

## 6. APPEALS UPDATE

### A. LODGED

4/00333/19/ADV Lussman  
RETENTION OF TWO NON ILLUMINATED HANGING SIGNS AND ONE  
ILLUMINATED HANGING SIGN

21 HIGH STREET, TRING, HP23 5AR  
[View online application](#)

4/00886/19/ADV EURO REPAR  
5 X NON ILLUMINATED FASCIAS. 1 X NON ILLUMINATED PROJECTING  
SIGN. 2 X NON ILLUMINATED FLAT ALUMINIUM PANELS(BACK TO BACK  
AS ONE SIGN.) 1 X NON ILLUMINATED WALL MOUNTED TOTEM/FOLDED  
TRAY. 1 X NON ILLUMINATED WINDOW VINYL. OPENING HOURS.  
194A NASH MILLS, BELSWAINS LANE, HEMEL HEMPSTEAD, HP3 9XA  
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PINS have confirmed that the appeal is not valid as it has not been submitted by the applicant for the advertisement consent.

4/01653/19/ENA Lovis  
APPEAL AGAINST ENFORCEMENT NOTICE - FENCING  
68 TRING ROAD, WILSTONE, TRING, HP23 4PD  
[View online application](#)

4/02423/18/FUL BENLEY DEVELOPMENTS LTD  
CONSTRUCTION OF FIVE 3-BED TERRACED DWELLINGS WITH  
ASSOCIATED CAR PARKING (12no. SPACES), LANDSCAPING ON THE  
EXISTING CAR PARK SITE. SEPARATE CAR PARKING FOR THE SPICE  
VILLAGE RESTAURANT (14no. SPACES) WITH REINSTATED ACCESS OFF  
CHAPEL CROFT.  
  
THE SPICE VILLAGE, THE STREET, CHIPPERFIELD, KINGS LANGLEY,  
WD4 9BH  
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### B. WITHDRAWN

None

### C. FORTHCOMING INQUIRIES

None

#### **D. FORTHCOMING HEARINGS**

None

#### **E. DISMISSED**

4/01108/18/FHA Wyatt  
NEW OUTBUILDING FOR GARAGING, STORE AND HOBBY ROOM  
ANDROS, DUCKMORE LANE, TRING, HP23 6JP  
[View online application](#)

#### Inspector's Conclusion

I conclude that the condition is reasonable and necessary in the interests of protecting the Green Belt and the AONB and accords with Policy CS5 of the Dacorum Core Strategy (2006-2031) and the Framework. Moreover, the condition provides the appellant with the certainty she seeks regards the use of the proposed outbuilding and what would constitute a breach of the condition.

#### **F. ALLOWED**

4/02100/18/FHA Brown  
DEMOLISHING GARAGE AND CONSTRUCTING TWO STOREY SIDE  
EXTENSION, FIRST FLOOR REAR EXTENSION, LOFT CONVERSION WITH  
WITH FRONT DORMERS AND ALTERATIONS TO DRIVEWAY.  
  
85 WEST VALLEY ROAD, HEMEL HEMPSTEAD, HP3 0AW  
[View online application](#)

The relevant conditions were attached to the planning permission apparently on the advice of a technical consultee within the Council who advised that the appeal property is located where there is a 1-3% probability of homes being in an area above the radon 'action' level. It was further advised that the site lies within 113m of a former builder's yard and 220m of a former landfill/refuse site. The Council has not submitted an appeal statement or further explanation of its reasoning for attaching the conditions.

No visible evidence of contamination has been identified and a land registry report dating from 2004 reported no past contamination on the site. However, that is not determinative of whether contamination may pose a risk to future occupiers.

Nevertheless, I am mindful that the proposal is for extensions to a domestic property in an established built-up residential area. There is no evidence that the site itself has been subject to past contamination. Furthermore, the Council has not provided any information as to the physical relationship of the appeal site to the former builder's yard and landfill site other than the separation distance. No substantive evidence is provided as to the nature of any potential risk to human health or likelihood of any harm arising from contamination associated with those sites to occupiers of the development being proposed.

Moreover, I have been provided with no evidence to show why potentially elevated levels of radon gas could not be adequately mitigated through other regulatory mechanisms and that a specific planning condition would be necessary in this case.

