



Appeal Decision

Site visit made on 19 November 2024

by **Mark Caine BSc (Hons) MTPL MRTPI LSRA**

an Inspector appointed by the Secretary of State

Decision date: 21 February 2025

Appeal Ref: APP/R5510/W/24/3341154

Chandigrah, Summerhouse Lane, Hillingdon, Harefield UB9 6HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Belle Varna Ltd against the decision of the Council of the London Borough of Hillingdon.
- The application Ref is 1131/APP/2023/3251.
- The development proposed is described as 'Erection of 4 dwellings following the demolition of the existing equestrian storage buildings on land adjacent to Chandigrah'.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 dwellings following the demolition of the existing equestrian storage buildings on land adjacent to Chandigrah, Summerhouse Lane, Hillingdon, Harefield UB9 6HS in accordance with the terms of the application, Ref 1131/APP/2023/3251, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Bella Varna Ltd against the Council of London Borough of Hillingdon. This application is the subject of a separate Decision.

Preliminary Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal, which I have taken into account. References to the Framework in this decision therefore reflect the revised Framework.
4. A set of revised plans have been submitted with the appeal. These show the window to bedroom 2 in Unit 3 to be angled away from the private amenity space of Unit 4. This change is a minor alteration to the original scheme, and I do not consider that any interested party would be unfairly prejudiced by my determination of the appeal with regard to the amended drawings.
5. The Council confirmed in its supporting information that if these plans were to be accepted, they would address their concerns and overcome the fourth reason for refusal in respect of overlooking and the living conditions of future occupiers.

Main Issues

6. In light of the above, the main issues are therefore;
 - Whether or not the proposed development would be inappropriate development in the Green Belt;
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on ecological interests.

Reasons

Whether Inappropriate Development

7. The appeal site lies within the Green Belt. In accordance with national planning policy, Policy DMEI 4 of the London Borough of Hillingdon Local Plan Part 2 Development Management Policies (2020) (Local Plan Part 2) sets out that within the Green Belt planning permission will not be granted for inappropriate development, except in very special circumstances.
8. The Framework regards development in the Green Belt as inappropriate subject to certain exceptions. The main parties agree that the exception pertinent to this appeal is paragraph 154 g) which provides for limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
9. It is undisputed between the main parties that the lawful use of the site, as confirmed by a certificate of lawfulness of existing use or development (CLEUD), is equestrian/equestrian storage (Ref:1131/APP/2022/2934).
10. Annex 2 of the Framework provides a definition of previously developed land (PDL). This definition excludes land that is or was last occupied (my emphasis) by agricultural or forestry buildings, and states that PDL is land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land. It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed.
11. Therefore, where land is no longer occupied by a permanent structure or the building upon it is no longer used, but that land was last occupied by a building for an agricultural or forestry use, it will not be PDL. However, that is not the case in this instance. The land is currently occupied by permanent buildings that have changed their use from agricultural to equestrian, as established by the CLEUD. Indeed, it is uncontested that the site has been continuously used for equestrian purposes for the last 24 years.
12. As such, they can no longer be considered agricultural or for forestry and would consequently not fall within the exclusion of the definition as set out within Annex 2 of the Framework. The land is also clearly occupied by 2 permanent structures and has an extensive area of hardstanding within its curtilage. I am therefore satisfied that the appeal site constitutes PDL.

13. Turning to openness in the Green Belt, this has a spatial as well as a visual aspect. Due to the site's topography, its enclosure by trees, vegetation, and dwellings to the west, and the existing buildings and hardstanding on the site, it makes a minor contribution to the openness of the area.
14. The proposal would see all existing equestrian buildings demolished and replaced by a short cul-de-sac containing 4 contemporary detached dwellings. The appellant calculates that the proposal would reduce the overall volume and footprint of development on the site by 7.7% and 34.5% respectively, with hardstanding reduced by 35.5%. The Council does not dispute these figures, and I have no substantive reason to question them.
15. The proposal would not retain the same arrangement of built form as exists. In particular, development would extend into the north-western end of the site where hardstanding exists at present. However, the spread of the dwellings would retain areas of space between them, and none would replicate the massing of the largest equestrian building on site.
16. Vehicular movements to and from the new dwellings would be an inevitable part of everyday living. Nonetheless, I would also expect vehicles, horse boxes and transporters to be a common occurrence at a site with an existing equestrian use, causing visual intrusion to the Green Belt. The proposal would remove these, and any domesticating factors such as garden paraphernalia potentially arising from the proposed development would be offset by the reductions in both building footprints and volumes, and areas of associated existing hardstanding. Such paraphernalia and lighting would also be relatively low level and would be screened from a number of long-distance views by trees and potential landscaping.
17. I therefore find that the proposal would result in an acceptable redistribution of the built form on the site that would not cause substantial harm to the openness of the Green Belt, in both visual and spatial terms. The proposed development would thereby not be inappropriate development in the Green Belt and no conflict would arise with Local Plan Part 2 Policy DMEI 4, Policy G2 of the London Plan 2021 (London Plan) and paragraph 154 (g) of the Framework. As a result, it is therefore not necessary for me to consider the proposal against paragraph 155 of the Framework.

