

## THE HIGHGATE BOWL – extracts from previous Planning Inquiry decisions

*[11 Planning Inquiries since 1957, and 1 refusal not appealed;  
the only appeal allowed was for temporary retention of portacabins]*

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*(Italics, and highlighting of pivotal points, are ours)*

Land has been cultivated for at least 70 years [comment c.1973]. In the 1962 appeal, it was noted that until 1956, when it was bought by Pearl Motors, the site was owned by the London Cemetery Company, who had used it for growing flowers and plants for the cemetery. See Gordon Forbes' 2011 Appeal submission for full summary of planning history, pp.9- It is interesting to note that, until c. 1970, the Inspector's Decision documents set out the full arguments of appellant, council and other objectors, with his own decision taking a relatively small part of the document.

1956 Land sold and road across it proposed to render Garden Centre and Woodland sites developable. Refused on appeal 1957 (DGWS/DG/27/100/49) Inspector dismissed appeal: he felt "no doubt that the nursery garden land in question, which is part of a valuable local open space system and an amenity for local residents, should be kept free of development such as that proposed."

1960 Proposal for 6-storey block of flats; refused, appealed in 1962 (APP/1234/1/52582). The Inspector concluded that, "The site forms a valuable break between the continuous residential development to the north and the built up area of Highgate Village to the south. Without this open space, there is little doubt that Highgate Village would lose much of its character... *In its present unused condition, the site is undoubtedly an eyesore, but the land is still capable of resuming its former successful use as a nursery garden and thus, once again, becoming an amenity for the local residents. Alternatively, it could become a useful public open space.* Both the adjoining nursery owner and the Borough Council themselves are interested in the possible acquisition of the land. *The current policy of making more intensive use of open land clearly does not imply the residential development of open land which is still capable of being used for the purpose assigned to it in the development Plan...*" The Minister accepted the recommendation and said that the site "should remain open space as shown in the approved Development Plan."

1965 Middlesex County Development Plan allocated site as Open Space / Nursery Garden.

1968-1969 Major housing society development of 104 houses on 4.3 acre site dismissed. In dismissing the appeal (the decision being upheld by the Minister), the Inspector concluded:

"I note the determinations in respect of the past appeals. In dismissing that concerning the construction of a road – in connection with an industrial use – the Minister "*had no doubt that the nursery garden land in question, which is part of a valuable open space system and an amenity for local residents should be kept free of development such as that proposed by your clients.* I feel, therefore, that in principle the proposal involved in the second appeal, namely residential development, affords the better comparison with the scheme with which we are now concerned.

"In this respect, I note that the Inspector, in describing the open space of which the then appeal site formed a part, and which he concluded formed 'a valuable break between the continuous residential development to the north, and the built-up area of Highgate Village, to the south', referred specifically to three other areas, namely, the Hospital Grounds. Whistler's – (the cultivated nursery garden included in the present application site) – and the eastern part of Highgate School Grounds.

*"This area still remains open, and I can find no sufficient change of circumstances, or planning factors, which would lead me to conclude that its value as a break between the two built-up areas in question has diminished, indeed the land is now within a conservation area, and in view of the possibility of further development within the Hospital grounds, I feel that the contribution of the present application site in this respect may well be enhanced in the future."*

1975 (T/APP/5015/A/74/11498/GP – 35 residential units with landscaped gardens at Highgate Nursery site). "In my opinion, your scheme has certain virtues. It would enable pedestrians to go along Townsends Yard to Cholmeley Park and thus afford them viewpoints looking northward – *it would open up the land behind Highgate High Street to the public.* It would also put to beneficial use that part of the land which has been abandoned as a nursery and is now unkempt. It would also give the untidy backs of the properties in Highgate High Street a definite edge and an orderly termination. I also consider that your scheme is ingeniously contrived, is interesting and is imaginative. It would not detract from this conservation area rather would it improve its appearance. *Yet despite these benefits which your scheme would confer, I cannot grant permission for it, for I can find no material change of circumstances since the previous refusals. Moreover the proposed vehicular access would be over land which is not in your clients' ownership and the owners have said that they are unwilling for it to be laid out at the present time. Without*

*this access the scheme cannot be carried out. I have considered all other matters... but they are not sufficient to outweigh the consideration leading to my decision... I hereby dismiss this appeal."*

1976 Refused by Haringey (not appealed): "the extensive open area between Highgate Village and the residential area to the north... makes a positive contribution to the character and nature of the locality which is within the Highgate Conservation Area and its development would detract from the existing character and could lead to the coalescence of the built-up areas."

