



Appeal Decisions

Site visit made on 28 August 2025

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2025

Appeal A Ref: APP/N0410/X/24/3340478

Land adjacent to Skyfall, Hitcham Lane, Taplow, SL6 0HG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) ("the Act") against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mrs Natasha Raja against the decision of Buckinghamshire Council - South Area (South Bucks).
- The application Ref: PL/23/3881, dated 1 December 2023, was refused by notice dated 8 March 2024.
- The application was made under section 191(1)(a) of the Act 1990.
- The development for which a certificate of lawful use or development is sought is the laying of hardstanding in the form of brick paving, pillars either side of entrance gates, entrance gates, and formation of access track within the site.

Summary xxx

Appeal B Ref: APP/N0410/W/24/3341725

Land Adjacent to Skyfall, Hitcham Lane, Taplow, SL6 0HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) ("the Act") against a refusal to grant planning permission.
- The appeal is made by Mrs Natasha Raja against the decision of Buckinghamshire Council - South Area (South Bucks).
- The application reference is PL/23/3758/FA.
- The development proposed is retrospective planning for stables and the change of use from Agricultural to Equestrian.

Summary xx

APPEAL SITE AND BACKGROUND

1. The appeal site is field of approximately 3.25 hectares located off Hitcham Lane, Taplow and within the Metropolitan Green Belt. There is a hard paved entrance area from the Lane leading to tall entrance gates and piers. From inside the gates a raised track runs close to the eastern field boundary extending northwards to the stables erected close to the northern field boundary. All of this operational development, except for the stables, is subject of Appeal A against the Council's refusal of a LDC.
2. The erection of the stables and the equestrian use of the land for keeping horses is subject of Appeal B against the Council's refusal of planning permission.

APPEAL A

3. Section 191(a) of the Act provides that if any person wishes to ascertain whether any existing use of buildings or other land is lawful they may make an application for a certificate of lawfulness.
4. Section 191(2) sets out that uses and operations are lawful at any time if no enforcement action may then be taken in respect of them (whether because they

did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

5. The appellant's case is that the operational development carried out is immune from enforcement action because it was completed more than 4 years before the date of the application, hence before 1 December 2019 ("the relevant date").
6. The burden of proof in demonstrating that the existing operations are lawful falls to the appellant, with the standard for testing such evidence made on the balance of probabilities. Reflecting earlier Court judgments the PPG¹ sets out that an appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant's evidence alone is sufficiently precise and unambiguous.

Analysis

7. The appellant's evidence consists of a number of statutory declarations and affidavits, together with other correspondence and images. I have also taken account of submissions to the appeal from third parties so far as they are relevant. Some of the submissions are speculative or assumptions based on comments made by others, rather than being their own first-hand witness evidence of what they saw themselves. While I have taken account of all the submissions made, my decision, as stated earlier, is evidence-based tested on the balance of probabilities.
8. The former owner of the appeal site (Rauf) from 2006 up to December 2021 states that a "hardstanding entrance" and "access road" were created in July 2012 and that in August 2012 block paving and entrance piers and new gates were installed.
9. The affidavits of Kuqi and Berisha state they carried out works comprising construction of pillars, gates and block paving, completing them on 8 August 2012.
10. A third party (Allen) notes 28 August 2012 as a personally memorable date when she was on the appeal site and recalls seeing a driveway, entrance gates attached to pillars and a "road" that started from the entrance gates and led to the top of the field.
11. Also submitted is a copy of an invoice (GSC Ltd) dated 9 July 2012 which records payment for *hardcore entrance/service way and hardcore access road* with an accompanying plan showing the 'hardcore access road' and 'hardcore entrance'.
12. Submitted photographs (Kuqi) dated 6 and 8 August 2012 appear to be from a mobile phone. They show blockwork being laid close to entrance gates and a recently laid track across a field. While there is nothing in the images to positively or negatively identify the appeal site as the background context, they are consistent with the timeline, evidence and dates stated by Rauf and Allen and the GSC invoice date.
13. A submitted grazing agreement (Section 8: Maintenance and Repairs) dated 14 August 2012 refers to a block paved entrance and access road situated within the grazing land.