The National Planning Policy Framework (the Framework) states that

responsibility for securing a safe development rests with the developer and/or landowner where a site is affected by contamination. In this context, and based on evidence before me as outlined above, I therefore conclude, having regard to the tests set out in paragraph 55 of the Framework, that Conditions 3 and 4 are neither necessary nor reasonable in order to safeguard against the risk of harm to human health from contaminated land and radon gas.

Accordingly, the proposed development would not fail to comply with Policy CS32 of the adopted Dacorum Core Strategy 2006-2031 (September 2013). That Policy requires, amongst other matters, development to maintain soil standards and remediate contaminated land as well as avoid causing harm from a significant increase in pollution. It would also accord with the Framework which requires planning decisions to ensure a site is suitable for its proposed use taking account of ground conditions and any risks from contamination and likely effects on health

For the reasons given, the appeal should be allowed.

4/02813/17/FUL

BANNISTER  
20M X 40M MANÈGE AND RETENTION OF STATIC CARAVAN, SMALL  
POLE BARN AND SINGLE STABLE  
HARESFOOT GRANGE, CHESHAM ROAD, BERKHAMSTED, HP4 2SU  
[View online application](#)

1. The appeal is allowed and planning permission is granted for the change of use of the land to the mixed use for agriculture, forestry and equestrian use; erection of pole barn and single stable; stationing of a static caravan for residential purposes; and the construction of a manège, at Tipulo Stud, Haresfoot Grange, Haresfoot Park, Berkhamstead, Herts, HP4 2SU, in accordance with the terms of application 4/02813/17/FUL, dated 31 October 2017, and subject to the conditions set out in the attached Schedule.

Procedural matter

2. At the start of the hearing the nature of the proposal was discussed. The application forms describe the proposal as 'Retention of a static caravan, small pole barn, single stable with the addition of a 20m x 40m manège.' However, the Council considered that this did not reflect a change in the use of the land to equestrian use which the proposed buildings and manège are to be ancillary to. The main parties now agree on how the proposal should be described and I have used this description of development in the fourth bullet point set out in the above banner headings.

Main Issues

3. The main issues are: • Whether the proposed change of use and operational development constitute 'inappropriate development in the Green Belt; • The effect on the openness of the Green Belt; 2  
• Whether the operational needs of the business provide clear justification for the residential mobile home and that such need is likely to be sustained; and • If there is harm caused by being inappropriate development in the Green Belt, and any other harm, whether this is clearly outweighed by other factors so as to constitute very special circumstances. Reasons

Background

4. The appeal site extends to about 14.5ha which comprises about 8ha of woodland and the remainder is grassed paddock. The land is gently undulating pasture which slopes down to the A41 interspersed with areas of woodland. The site lies in open countryside well away from any settlement and forms part of the Green Belt.

5. The land has been used for equestrian purposes since about 2013 and the proposed buildings and manège would be ancillary to this principal use along with forestry/woodland management. In particular, the appellant and her partner run Tipulo Stud which specialises in Andalusian horses and they have a stallion which is used for recreation purposes, training and competition, as well as 6 mares/foals.

6. The proposal involves the erection of a pole barn and stable and construction of a manège and the siting of a caravan/mobile home for living accommodation. At the time of the Hearing site visit, I noted the presence of the caravan and pole barn. There was also a single stable for the stallion but it is the intention of the proposal to relocate this to a site closer to the mobile home.

7. I also note that a previous planning application related to the site was refused by the Council and dismissed at appeal in 2017 under ref. APP/A1910/W/17/3174542. That proposal was for an 'equine reproduction and rehabilitation centre. ....with main building, breeding barn, office, mare and stallion boxes and staff area; storage barn, quarantine barn and manège.' The Inspector concluded that that scheme would represent inappropriate development in the Green Belt and would harm its openness. The factors raised in support of the proposal did not clearly outweigh the substantial harm that would result. Consequently, he concluded that very special circumstances did not exist.

#### Policy context

8. The development plan includes the Council's Core Strategy adopted in 2013 (now referred to as the CS) and saved policies in the Council's Dacorum Borough Local Plan adopted in 2004 (LP). The CS policy in respect of the Green Belt is CS5 and I agree with the parties that this is broadly consistent with the policy set out in the National Planning Policy Framework (NPPF) in terms of the forms of development that are inappropriate in the Green Belt. Moreover, in terms of the erection of new buildings, the policy refers back to national policy in any event.