*[1986 – site acquired from Southwood Nurseries by Capital Gardens]*

1987 Residential development on site at rear of Dyne House dismissed, the Inspector considering that, whatever its designation, it made "a significant contribution to the strong visual separation of this edge of the village centre from the development lower down the slope."

1988 (T/APP/Y5420/A/87/082324/P5) Proposed office building at rear of 64a dismissed. Identified in the then-local plan as marking a physical limit of the organic growth of the village; to enhance the skyline of the village; to protect and underpin distant views from the ridge *to accommodate open land uses of community benefit within the urban area*; to provide visual relief from urban development *and potential for recreation*.

"The office building and associated landscaping... has been carefully designed with regard to how the new development would relate to the appeal site and surroundings, and in my opinion the architectural design is of some considerable merit... it would undoubtedly be an improvement on the appearance of some of the other buildings in the area.... and would provide a point of interest and variety in the scene.

The building would however occupy a very prominent position in relation to surrounding properties and with regard to the land lower down the hill, and would affect views... to some considerable degree...In particular the building would be about 10m from the boundary of the appeal site with the garden of a house at 6 Southwood Lane. I accept that the closest part of the appeal building to this point would be single-storey and that overlooking... is not a crucial issue... because the gardens of these houses are.... heavily screened by trees... Nevertheless the... 2-storey part..... would look large in the view from the gardens of some of the houses in Southwood Lane because it would occupy much higher ground, and its presence would be particularly evident in winter...

In considering whether the appeal site ought.... to be regarded in the same way as the \Schedule 7' land around it [i.e. the Garden Centre], I have had some regard to 2 previous appeals decisions in the area.. The first dealt with the existing 'hammerhead' building which stands on the appeal site and which the proposed office building would closely adjoin (T/APP/5015/A/76/5443/G9). This building is a visually prominent one but the appeal, which was allowed, was for the replacement of an existing building... and so cannot be regarded as setting any kind of precedent for allowing further building into the open area at the back... I have noted your argument that the commercial needs of business premises in the High Street must be served and that to some extent the land t the rear serves an ancillary function to these commercial uses... The appeal site was, until recently, garden land however, and in any case I take the view that *any business activity in the locality should be carried on within the constraints imposed as a result of the conservation status of this very special area*.

"This was the view of the Inspector who dealt recently with the appeals regarding housing development of land to the rear of Dyne House near Kingsley Place [the Parade Ground] (APP/Y5420/A/86/046327 and 059505). This site is arguably in a less prominent position than the appeal land in this case and it did not form part of the 'Schedule 7' land, yet the Inspector concluded that it made a significant contribution to the strong visual separation between the edge of the village and the developed area to the north. Taking all these points into account therefore, I can see little difference in physical and landscape terms between the 'Schedule 7' land and the appeal site. You argued that the appeal building would not intrude on the 'separating function' of the land in the bowl because it would be at the side of the existing 'hammerhead' building and would be seen from the north against the properties along the High Street. The 'hammerhead' building is at the end of a 'peninsula' of buildings which already projects a considerable distance into the open land however, and well beyond any buildings on adjacent land. The new building would emphasise this projection and would itself be a dominant incursion into the open area to the west.

