although the rear roof slope is faced with relatively recent concrete tiles, this does not detract substantially from the attractive simplicity of the pitched roof form, and there is no suggestion in the evidence before me that this is not original. The rear roof slope is interrupted only by a plain chimney which appears to be of considerable age, and thus possesses a high degree of integrity. The modern extension to the outbuilding displays considerable respect to these qualities, constructed of plain brickwork with simple fenestration.

9. The outbuilding clearly does not possess the rich architectural detailing and elaborate form of the principal elements of the house, but this does not mean that it is of little or no importance. In my view this contrast instead serves to confirm the status of the outbuilding, despite the modern extension, as a distinct and appealing subsidiary structure which possesses some charm and continues to speak of its historic role in supporting the house and possibly the broader functioning of the estate. It therefore makes a material contribution to the significance of the listed building.

10. The essential plainness and simplicity of the outbuilding are however qualities which make it very sensitive to further alterations, this being particularly the case at the rear. The appellants assert that many such outbuildings would have incorporated rooflights. However, I have not been provided with detailed examples, and in any case there is no suggestion that the appeal outbuilding ever possessed a rooflight or that the proposal would amount to restoring a missing feature. I acknowledge that the proposed rooflight would be of a traditional flush fitting design, but in its context it would nevertheless appear as a prominent and detrimental intervention. It would unacceptably harm the integrity of the rear roof slope and diminish the character of the outbuilding, thereby lessening the contribution this makes to the special architectural and historic interest of the listed building.

11. Moreover, although the concrete tiles of the roof slope are clearly not historic fabric and the utility room has an apparently modern ceiling, there is no evidence that the roof structure between them is also modern. Whilst the appellants assert that the rooflight could be inserted between structural timbers, there is no supporting evidence to demonstrate that this would be feasible. There is therefore some possibility that the proposal would result in a loss, albeit minor, of historic fabric. This adds to my concerns.

12. I appreciate that there have been various extensions and alterations to other elements of the listed building. One example is a conservatory which occupies much of an internal courtyard between the outbuilding and the principal elements of the house, but to my mind this increases the

vulnerability of the outbuilding to alterations rather than serving to justify them. My attention has also been drawn to a number of existing rooflights, but they are located within the complex roof forms comprised in the principal elements of the listed building and I have been given little information about the context and considerations which led to their approval. I am therefore not persuaded that these existing rooflights provide a precedent for the appeal proposal or serve to justify it.

13. For the reasons given above, I conclude that the proposed works would fail to preserve the special architectural and historic interest of the listed building, the desirability of which is a matter to which I am required to have special regard by section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). For the same reasons, although there would be no public views of the rooflight, the proposal would nevertheless diminish the contribution that the listed building makes to the conservation area, albeit to a very modest degree. I therefore conclude that the proposed works would fail to preserve the character and appearance of the conservation area, the desirability of which is a matter to which special attention must be paid pursuant to section 72 of the Act. There would also be conflict with Policy CS27 of the Core Strategy² and Policy 119 of the Local Plan³, which reflect the above statutory duties and aim to protect the historic environment.

14. For the purposes of the National Planning Policy Framework, the listed building and the conservation area are designated heritage assets. Within their overall context, I consider that the proposal would lead to less than substantial harm to their significance. Paragraph 134 of the Framework requires that such harm be weighed against the public benefits of the proposal.

15. The appellant contends that the rooflight would provide benefits through providing increased light and ventilation. I do not see that the former would amount to a material public benefit. The utility room is already provided with some natural light from partly glazed doors to the courtyard and breakfast room. Moreover, this is not a habitable room, and some reliance on artificial light is not detrimental to the living conditions of occupiers of Nos 1 and 2. As to improved ventilation, I acknowledge that the appliances installed in the utility room would generate some heat and humidity, but this would not be likely to be continuous in a domestic context. Nor is there evidence that the appliances are currently causing any substantive harm to the fabric of the outbuilding, or that less intrusive means of providing additional ventilation would not be practical or effective.

16. The Act requires that considerable importance and weight are to be given to the desirability of preserving the listed building and the conservation area: I conclude that the public benefits of the proposal would be very modest and would not outweigh the material harm which would be caused to the designated heritage assets. Moreover, the great weight to be apportioned to the conservation of designated heritage assets anticipated in paragraph 132 of the Framework affirms this conclusion: it follows that the proposal would be contrary to the historic environment policies of the Framework.

17. I have taken into account all other matters raised in the evidence before me. However, nothing arises which disturbs my conclusions on the main issues. The appeal is therefore dismissed.

F. ALLOWED

4/00544/16/FHA

MRS DUNCAN

TWO STOREY SIDE AND SINGLE STOREY REAR EXTENSION, NEW CAR PORT AND ALTERATIONS TO APPEARANCE OF THE HOUSE KINGSMEAD, KINGS LANE, CHIPPERFIELD, KINGS LANGLEY, WD4 9EN

[View online application](#)

Appeal Approved subject to original conditions:

No harm to Chipperfield Conservation area- proposed extensions respect the style and scale of existing building. Dwelling has a generous front build line and boundary treatment minimising is visual appearance from street scene.

Proposed car port would not project beyond side facing window of The Old Cottage. Any view from this window towards the carport would be oblique, while views from the windows and doors on the rear elevation of The Old Cottage would be even more at an angle. There would not be an unacceptably harmful effect on the living conditions of occupiers of The Old Cottage in terms of outlook.

Some light would be lost to rear garden of The Old Cottage but the car port is marginal in scale so this detriment would not be significantly harmful.

Outbuilding sited away from development and not a key material consideration for this application.

Proposed side extension would remain considerable distance from Corner Cottage; views to applicant site would also be screened by boundary treatment. Obscure glazed side facing windows conditioned; any harm to neighbouring property would not be unacceptable.

No impact to Little Cophthall due to separation distance and boundary treatment.

Council have not indicated any impact to Green Belt, agreement made.

Gravel driveway not usually noisy and small enlargement would not have unacceptable further effects.

Not an excessive amount of proposed work at application site.

Effect on future works to The Old Cottage is not a key planning material consideration. The proposed development would not block views of The Old Cottage and given the siting of the extensions and the subservient height and footprint of the carport no harm to its historic character would result.