

6. APPEALS UPDATE

A. LODGED

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| 4/00221/17/LDP | Mr K Pritchard
CONSTRUCTION OF 2 DETACHED OUTBUILDINGS WITHIN THE CURTILAGE OF THE PROPERTY.
6 HIGHCROFT ROAD, FELDEN, HEMEL HEMPSTEAD, HP3 0BU
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| 4/02329/16/FUL | CONSTRUCTION OF ONE 3 BEDROOM DWELLING
23 HOWARDS DRIVE, HEMEL HEMPSTEAD, HP1 3NE
View online application |
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| 4/02486/15/MFA | Padero Solar
INSTALLATION AND OPERATION OF A SOLAR FARM (4.5 MW) AND ASSOCIATED INFRASTRUCTURE INCLUDING PARKING SPACES AND EDUCATIONAL FACILITY
LAND NORTH OF GADDESSEN LANE, REDBOURN, HERTS, AL3 7AF
View online application |

B. WITHDRAWN

- | | |
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| 4/01074/17/ENA | National Grid Twenty Seven Limited
APPEAL AGAINST ENFORCEMENT NOTICE - BAT WALL
365 LONDON ROAD, HEMEL HEMPSTEAD, HP3 9AL
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C. FORTHCOMING INQUIRIES

None

D. FORTHCOMING HEARINGS

None

E. DISMISSED

- | | |
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| 4/00386/16/FUL | MR & MRS SMITH
3-BED DWELLING, DEMOLITION OF GARAGE, CREATION OF CROSSOVER AND ACCESS, PARKING AND LANDSCAPING
9 STATION ROAD, TRING, HP23 5NG
View online application |
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Appeal dismissed at 9 Station Road Tring

Proposal:

Construction of a new house to rear of 9 Station Road, Tring.

Creation of new crossover and access/egress to site, revised parking and landscaping works, demolition of existing garage.

The main issues

The effect on the character and appearance of the area,

The effect on the living conditions of occupiers of neighbouring dwellings in respect of noise and disturbance.

Character and Appearance

The Inspector concluded that the appeal dwelling would introduce a new built element within the rear garden which would appear as a large and intrusive insertion into this otherwise open and green setting and therefore would be at odds with its existing character and appearance.

The proposal would also entail the subdivision of the garden space, leaving rear gardens to both houses which would be conspicuously shorter than those of other houses in the vicinity along Station Road. It would therefore create a cramped and urbanised appearance, particularly to the proposed dwelling, this would be exacerbated by the large area of hard landscaping introduced for parking. Consequently this too would harm the otherwise open and green character and appearance of the area.

The appellant drew the Inspectors attention to the site to the rear of Nos 14 and 15 Station Road where permission was granted on appeal for a group of new houses in the rear gardens. However, he concluded that these were older and substantially larger buildings which previously had extremely generous rear gardens, and are also adjacent to sites of established backland development.

The Inspector concluded that, notwithstanding their proximity, the character of this part of the area is therefore different from that in the vicinity of the appeal site, which is acknowledged by the Inspector in paragraph 7 of the decision. He did not agree therefore that the principle of backland development is established in the area as a whole.

The Inspector made reference to the Character Area SPG – TCA16, which whilst allowing for some infilling, the development principles for this area are clear that the existing layout must be retained. He noted that although it does not refer explicitly to tandem development in this context, as the appeal proposal would introduce development into the rear garden of the existing house and would thereby cause a significant change to the existing layout, it would fail to comply with the SPG.

Noise and Disturbance

The Inspector agreed that although there are no windows to habitable rooms facing onto the proposed development, the access drive and vehicles would nonetheless pass very close to the adjoining ground floor rooms of the flanking properties. These movements and manoeuvres in an area that had formerly consisted of garden, and close to ground floor rooms and adjoining gardens, would be noticeable and intrusive. They would therefore be likely to affect day to day enjoyment of these areas.