"... I acknowledge the importance of PP4 and PPG9 [now defunct] in so far as they refer to the need to re-use urban land and the role that small firms can play in revitalizing old urban areas. I recognise also that Circular 8/87 accepts the role that new development can play in Conservation Areas. Nevertheless this Circular does show the importance which the Government attaches to conservation matters and it underlines the Government's aim to protect, as part of our historic heritage, those areas which are of special character. *I consider Highgate Village and the area to the north of it known as 'Highgate Bowl', to be not only an area of special character but one which is of national importance* because of its historic association and unique position and form. Your client's scheme although well designed

would intrude upon this area to a significant degree, and if permitted would create a situation which in my opinion would make it very difficult for the Council to resist further proposals for commercial development at the rear of the High Street and into the open mainly undeveloped land behind.”

1989 (T/APP/Y5420/A/88/092738/P7, and four other refs.) Inquiry into residential development at Furnival House; the appeal document sets out the cases of the Appellants, the Council and Objectors in unusually full detail.

While allowing some development in the far east of The Bowl, along the Cholmeley Park frontage, the Inspector referred specifically to the Highgate Bowl, stating that “There is no doubting the importance of the Bowl of open land in the appearance and amenities of this area, and, with it, the significance of both the siting of the village of Highgate on its ridge and its surrounding residential areas. I recognise the strong feelings of concern of the local residents as to its future... The site is part of this exceptional area and the essential thing for me to consider is the visual impact of the properties on this scene. At present the site is one of those areas of underused, partly derelict land which... could make a very positive contribution to the provision of residential accommodation to satisfy part of the pressing need for housing... The District Plan clearly envisages a limited amount of such development in the eastern part of the Bowl *and the retention of its central and western parts as open land*. The fundamental question remains as to whether, in this Area of Special Value, what is proposed goes beyond this intention...

“It seems to me that the site demands a bold but sensitive treatment that will form a transition... It is my view that a comprehensive approach should be made to this important site, based on a thorough appreciation of its character, so as to link the old village with the comparatively newer area of housing in a satisfactory way....

“The depth of penetration of the development into the site is an important issue.... I cannot see that what is now proposed is so contrary to the principle of the [District Plan] as to be unacceptable. What is important, in this context, is the perpetuation of the Harington Scheme as an open land use and the retention of at least the greater part of Area B [probably the Cholmeley Dene open site] as open grassland. Both of these will be seen together to form part of the open Bowl of land which was the original intention of the Plan and, as everyone agrees, is so important as a visual element in the make up of the district’s character...”

1993 (T/APP/Y5420/A/92/213438/P4, T/APP/Y5420/E/92/809393/P4 - mixed development of 28 dwellings, landscaped gardens and new trees planted). The inspector identified “2 main issues... The first concerns the effect of the proposal on the character and appearance of the surrounding locality... The second relates to the likely effect... on... adjoining occupiers... There is a long history of [planning applications on the various sites that form part of the Highgate Bowl...

“The first turns on the status and value of the appeal site as part of ... the Highgate Bowl.... The appeal site forms the western part of the area... which is considered to be directly linked to the historic core of the village... Schedule 7 [of the then Local Plan] suggests that the eastern part may have some potential for limited residential development, as may be seen in the proposal on the Furnival House site...

“All the parties acknowledged that the planning history... clearly indicates the importance of this open land as being of visual significance to the area... Notwithstanding [the surfacing, goods for sale and temporary portacabins] there is no doubt in my mind that the site is open in form and character and makes a valuable contribution to the open land and its surroundings ...

“All the land in the Highgate Bowl is in private ownership but this does not reduce its value as open space. Public viewpoints are very limited but, in the Garden Centre, members of the public have access to the interior of this open space and are thereby able to appreciate its importance... Although the site is not readily seen from public places it is seen regularly by a considerable number of local residents who are representative of the local public. With the appeal proposals these views would remain while public accessibility to the site would be lost which, in my opinion, would diminish any contribution to community benefit and the opportunities for recreation that the existing use provides...

“The main argument in favour of the appeal proposal is based on the improvements to the open land that would result. The development would involve the removal of the existing buildings that comprise the Garden centre together with the variety of hard surfaces, which would be replaced with a landscaped area of private open space with tree planting. Your witness explained that this would effectively increase the open space and enhance the site’s contribution to the area, as a major advantage in favour of the development...