9. Saved LP policy 81 relates to equestrian activities, including in the Green Belt. This policy can only be given moderate weight as its provisions are not wholly consistent with the NPPF Green Belt policy. Further, although the policy sets out a presumption against new commercial equestrian facilities unless they can be accommodated in existing buildings, the policy goes on to establish that 'small scale facilities' will normally be permitted in the Green Belt provided that stated criteria are met. The Council accepts that the proposed buildings and the manège fall within the scope of 'small scale facilities' and that the proposal does not conflict with any of the stated criteria in the policy. Whether inappropriate development

10. Section 13 of the NPPF concerns protecting Green Belt land and paragraph 143 indicates that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 sets out that the construction of new buildings is inappropriate unless one of the stated exceptions apply. The relevant categories for this case are (a) buildings for agricultural and forestry; and (b) - the provision of appropriate new facilities for (amongst other aspects) outdoor sport and recreation. The latter is subject to a test of the preservation of the openness of the Green Belt and the purpose of including land within it.

11. The appellant's proposal is a hybrid of equestrian, agricultural and forestry development and uses. From the written evidence provided and as amplified at the Hearing, I am satisfied that the proposal accords with the provisions of part (b). The new buildings proposed are very small in scale and can reasonably be described as appropriate facilities to be used in conjunction with equestrianism and therefore outdoor sport and recreation. The scale of new building now proposed is substantially and materially different in size and scale to those previously considered in the 2017 appeal scheme where the footprint of the building would have exceeded the area of the proposed manège and where the overall use of the building would have been primarily as an equine reproduction and rehabilitation centre.

12. I am also satisfied that the proposal accords with paragraph 146 (b) and (e) of the NPPF which deals with other forms of development which are not inappropriate in the Green Belt, subject to a test of the effect on openness. Here, the construction of the manège is considered under (b) as an engineering operation, however, the scale of the manège is not significant and it would fit in with the gentle slope of the land and would not be prominent or harmful to the open landscape. Further, under part (e), the siting of the residential caravan would, in principle, be ancillary to the use for outdoor sport and recreation, subject to the consideration of the other main issue about the justification for a residential unit in this isolated location.

13. Overall, I conclude that the new buildings and operational development proposed would meet the recognised provisions for exceptional forms of development in the Green Belt as set out in paragraphs 145 and 146 of the NPPF and would not amount to inappropriate development.

#### The effect on openness

14. It is recognised that the effect on openness includes a spatial as well as a visual dimension. The new buildings proposed, as well as the caravan, are shown to be sited along the ridge of land that slopes away but they are not prominent in the landscape as they are seen against a backdrop of woodland and are generally sited under or close to the canopies of mature trees. The buildings are modest in scale and have a verdant form. Further, the Council accepts that the buildings are not seen from the public realm.

15. In terms of the spatial dimension, at my site visit I considered that the buildings proposed are very small in scale individually and are not a substantial building form even when seen as a group. The Council refers to the overall spread of the buildings at some 60m but it appeared to me that taken together the group of buildings and the siting of the caravan did not spread out that far and in any event the proposal is to consolidate the group by the relocation of the stable.

16. The manège would be constructed on the open land to the front of the building group. Even with a limited 'cut and fill' to ensure that it has a level surface, together with the proposed surrounding fence, the facility would not have the appearance of building or physical enclosure and would be open in nature.

17. The presence of the proposed caravan would have an effect on openness even though this would be related to a use rather than be a structure. There would also be some limited residential paraphernalia around it. Further, the elevations of the caravan are a light colour, but this would hardly be visible in the landscape outside of the immediate confines of the site.

18. Taken as a whole, I find that the development proposed would not adversely affect the openness of the Green Belt and this essential characteristic of the land would be preserved. Conclusion on Green Belt

19. In addition to the assessment with national policy, I also find that the proposal would accord with CS Policy CS5 as it is small scale development that is appropriate in national policy and it has no significant impact on the character and appearance of the area, and would be likely to support the rural economy and the maintenance of the wider countryside. Whether residential mobile home justified

20. Paragraph 79 of the NPPF indicates that new isolated homes in the countryside should be avoided unless stated exceptional circumstances apply and the one relevant to this case is (a) where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. The parties agree that the site lies in a remote location and I concur having regard to the findings of the Court in the case of Braintree<sup>1</sup>.