Character and Appearance

18. The appeal site is an irregularly shaped piece of land that sits at a lower level than the Summerhouse Lane highway and is enclosed by chain link fencing and trees. It contains 2 large, corrugated sheet roof and blockwork buildings, which along with the extensive areas of hardstanding provide the site with a robust utilitarian and industrial appearance.
19. It is located to the east of a detached house known as 'Chandigarh' and other residential dwellings on Bellevue Terrrace. There is also an area of ancient woodland (AW) directly to the east of the site and on the opposite side of Summerhouse Lane to the south. Despite the presence of the neighbouring properties, the AW, along with the trees on the site give it a predominantly verdant and sylvan backdrop and setting.

20. The submitted Landscape and Visual Assessment (LVA) sets out that the sensitivity of the site and the surrounding area has been assessed as low and that the degree of change to the local landscape brought about by the proposed development would be low in terms of magnitude and be generally beneficial in nature. The LVA goes on to state that whilst the appearance of the site itself would change significantly, the change would have limited visibility from the area around the site due to its topography, the decrease in footprint and volume of the built development and being well contained by woodland and existing neighbouring development. It concludes that there would be no harm (and in fact some localised benefits) in landscape and visual terms, and no conflict with relevant landscape-related national or local policies.
21. This is also my view. It does not mean that there would be no effect on the character and appearance of the area, as clearly, with the introduction of 4 dwellings and the loss of 17 trees in any area, there is bound to be some degree of effect. However, the submitted Tree Survey sets out that the trees to be removed are category C or U, which are low quality or should be removed in any case. The loss of these trees would also be mitigated by replacement planting around the site. This would be secured through a landscaping condition and would ensure that the verdant landscaped setting of the site is maintained.
22. Whilst the tree protection plan within the Arboricultural Impact Assessment may not accurately plot the number of trees within Group 8, the key states that this includes a group of seedlings that run around the northern edge of the site with limited life expectancy. There was nothing that I saw on my site visit that would lead me to form a different view. As such, I consider that the proposal's contemporary residential design and layout would be a visual improvement to what is currently in situ.
23. I therefore find that the proposed development would not harm the character and appearance of the area. No conflict would thereby arise with Policy BE1 of the Hillingdon Local Plan Part 1 Strategic Policies (2012) (Local Plan Part 1), Policies DMHB 11 and DMHB 14 of the Local Plan Part 2 and Policies D3 and G1 of the London Plan. These require, amongst other matters, for all development to incorporate the principles of good design, to maintain and improve the built environment and retain or enhance existing landscaping and green features through the replanting of trees on-site where trees are to be removed.

Ecological Interests

24. The adjacent AW is within Old Park Wood SSSI (SSSI). A revised Preliminary Ecology Survey (PEA) has been submitted with the appeal which identifies that no further surveys are required, and I have no substantive reason to question this. Nonetheless, the PEA recommends that Natural England (NE) be consulted on the likely risks of the proposed works due to the proximity of the SSSI.
25. I have consulted NE under my obligations under s28G(2) of the Wildlife and Countryside Act 1981 (as amended). NE has not objected to the proposal and does not view it as damaging the SSSI subject to securing a construction environmental management plan (CEMP) and giving due consideration to the potential direct and indirect impacts of the proposed development on the ancient woodland in line with their standing advice. The views of NE carry great weight, and I have no reason to disagree with this.

26. NE standing advice on AW is that a proposal should have a buffer zone of at least 15 metres from the boundary of it to avoid root damage. It is unclear whether the proposed scheme would achieve such a buffer distance, however I am mindful of the difference in levels between the site and the areas of AW. The existing buildings on the site are also in closer locations to the AW than units 3 and 4. Furthermore, the intervening Summerhouse Lane highway already separates the site from some of the AW, and NE's suggested CEMP condition includes measures to protect the trees within the AW to be submitted and approved. I see no reason why all of these factors would not safeguard the roots of the trees in the AW.
27. In light of the above, and in the absence of any substantive evidence to the contrary, I am unable to find that the proposed development would have a harmful effect on ecological interests. No conflict would therefore arise with Local Plan Part 2 Policy DMEI 7 and Policy G6 of the London Plan. These seek, amongst other things, biodiversity protection and enhancement.