“... the landscaped proposals... would involve the planting of a large number of mature trees which, even with current technology, would take many years to mature sufficiently to adequately screen the new dwellings... This means that for about 6 months each year the screening effect... would be very much reduced. In contrast, the proposal would involve the erection of a terrace of 3 and 4 storey houses... *The new buildings might echo the scale of the properties in Highgate High Street but would be unrelated to them in any other way...* I consider that the continuity of these vertical forms across the centre of the site would have a very intrusive impact...”

"The Highgate Bowl is of historic importance as the setting of the Listed Buildings in Highgate High Street and Southwood Lane which no doubt led to its inclusion in the Conservation Area. *Although the original use of the open land for grazing has long been lost and much of it has been developed, the former nursery land retained a rural character which has largely been preserved in the Garden Centre....* While the immediate settings of the listed buildings would be largely unaffected by the proposed development, I take the view that the long terrace and individual houses and flats would dominate the lower slopes... This would detract from the open rural character... [and] would extend the physical limits of the village into this setting to the overall detriment of the listed buildings that surround it and the Highgate Conservation Area as a whole. In concluding the first issue, I recognise there could be considerable advantage in the improvements to part of the open area and in the removal of the untidy elements of the garden centre but, in my view, these are not sufficient to allow a prominent extension of development into this sensitive site.

"Turning to the second issue... any clearance or management of the sycamore wood would reduce its effectiveness... and any proposals for this land would be outside the control of the Appellants. The mass and height of the proposed dwellings would be very apparent to... surrounding occupiers... The open outlook from the nearest properties would be curtailed and, even though the loss of a private view is not normally a serious planning objection, I am of the opinion that the visual impact on the area of special character would be unacceptably obtrusive...

*"Although the reasons for making the application may have been promoted by the declining fortunes of the Garden Centre, it is apparent from the representations of interested persons that it is a highly valued local amenity the loss of which would be a further disadvantage of the scheme.* I noted the views expressed at the inquiry concerning the future survival of the Garden Centre and the extent of the local demand for the facility in this area, but no evidence was submitted to support either viewpoint. In addition, both the Council and the Highgate Society suggested at the inquiry that there might be potential for some additional permanent buildings to serve the future needs of the Garden Centre.

"... I have noted the Council's view that the applications are premature pending the outcome of the UDP [*read Neighbourhood Plan*] Inquiry. Clearly, if this appeal scheme were to be permitted, the proposed designation of the land as MOL [subsequently rejected] would be prejudiced by the substantial nature of the development... In view of the stage the UDP has reached, additional weight must be given to the harm this would cause. .. With regard to setting a precedent, I am mindful of the possibilities for further applications on the remaining open land should this appeal be allowed, but each proposal would have to be considered on its own merits. ..

"I have taken special note of the considerable local interest in this proposal which ranges from the petition of local residents to the evidence of the Highgate CAAC and the Highgate Society. While I have examined many of their concerns within the main issues, the traffic implications were examined on some detail at the inquiry. I have studied the likely effects of the change from a garden centre use to residential; and generally agree with the evidence submitted. I acknowledge that residential use could generate a concentration of vehicles on the narrow access road to Townsend Yard during the worst rush hour period, but this would be offset by the advantages of the loss of large vehicles delivering to the garden centre. *However, it was admitted by your witness that the access would still be too narrow and too limited in visibility to be normally acceptable for a new development of this site.*

I have therefore come to the conclusion that, while the appeal scheme is an ingenious design which makes good use of the available levels and would have little impact on the Highgate Ridge skyline, the height, bulk and siting of the built form would be unrelated to the existing development and would divide and dominate the existing open space in an intrusive manner, notwithstanding any gains to be achieved from the enhancement of the open landscaped area."