¹ Planning Practice Guidance Reference ID: 17c-006-20140306

14. Additionally, a topographical survey (TOPO M SURVEY LTD) of the site in September 2018 shows entrance with paving, piers, gate, and also a hardcore roadway which aligns with track subject of this appeal.
15. The site owner (Bibi) from December 2021 to 1 June 2022 states that there was a pre-existing entrance and a hard standing drive, pillars and gate and access road which led to the north side of the property.
16. All of the appellant's evidence thus far indicates that the block paved entrance to the field, gates, piers and an access track were in place from 2012.
17. Turning to the Council's evidence a number of images² have been submitted. Views of the field entrance area in these images is limited and largely obscured by vegetative cover. As such, I find on the balance of probability that they do not make the appellant's evidence less than probable in respect of the appeal development at the field entrance.
18. With regard to the access track, and allowing for overgrowth over the years, it does not appear visible in the images before 2022. As such, the evidence of the Council and the appellant are conflicted with regard to the access track. However, the appellant's evidence relating to the track in more recent years seems to provide a likely explanation of why the track is apparent in later images but not in earlier ones. I turn to this next.
19. The affidavit of T Raja confirms the appellant's purchase of the appeal site from Bibi on 1 June 2022. He states at that time there was a pre-existing driveway, gate, pillars, and an access road. He refers to a deed between adjoining landowners executed on 24 February 2012 which itself refers to hardstanding, entrance pillars and a gate.
20. He also states that the driveway and access road were falling into disrepair and that he instructed a "team of builders to clean/refurbish/repair" the access road and pre-existing driveway in November 2022 and April 2023 respectively.
21. Although not referenced in his statutory declaration, the appeal site leaseholder (Tariq) states in subsequent submissions to the appeal that in November 2022 he witnessed "restoration and refurbishment" of the track. He states that some of the earth from development at the adjoining site (Skyfall) had been dumped on the track and that this was removed to form a mud bank at the side of the track which was then later removed in April/May 2023 at the same time as the gates, pillars and driveway were refurbished. Tariq's account of what took place is corroborated by the submissions from Burkinshaw. A third party (Gouveia) also states that the ruins of the landscaping from the adjacent Skyfall site were dumped "on top of the access road".
22. The builders who carried out the works in 2022 (Howell and Reed) state the works to the existing track were of repair, refurbishment and restoration. The affidavit of Howell states that he and a colleague (Reed) "restored and repaired" a pre-existing track and "on right of the track the surface was uneven". It is not clear what, if any, works this refers to, but the removal of earth from the track to form a mud bank alongside the track in November 2022 that Tariq and Burkinshaw refer to is not mentioned. It is stated that the builders did not come to the site on a daily basis, but

² Getmapping satellite and Google Streetview images

worked a few hours a day over a couple of weeks, equivalent to 3 full days of work for two men. It is also stated that cleaning, restoration and repair of the driveway block paving and pillars for the gate took place in April 2023, which is consistent with the accounts of Tariq and Burkinshaw, but inconsistent with their accounts is that there is no mention of the removal of the mud bank in April/May 2023.

23. Recollections of different people of what took place at particular times in the past are bound to vary due to human nature, and so I make no criticism of such inconsistencies. However, in evidential terms there is very little detail and clarity of the precise nature of works that were undertaken in respect of the track in 2022/2023. It seems to me that at one point, firstly, a significant amount of material was deposited on the track, being an engineering operation to the track that would have required planning permission. This was followed by removal of some or all of the material to form a mud bank and then later removed off site, again all amounting to operations comprising “development” as defined at s55 of the Act requiring planning permission.
24. Taking account of all the evidence before me from both the Council and the appellant, it seems to me that there was historically from 2012 an access track. However, the operations that were undertaken to the track reformed it through deposition of material, and again later reformed from removal of material. Descriptions of restoration/refurbishment are vague and imprecise and do not adequately describe the nature of operations that took place, and there is no supporting documentary evidence (invoices, etc.) with regard to those works. Additionally, having regard to my own observations of the track as it now exists, it appears more raised than it appears in the 2012 (Kuqi) photograph. Consequently, I conclude that the form of the now existing access track is comprised of more recent operations and cannot be said to be the result of the same operations to form it in 2012. As such, planning permission was required for the engineering operations that resulted in its current form.
25. On the balance of probabilities I find that the operations to the track took place after the relevant date of 1 December 2019 and so the track is not immune from enforcement action. I have taken account of all other written submissions from the parties, including that of Agrostis³, but these do lead me to any different conclusion.
26. Accordingly, the appeal succeeds with regard to the laying of hardstanding in the form of brick paving, pillars either side of entrance gates, and entrance gates, and a certificate will be issued in respect of these matters, but fails with regard to the formation of the access track.

APPEAL B

27. The access track which I have found to require planning permission in Appeal A, and the hardstanding area which I have found to be lawful in Appeal A, facilitate and form part of the proposed equestrian use of the site since they are within the application/appeal site indicated by the red line on the location plan. The Council also took account of the track and hardstanding area, given that the single reason for refusal in respect of Biodiversity Net Gain (BNG) was because the track and hardstanding were not included within the appellant’s submitted BNG assessment. I will also therefore take account of them in respect of the proposed use of the land.