4/00488/16/ENA

MR A MATHERS

APPEAL AGAINST ENFORCEMENT NOTICE, CONVERSION OF ONE DWELLINGHOUSE TO SEVEN FLATS

1 AIREDALE, HEMEL HEMPSTEAD, HP2 5TP

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This relates to an appeal against the Council's Enforcement Notice requiring the seven self-contained flats that had been created to be returned to a single dwellinghouse. The appellant originally appealed under five grounds but the Ground (c) and (d) appeals were withdrawn before the date of the Public Inquiry. As such the appeal continued on ground (b) "that the matters alleged have not occurred", ground (f) "that the requirements in the Notice are excessive", and Ground (g) "that more time is required to comply with the Notice requirements". All three grounds of appeal were dismissed.

In terms of the ground (b) appeal the appellant was arguing that rather than the seven self-contained flats

as stated in the Notice what had actually occurred was the formation of a large 7-person HMO. However, as each unit has their own lockable door and contains a kitchenette, cooking facilities (sink, worksurface), and en-suite bathroom, and because the property contained no communal rooms whatsoever, the Inspector agreed with the Council that the units each have all the facilities needed for independent day-to-day living. The Inspector considered that a shared hallway, postbox and garden, as well as the existence of an overall management company, were insufficient to alter the conclusion that the property had been converted and used as seven self-contained flats.

In terms of the ground (f) appeal the Council was seeking to return the property to its condition before the breach of planning control took place, i.e. with one bathroom and one kitchen. The appellant argued that the bathrooms should be allowed to stay because it would not be unreasonable for a 6-bed HMO to have bathrooms for each room and that the property could convert from a C3 use to a C4 use utilising permitted development rights. However, the Inspector agreed with the Council that the current use of the property is unlawful and the conversion from its current state (seven flats) to a 6-bed HMO would require planning permission. Therefore, by allowing the bathrooms to stay as part of a 6-bed HMO the Inspector would be swapping one breach of planning control for another. Furthermore, the Inspector agreed with the Council that the bathrooms had not been installed as part of an earlier lawful use, but as part and parcel of the unlawful conversion. Overall, the Inspector concluded that the breach would not be remedied by allowing more than one bathroom to remain. At the Inquiry the Council had also tried to add a further measure requiring that the two additional front doors installed as part of the conversion be removed. However, the Inspector concluded that this requirement, because it was not stated on the original Notice, would be more onerous and place the appellant in a worse position than he would have been upon receipt of the Notice. As such the Inspector was not prepared to add this requirement.

In terms of the ground (g) appeal the Inspector agreed with the Council that 6 months to comply (rather than the 24 months the appellant was seeking) was reasonable, especially given that the requirements solely related to the removal of kitchens and bathrooms.

F. ALLOWED

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

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The Enforcement Notice related to the use of this piece of land as a non-agricultural storage yard (vehicles, skips, waste metal, etc.), the extension to the land through the construction of a large area of raised hardsurfacing, and the use of an agricultural barn for the storage of private motor vehicles. Upon receipt of the Notice the landowner complied with the requirements in respect of the use as an industrial / commercial storage yard, but made an appeal in respect of the use of the barn and the area of raised hardsurfacing. The appeal was made on both ground (a) (planning permission should be granted) and ground (d) (enforcement action was too late).

However, upon receipt of the Council's Proof of Evidence the appellant withdrew his ground (d) in respect of the barn, as well as all appeals concerning the raised hardsurface. The appellant was originally arguing that the hardsurfacing was required for agricultural purposes and therefore the Council argued that it would not be reasonable to lose an agricultural facility (the barn) and then immediately require an agricultural facility (the raised hardsurface). Rather it would be better to retain the original facility, especially taking into account the harm to Green Belt and the AONB caused by the raised hardsurface. Once the appellant had agreed to remove the raised hardsurface the Council's argument fell away and concluded that the re-use of the barn is not an inappropriate use in the Green Belt and that it would no longer object to the current use of the barn for the storage of private motor vehicles.

This agreed position was put in front of the Planning Inspector on the day of the Public Inquiry and the decision issued by the Inspector reflects this. Ultimately the only aspect of the enforcement notice that falls away is the use of the barn for the storage of private motor vehicles. A condition has been added which limits the use of the building to solely the occupiers of Piggery Farm and which prevents any commercial

activity from taking place whatsoever. The other elements of the Enforcement Notice have taken effect and must be complied with within six months.