1993 (T/APP/Y5420/A/93/222716/P4 – single storey café for garden centre). "I consider the main issue in this case to be the effect of the proposal on the character and appearance of the area... While you have described the appeal site as being extensively covered by buildings, structures and hardstanding, this description does not correspond with the Impression I formed during my visit. Hardsurfaced areas did not appear to me to be disproportionate in extent having regard to the obvious need for servicing and parking, and the visual impact of those areas, buildings and structures is far outweighed, in my view, by trees and other vegetation growing within and around the appeal site. I do not, therefore, accept your assertion that the site cannot be regarded as land of green and open character... Notwithstanding the limited size of the proposed building and its discreet location, a structure in the position proposed would, in my view, add significantly to the amount of built development on the appeal site, thus reducing its open character and appearance. Even allowing for the small scale of the development proposed and the limited number of viewpoints from which the building could be seen, I consider that it would diminish the contribution made by the appeal site to an extensive area of open land that forms a valuable part of the area's special character and which is in my view, worthy of protection... I draw a distinction between a building needed to support the use of the appeal site for an essentially open purpose and one that, although it might provide a useful additional service, is peripheral to the operation of the site as a garden centre... If planning permission were to be granted... it is conceivable that pressure for other

development not obviously associated with a garden centre business could arise which I consider it would be difficult for the Council to resist. In this way the open character and appearance of the appeal site could, over a period of time, become seriously eroded... The appeal site forms a significant break in built development which helps to distinguish between the historic village core and more recent development which surrounds it. The particular emphasis given by the appeal site and other nearby open land to late 18th and early 19th century development fronting the High Street is, in my view, an important part of the area's special character. While the effects of the proposal would be mainly local, I consider that the contribution made by the appeal site to the Conservation Area as a whole is a special one, by reason of its essentially open character, and that the proposed café would intrude unacceptably upon this open character and appearance... The appeal proposal would cause general harm to the character and appearance of the area and, in relation to the Highgate Village Conservation Area, would not preserve or enhance its special character or appearance."

1993 APP/Y5420/C/91/614554/P6: In reporting on an appeal against enforcement of unauthorised portacabins on the site, in which temporary permission was granted, an Inspector said that the Highgate Bowl is "an important element in the present and historical fabric of London. This is reflected in the Development Plan designation and policies... (which) stress the need to maintain the permanently open character, both as a visual relief from surrounding built development, and as a context for Highgate Village.

"The Portacabins are ranged along [the] south western and western site boundary, partly behind the hardstanding and partly on the slope behind the shrubs... The south-eastern part of the site is occupied by greenhouses. Apart from these and the portacabins, the remainder of the garden centre is largely open on character... The duty applies as set out at Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 [still in force] to pay special attention to the desirability of preserving or enhancing the character or appearance of the [Highgate Conservation] area. ... The Schedule [of the local plan at the time] states that the western and central parts of the site... should be retained as open land. The functions of that area are given as: to mark a physical limit of the organic growth of the village area; to enhance the skyline of the village; to protect and underpin distant views from the ridge; *to accommodate open land uses of community benefit within the urban area; and to provide visual relief from urban development and potential for recreation.*

"In a 1988 appeal decision... the Inspector described Highgate Village and the Highgate Bowl as probably of national importance... but without going so far, I would say that it is at any rate an important element in the present and historical fabric of London [and] current policies stress the need to maintain the predominantly open character, both as a visual relief from the surrounding built development and as a context for Highgate village."

1995 Haringey LDF: Inspector rejected MOL designation for the Bowl on grounds that it is too small and not of strategic importance in its own right.... "I am confident that the armoury of planning policies that apply to this area would provide sound protection from inappropriate development.... Local organisations such as the Highgate Society have been singularly effective in putting their case across 'to save the bowl'. I see no reason why inappropriate development would be allowed in this sensitive area in the future given the clear planning policies I have mentioned and the consistently strong resistance from the Council and local organisations."

2010-13: Haringey LDF identifies Highgate as an area suffering from Open Space Deficiency.

2012 (APP/Y5420/A/11/2159120). Appeal dismissed. Issues (1) Whether it would preserve the character or appearance of the Highgate CA; (2) Effect on employment.