³ Dr Tim Lodge, Agrostis Sports Surface Consulting

28. The access track and hardstanding as constructed are low level and limited in scale, located to the eastern side boundary of the field. As engineering operations they do not materially affect the openness of the Green Belt or the purposes of including land within it and therefore are not inappropriate development in the Green Belt in accordance with paragraph 154(h) of the National Planning Policy Framework (2024) (NPPF).
29. Other than in respect of BNG the Council do not object to the development of the site as carried out for any other reason or suggest any other conflict with Development Plan policies and I have no reason to consider otherwise.
30. As set out in the Planning Practice Guidance (PPG), the requirement to meet the statutory condition for achieving at least 10% BNG only applies to relevant planning applications made on or after 12 February 2024. Additionally, the BNG requirement is disapplied in respect of retrospective applications made under s73A of the Act. Since the appeal application was made retrospectively under s73A, and in any event was made on 29 November 2023, there is no such BNG requirement in this case.
31. With regard to Policy CP9 seeking a net gain in biodiversity, the more recent PPG states that it would be inappropriate for decision makers to continue to give weight to aspects of existing local policies related to biodiversity gains which are inconsistent with the statutory framework for biodiversity net gain. In particular it states: *“The statutory provisions are an important material consideration that in many cases will take precedence over local planning policy. The statutory framework represents the appropriate national approach towards, and benchmark for, biodiversity gains in planning”*.
32. However, biodiversity is not altogether excluded as a relevant material consideration. In my view there should be no net loss or harm to biodiversity resulting from the development carried out. This would be consistent with Policy CP9, the NPPF and the Planning Practice Guidance so far as they are relevant.
33. The appellant’s submitted assessment⁴ identifies the partial removal of some modified grassland and sparsely vegetated land. While there is no need to demonstrate a net gain, as set out earlier, I am satisfied from the assessment that there would be no net loss or harm to biodiversity subject to tree planting as set out in the assessment. This can be secured by a planning condition.

Other Matters

34. I have taken account of the comments and submissions of those living in the local area and from other third parties, these being reflected in part in the matters set out above or by planning conditions. Overall, I am not led to a different conclusion.

Conclusion

35. For all the reasons set out above the appeal should be allowed.

Conditions

36. A number of planning conditions have been suggested by the Council. Conditions are required to be reasonable in all respects, necessary, and enforceable.

⁴ Luscina Ecology, 08.01.2024

37. A condition requiring the use of the site to accord with the plans submitted with the application is necessary to ensure a proper form of development consistent with the application details. A condition requiring details of the internal access track and hardstanding areas will also be required. A condition to secure tree or other planting is required to ensure no net loss or harm to biodiversity. In the interest of amenity conditions requiring details of external lighting and how animal waste is to be managed is necessary.
38. The vehicular access to the site already exists onto a secondary private drive. The junction with the private drive and Hitcham Lane is not in the appellant's possession or control and hence a condition that relates to land outside of the site would not be reasonable or enforceable. Moreover, there is no convincing evidence that the use of the land for equestrian purposes would result in any increase in risk to road safety. No conditions are required therefore in respect of highway safety.

FORMAL DECISIONS

APPEAL A

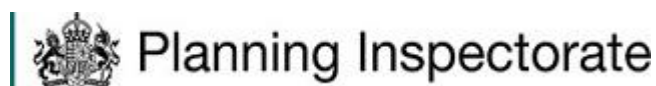
39. The appeal is allowed in part insofar as it relates to laying of hardstanding in the form of brick paving, pillars either side of entrance gates, and entrance gates, and attached to this decision is a certificate of lawful use or development describing the extent of existing operations which is found to be lawful. The appeal is dismissed insofar as it relates to the formation of the access track within the site.

APPEAL B

40. The appeal is allowed and planning permission is granted for erection of stables and the change of use from agricultural use to equestrian use of the land adjacent to Skyfall, Hitcham Lane, Taplow, SL6 0HG in accordance with the terms of the application, Ref: PL/23/3758/FA, and the plans submitted with it, subject to the following conditions:
- 1) A drawing showing the existing access track and hardstanding areas shall be submitted to the local planning authority within 3 months of the date of this decision.
 - 2) Within 4 months of the date of this permission, an Animal Waste Management Plan (AWMP) shall be submitted to and approved in writing by the Local Planning Authority. The use of the site shall not operate other than in accordance with the approved AWMP.
 - 3) Within 4 months of the date of this permission a scheme for tree or other planting demonstrating that there would be no net loss or harm to biodiversity within the site shall be submitted to and approved in writing by the local planning authority. The use of the site shall not operate other than in accordance with the approved scheme.
 - 4) There shall be no external lighting on the site other than as shown on the submitted plan 'Lighting Plan illustrating Lux Levels.

Thomas Shields

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 1 December 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

1. The operations were carried out more than 4 years before the date of the application and so the time for enforcement action had expired, and they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

Signed

Thomas Shields

INSPECTOR

Date: **10 November 2025**

Reference: APP/N0410/X/24/3340478

First Schedule

The laying of hardstanding in the form of brick paving, pillars either side of entrance gates, and entrance gates.

Second Schedule

Land adjacent to Skyfall, Taplow, SL6 0HG

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and thus were not liable to enforcement action under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Scale: Not to Scale