Other Matters

28. Local residents' concerns in respect of highway safety are noted. However, swept path analysis drawings have been provided and the Council's Highway Authority has not raised any objections in respect of vehicular access, or manoeuvrability for refuse vehicles and emergency vehicles or vehicles during the construction process. It also did not have any concerns in respect of the number of additional vehicle movements on the local road network or pedestrian and highway safety. I have no substantive reason to disagree with any of this. Any disturbance during construction would be for a temporary period only. There is also nothing before me to suggest that the existing refuse collection arrangements for local residents could not be extended to future residents.
29. There is insufficient evidence to suggest that the site is contaminated or that the development would lead to a significantly harmful level of noise or air pollution. Nor is there any firm evidence to demonstrate that the proposal would have an unacceptable effect on biodiversity, drainage, or place an undue strain on existing infrastructure, including sewerage systems, electricity or telephone lines. Moreover, I am mindful that the Council has suggested a condition for details of sustainable water management to be submitted for its approval prior to its installation, and there is little before me to suggest that this would not provide effective mitigation. Similarly, I am satisfied that the Council's suggested conditions would provide accessible housing of an inclusive design and in compliance with Policy D7 of the London Plan.
30. Issues regarding ownership, the right of access and potential damage to Summerhouse Lane and overhead cables have also been raised. Nonetheless, these are private legal matters between the relevant parties and have not had any material bearing on my assessment of the planning issues in this appeal.
31. The planning history and outcomes of previous applications on the site have also been referred to me. However, on the evidence presented I cannot be certain that these represent direct parallels to the proposal and current circumstances. I have, in any event, determined this appeal on its merits and the evidence before me.

Conditions

32. I have considered the conditions suggested by the Council against the tests of paragraph 57 of the Framework and advice in the Planning Practice Guidance: *Use of planning conditions*.
33. In addition to the statutory time limit condition, a condition specifying the relevant plans and details is necessary to provide certainty. Conditions relating to materials and landscaping, along with arboricultural protection measures, in the interests of the character and appearance of the area are also needed. However, I have reworded suggested condition 8 and omitted reference to the LVA as this does not include tree protection measures.
34. Conditions providing obscure glazing and precluding the use of flat roofs will safeguard the privacy of future residents. Furthermore, conditions are necessary to ensure that the development is accessible, adaptable, inclusive and is in the interests of sustainability. To reduce the risk of flooding a condition for the provision of sustainable water management and water efficiency scheme is also reasonable and necessary.
35. A pre-commencement condition requiring the submission of a construction management plan would minimise disturbance during the construction phase. In addition, I have attached NE's recommended condition for a CEMP in order to provide mitigation against any impact on the SSSI's features of interest during construction. However, I have included the requirement for a timetable of works to be provided. This replaces the need for suggested condition 9 which has been deleted.

Conclusion

36. For the reasons given above, having taken account of the development plan, along with all other relevant material considerations, the appeal should therefore be allowed.

Mark Caine

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details:
Drawing number 1682/OS-01A Site Location Plan
Drawing number 1682/S-01 Existing site plan and site location plan
Drawing number 1682/P-01A - Proposed site plan
Drawing number 1682/P-02A - Unit 1: Proposed plans and elevations
Drawing number 1682/P-03A - Unit 2: Proposed plans and elevations
Drawing number 1682/P-04A - Unit 3: Proposed plans and elevations
Drawing number 1682/P-05A - Unit 4: Proposed plans and elevations
Planning Fire Safety Strategy Statement (Ref: 1682, dated: August 2023)
- 3) No development above ground level shall take place until details of all external materials and surfaces associated with the proposed development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details and be retained as such.
- 4) The first-floor side windows in Units 1, 2 and 3 shall be glazed with permanently obscured glass to at least scale 4 on the Pilkington scale and be non-opening below a height of 1.8 metres taken from the internal finished floor level and retained thereafter.
- 5) Access to the flat roofs over the single storey elements of the dwellings hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, balcony, patio or similar amenity area.
- 6) Trees, hedges and shrubs shown to be retained on the approved plan(s) shall be protected during construction in accordance with the recommendations detailed in the Arboricultural Impact assessment (Reference: MW.2304.CSLH.AIA, Date: 5 October 2023, Mark Welby)
- 7) Trees, hedges and shrubs shown to be retained on the approved plan(s) shall not be damaged, uprooted, felled, lopped or topped without the prior written consent of the Local Planning Authority. If any retained tree, hedge or shrub is removed or severely damaged during (or after) construction, or is found to be seriously diseased or dying, another tree, hedge or shrub shall be planted at the same place. Or, if planting in the same place would leave the new tree, hedge or shrub susceptible to disease, then the planting should be in a position, and of a size and species to be first agreed in writing with the Local Planning Authority, and shall be planted in the first planting season following the completion of the development or the occupation of the buildings, whichever is the earlier.