"... Even though various types of built development are found across the Bowl, in my opinion it has the appearance of being a relatively open, undeveloped area of trees and landscaping. This view has been accepted by a number of planning inspectors over the last 25 years... The tree cover has developed since many of those decisions were issued...

"The land subject of this appeal makes a positive contribution to the Bowl's character and appearance. Although about 75% of the site's area is covered by hard-surfacing or buildings, it still maintains a notable tree cover round its boundaries and in clusters within the site... As a result the hard-surfacing [etc]... do not have a significant harmful effect on the overall contribution of the site to the Bowl. The buildings currently cover less than 7% of the site... and with the exception of the roof of Whistler's Cottage, all the accommodation...is single storey... Therefore although development covers a significant amount of the site, it is not dominant or intrusive and does not undermine the contribution the site makes..

Public views of the Bowl are restricted. However they are possible ... From many of these public and private views, the relatively undeveloped appearance of the Bowl,,, means it provides a soft setting for Highgate High Street on top of the Hill, allowing to stand out as a distinctive feature....[and] also separates the older village core from the relatively modern suburban development to the north, thereby

emphasising its evolution as a historic settlement. While these views are not extensive, they are sufficient to mean that.... the Bowl makes an important contribution to the character and appearance of the Conservation Area.

*Consequently I consider that the conservation area is a heritage asset of significance, and both the Bowl and the appeal site make a positive contribution to this because of their relationship to Highgate High Street."*

"There is no policy in the adopted Haringey UDP that specifically relates to the Bowl. However, Policy CSV1 is relevant, as this *seeks to preserve the **character or appearance*** of the conservation area.... However [in discounting policy OS10 on protection of open spaces that do not have any other formal designation] *it has not been contended that the openness of the appeal site would have any value beyond its benefits to the conservation area.*

"Moreover, the history of the SPG[3/5] was unclear, and it was not now adopted. Consequently... weight has not been attached to its policies... However it contained much factual information about the conservation area and Bowl that is still relevant, and this has been taken into account.

"Impact of the development: ...About 75% of the site would be landscaped, and while the extent of hard-surfacing would be very much reduced, the overall footprint of the buildings would be increased to cover about 15% of the total area. [Describes and comments on upper, middle and lower houses]. "

"The appellant has sought to protect the darkness of the site at night-time. However, given the relatively secluded nature of the spot, the large areas of glazing in the various elevations and the need for access and security into the night, to my mind it is reasonable to assume the scheme would result in increased light levels when it is dark.

"... I consider that the proposal would introduce a more imposing built form onto the appeal site that would have a significantly greater impact than what is there now. As a result it would detract unacceptably from the contribution this site makes to what appears to be the open undeveloped character of the Bowl, and it would undermine the separation between the historic hilltop settlement and the modern suburban development. Therefore it would adversely affect the role of the Bowl in enhancing the setting of Highgate High Street and so harm the Conservation Area...

"The appellant has proposed extensive landscaping to soften and screen the houses and to enhance the site, and... to ensure its ongoing maintenance. This could be secured not only by condition but also through the Appellant's Unilateral Undertaking, to which I have afforded significant weight. The additional planting, when it matures, would bring benefits to the site. However... much of this would be deciduous in nature...Furthermore its effect on views within the site or from the adjacent houses on Cholmeley Crescent would be limited. Therefore this does not allay the concern raised above.

"It was also contended that the improvements to the traffic situation would benefit the conservation area. Access to the site is through... a narrow unadopted lane with limited visibility at its junction with Highgate High Street, and this would be unchanged. [comments on Traffic generation figures provided.] Taking these points together by removing traffic from this difficult access, I consider the scheme would improve Highway safety and would also bring some benefit to the conservation areas. However based on the submitted evidence the adverse effects caused by the existing vehicle movements are not so great as to mean any such benefits would outweigh the harm identified.