21. At the Hearing the appellant and her husband described their work on the equestrian enterprise together with the woodland management and forestry activities. They explained that it involved a full time job for Mr Banister. He gave a breakdown of the time spent on animal welfare and equestrian sport and recreational activities on and off the site, as well as seasonal and irregular forestry work with woodland management. Mr and Mrs Banister also explained that because of the time taken to deal with the revised proposal following the rejection of the previous appeal, the operation has in part been 'treading water' until a decision has been made on the present appeal.

22. Nevertheless, from all of the evidence submitted, including the support from local people and businesses, I found the appellant and her husband to be genuine in their intentions to develop the equestrian business without having in mind the scale of breeding use/rehabilitation previously proposed. I am satisfied that their projections to continue to develop the equestrian business and its recreational potential on a modest footing are reasonably based and would be likely to provide a means of sustaining the modest business in the longer term.

23. Although the number of horses on site at the moment are limited to the stallion and 6 mares/foals, on the evidence put forward and my observations at the site visit there appears to me to be a clear need for someone to normally be on hand 24 hours a day for animal welfare and security.

24. Overall on this issue, I conclude that there is and likely to continue to be an essential operational need for a worker to live permanently on site and supervise the equestrian and forestry enterprise. The proposal therefore meets the test set out in paragraph 79 of the Framework for a residential unit in this isolated location. Planning balance and whether very special circumstances

25. Bringing together my conclusions on the main issues, I have found that the proposal for a mixed use of agriculture, forestry and equestrian purposes and involving the erection of the pole barn and stable, construction of the manège and siting of the residential caravan would not amount to 'inappropriate development' in the Green Belt. Further, when considered as whole the new buildings proposed, together with the engineering operation of the construction of the manège and the siting of the caravan would not have an adverse effect on the openness of the Green Belt. As such, the proposal would not be at odds with protecting the Green Belt as described in section 13 of the NPPF.

26. Further, in terms of national policy on residential development, although the site lies in an isolated

location in the countryside, it has been reasonably demonstrated that there is an essential operational need for a rural worker to permanently live on site. The guidance in paragraph 79 of the NPPF is therefore complied with.

27. In relation to the development plan, the proposal would accord with CS Policy CS5 as it is small scale development that is appropriate in national policy and it has no significant impact on the character and appearance of the area, and would be likely to support the rural economy and the maintenance of the wider countryside. The proposal also meets LP Policy 81 on equestrian activities.

28. As the proposal would not harm the Green Belt nor constitute 'inappropriate development' I do not need to consider whether very special circumstances exist. Further, the overall accord with development plan and national policy is not outweighed by any other consideration. I will therefore allow the appeal.

#### Conditions

29. At the Hearing the Council recommended 8 conditions (as referred to numerically) be imposed on any permission and Mr Whale for the appellant submitted variations to, or consolidation of these (as referred to by letters).

30. The standard time limit condition on the implementation of the development is necessary as some parts of the proposal are not retrospective. Further, as a special case has been put forward for the appellant and her husband to live on site, I will impose the personal occupancy restriction condition (a) suggested on behalf of the appellant. I will also impose condition (b), as modified, to ensure that the use for the siting of the residential caravan is limited to the period when it is occupied by the Bannisters and provided the equestrian use does not cease. These restrictions are necessary in order to prevent the formation of a general residential use in this isolated location in the countryside.

31. I will also impose condition (c), as modified, as it better deals with the various details of the development that are still needed and their implementation to ensure an acceptable form of development in this rural location. This replaces conditions 3, 4, 5 and 6 recommended by the Council. In any event I have concerns about condition 5 as it relates to matters beyond the scope of this application and, as it is imprecise, it does not meet the test of conditions. I also do not consider that condition 7 is reasonable and necessary as the parking of vehicles outside of the permitted hours would not have a materially greater impact on the open character of the Green Belt. Finally, I will impose condition No. 8 in the interest of clarity and to ensure an acceptable form of development in this sensitive location.

#### Conclusion

32. For the reasons given above I conclude that the appeal should be allowed.