Where damage is less severe, a schedule of remedial works necessary to ameliorate the effect of damage by tree surgery, feeding or groundwork shall be agreed in writing with the Local Planning Authority. New planting should comply with BS 3936 (1992) 'Nursery Stock, Part 1, Specification for Trees and Shrubs' Remedial work should be carried out to BS 3998: 2010 'Tree

Work – Recommendations' and BS 4428 (1989) 'Code of Practice for General Landscape Operations (Excluding Hard Surfaces)'. The agreed work shall be completed in the first planting seasons following the completion of the development or the occupation of the buildings, whichever is the earlier.

- 8) No development shall take place until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 1. Details of Soft Landscaping
 - 1.a Planting plans (at not less than a scale of 1:100);
 - 1.b Written specification of planting and cultivation works to be undertaken;
 - 1.c Schedule of plants giving species, plant sizes, and proposed numbers/densities where appropriate;
 2. Details of Hard Landscaping
 - 2.a Refuse Storage;
 - 2.b Cycle Storage;
 - 2.c Means of enclosure/boundary treatments;
 - 2.d Car Parking Layouts (including 1 'active' and 1 'passive' electrical charging point);
 - 2.e Hard Surfacing Materials;
 3. Details of Landscape Maintenance
 - 3.a Landscape Maintenance Schedule for a minimum period of 5 years;
 - 3.b Proposals for the replacement of any tree, shrub, or area of surfacing/seeding within the landscaping scheme which dies or in the opinion of the Local Planning Authority becomes seriously damaged or diseased.
 4. Schedule for Implementation
Thereafter the development shall be carried out and maintained in full accordance with the approved details.
- 9) No development above ground level shall take place until details of step-free access to the proposed dwelling via all points of entry and exit shall be submitted to, and approved in writing, by the Local Planning Authority. Thereafter the approved development shall be carried out in accordance with the submitted details and maintained throughout the lifetime of the development.
- 10) The dwellings hereby approved shall accord with the requirements of Policy D7 of the London Plan and shall not be occupied until certification of compliance with the technical specifications for an M4(2) dwelling, as set out in Approved Document M to the Building Regulations (2010) 2015, has been submitted to, and approved in writing, by the Local Planning Authority. All such provisions must remain in place for the life of the building.
- 11) The dwellings hereby approved shall not be occupied until it has achieved an energy efficiency standard of a minimum 10% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
- 12) No development above ground level shall take place until a scheme for the provision of sustainable water management and water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall: (i) provide information about the design storm period and intensity, the method employed to delay and control the surface water

discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; (ii) include a timetable for its implementation; and (iii) provide a management and maintenance plan for the lifetime of the development. The scheme shall also demonstrate the use of methods to minimise the use of potable water through water collection, reuse and recycling and shall: (i) provide details of water collection facilities to capture excess rainwater; (ii) provide details of how rain and grey water will be recycled and reused in the development; and (iii) provide details of how the dwelling will achieve a water efficiency standard of no more than 110 litres per person per day maximum water consumption (to include a fixed factor of water for outdoor use of 5 litres per person per day in accordance with the optional requirement defined within Approved Document G of the Building Regulations). Thereafter the development shall be implemented and retained in accordance with these details for as long as the development remains in existence.

13) No works shall take place (including demolition, ground works, vegetation clearance, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall detail:

- The phasing of development works.
- The hours during which development works will occur.
- Measures to prevent mud and dirt tracking onto footways and adjoining roads (including wheel washing facilities).
- Traffic management and access arrangements (vehicular and pedestrian) and parking provisions for contractors during the development process (including measures to reduce the numbers of construction vehicles accessing the site during peak hours).
- a dust risk assessment, including means to monitor and control dust, noise and vibrations, following the published guidance by The Institute of Air Quality Management (IAQM) on how to assess impacts of emissions of dust from demolition and construction sites. This must demonstrate compliance (drawn up accordance with) the GLA Control of Dust and Emissions from Construction and Demolition SPG (or any successor document).
- The storage of demolition/construction materials on site.

The approved CMP shall be adhered to throughout the construction period for the development.

14) No works shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following:

- A timetable of works.
- Storage of construction materials, chemicals, vehicles and equipment.
- Dust suppression measures.
- Waste storage and disposal measures.

- Mitigation measures to minimise noise, visual and vibrational impacts.
- Lighting measures to ensure boundary habitats are not illuminated.
- Any necessary measures to protect nearby ancient woodland.

The approved CEMP shall be adhered to and implemented throughout the construction period of the development.

END OF SCHEDULE