"Residents have expressed concern at disturbance from the garden centre use, but I would not expect the existing operations to be a continual source of significant noise, and such activity is likely to cease in the evenings. Despite this, I accept that the proposal is likely to be quieter... However the impact of the existing situation has not been shown to be so detrimental as to mean the change of use would outweigh the adverse consequences of the development highlighted above.

"It is acknowledged that contemporary individual dwellings have been built throughout historic Highgate. In themselves the 3 houses now proposed would be of satisfactory design **but it is the effect they would have on the role and character of this site that offers the basis for the concerns** ... It is also accepted that Whistler's Cottage represents residential development on this land *but that does not justify further housing of the impact now proposed.*

"Finally, while the Appellant contended the scheme would be reinstating the pattern of fields that was previously on the site, the arrangement would be different to that indicated on the historic maps and the division of the land has repeatedly changed over time. **In any even the presence of these 3 large houses would countermand any sense of re-establishing an agricultural character.**

"Accordingly, whether considered individually or together, the above factors do not outweigh the harm identified.

"Accordingly I conclude that, by retracting from the contribution of the site to the Bowl in relation to Highgate High Street, the proposal would not preserve the character or the appearance of the Highgate Conservation Area and would cause substantial harm to its value as a heritage asset. **In the absence of any public benefits that clearly outweigh this harm** I conclude the scheme would conflict with Policy CSV1 in the UDP and [PPS5]

[Discussed employment, and concluded loss of employment was not a sufficient ground on which to refuse]

“PUBLIC ACCESS; Although privately owned, the garden centre is the one site in the Bowl onto which members of the public have relatively free access, thereby giving opportunity for the Bowl to be appreciated from within. However such access is restricted to ...customers... when the garden centre is open. Therefore it cannot be defined as access of a truly recreational nature... It could also be limited or topped... if the hours.. changed or if the site was given over to new users...

“In contrast, the access road... would be open to the public at all times. While there was a concern that it could be gated... this could be prevented by condition... *Therefore, mindful that public access is now limited and cannot be guaranteed, and noting the nature of the proposal, the matter does not offer grounds to resist the scheme.*

“An appeal was dismissed on the site in 1993 [for] 27 dwellings... In the decision it was stated that, although privately owned, the garden centre as accessible to the public and so the interior of the Bowl could be appreciated, but this would be lost... As such the development would have diminished any contribution to community benefit and recreation that the existing use provided, in conflict with the aims of Schedule 7 of the development plan in place at the time.

*“However, Schedule 7 is no longer applicable, and in its decision the Council referred to no current policy that reflected this or advocated the use of the site for community or recreational purposes... Therefore the comments in that appeal decision do not lead me to dismiss this proposal.” [This contradicts the statement of the 1995 Local Plan Inspector that there were sufficient policies to protect the land from inappropriate development]*

“Interested parties highlighted the desirability of using the site as public open space. Indeed, the Highgate Society said that, if the appeal was dismissed, it would set up a charitable trust to acquire the site and.... maintain it as open land accessible to the public. However, such initiatives may not materialize or... may not be successful. Furthermore, that is not the proposal before me. While the concept of localism in the planning process has been noted, given the circumstances before me it does not justify seeking public use of the land in the circumstances of this appeal. Therefore *mindful that there is no policy basis that actively promotes this site for such a use, in coming to my decision I have attached **limited** weight to the desirability of greater public access to the land in future. [Note, “limited” weight – not “No weight”]*

“PRECEDENT: The various sites in the Bowl all contribute to its overall character described above, but they are used in different ways and contain a variety of landscaping and hard development. Some are also... ecologically valuable. Therefore decisions concerning developments elsewhere in the Bowl... would have to have regard to the individual site in question. With specific reference to the Harington Scheme, there is no certainty its landlords would pursue an application for housing if this appeal had been allowed, or that such an application would have been successful.

“Consequently this appeal was determined on its merits and not on the basis of the effect that any decision may have on the development of other sites in the Bowl. If I had granted planning permission it would not *necessarily* have set a precedent...

“Accordingly, because of the harm the development would cause to the Conservation Area I conclude the appeal should be dismissed.”

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