



Appeal Decision

Site visit made on 9 May 2019

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 30th July 2019

Appeal Ref: APP/F5540/W/19/3222684

Steam Packet Steps, Strand on the Green, London W4 3PU.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Thames Floating Homes Limited against the decision of the Council of the London Borough of Hounslow.
 - The application Ref: 01076/W/P2 dated 2 July 2018, was refused by notice dated 31 October 2018.
 - The development proposed is change of use to residential. Engineering operations, including driving four piles, installing timber grid, 2 pontoons, gate bridge and access ramp and mains services.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In its appeal Statement, the Council referenced an updated adopted Strand on the Green Conservation Area Appraisal Statement (2018) which supersedes the Statement referenced by the Appellant. I therefore requested a copy of the Statement and provided a copy to the Appellant with the opportunity to make further representations in respect of this document. No further representations were received.

Main Issues

3. The main issues in this appeal are:
 - a) Whether the proposed development would be inappropriate development in Metropolitan Open Land having regard to relevant development plan policies and the National Planning Policy Framework, including its effect on the openness of the Metropolitan Open Land;
 - b) Whether the proposed development would preserve or enhance the character or appearance of the Strand on the Green Conservation Area;
 - c) the effects of the proposed development on flood risk;
 - d) Other considerations; and
 - e) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Issue a) Inappropriate Development and Openness

4. The site comprises an area of shingle foreshore together with an area of riverbank, with the Steam Packet Steps, leading off Strand on the Green, forming the western end of the site. There is an area of informal tree planting and grassland, public footpath and seating between the river wall and the flood defences which are set back from the river wall. The foreshore is classified as Metropolitan Open Land (MOL).
5. The proposal would introduce a mooring of 48 m in length, projecting some 12 m from the river wall to enable the mooring of two residential vessels. An entrance gate would be introduced at the eastern end leading from the land to a bridge and access ramp to the pontoon, anchored by steel piles.
6. There is no dispute that the foreshore is MOL. Policy 7.17 of the adopted London Plan sets out at Section B that the strongest protection should be given to London's MOL and inappropriate development refused, except in very special circumstances, giving MOL the same level of protection as in the Green Belt. The supporting text at Paragraph 7.56 of the London Plan sets out that the Green Belt policy of the NPPF (National Planning Policy Framework) applies equally to MOL.
7. The Appellant has contested that there is not an applicable list of inappropriate development available to define inappropriate development in MOL. Whilst I agree that the National Planning Policy Framework (Framework) has been revised since the adoption of the London Plan and the Section ordering re-arranged, the policy guidance as applicable to this appeal is largely repeated albeit it under Section 13. Following the guidance in Annex 1 of the Framework I am satisfied that full weight remains to be given to Policy 7.17 of the London Plan in terms of its consistency with the relevant sections of the Framework.
8. The Appellant has further contested that criterion (e) of Policy GB1 of the Hounslow Local Plan 2015-2030 (Local Plan) sets out a difference in the approach to inappropriate development in the Green Belt as opposed to MOL. I do not agree with that interpretation. It is clear to me that the Local Plan policy approach is the same in respect of both Green Belt and MOL and in respect of MOL refers correctly to the London Plan which in turn refers to the Framework.
9. It is my view that, in accordance with Policy GB1 of the Local Plan and Policy 7.17 of the London Plan, consideration needs to be given to whether the proposal would be inappropriate development by reference to Paragraphs 145 and 146 of the Framework. Although the term building is not specifically defined in the Glossary to the Framework, it is defined in section 336 of the 1990 Act to include *any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building*. Taking account of this definition it is my view that the proposal correctly falls to be considered under Paragraph 145, but I do not consider that the proposal would fall within any of these stated exception categories.
10. Whilst I recognise that it is the Appellant's case that it is not valid to consider the proposed development in terms of whether or not it would be inappropriate development, the Appellant has nonetheless contended that the proposal represents appropriate infrastructure in relation to Policy 7.27 of the London

Plan and therefore falls to be considered under Paragraph 146 which sets out a list of other forms of development which are not inappropriate provided they preserve its openness and do not conflict with the purposes of including land within it. In particular the Appellant refers to Paragraph 146 item c) namely *local transport infrastructure which can demonstrate a requirement for a Green Belt location*. First, I am not persuaded that the proposal for residential moorings with associated works and structures properly falls within the definition of local transport infrastructure. Even if I were to accept the Appellant's argument in this regard, there are additional requirements to be satisfied in order to accord with this criterion. Whilst I appreciate that the proposal requires a riverbank location, there is no evidence before me to confirm a requirement for this proposal to have a Green Belt or MOL location. Moreover, whilst there is some river traffic and moored boats, this stretch of the river is particularly open and free from permanent encumbrances beyond the river wall. I consider that the proposed introduction of the two moorings and associated works and structures would intrude within and detract from that openness. It would not therefore preserve the openness of the MOL and would not therefore accord with one of the requirements of Paragraph 146 of the Framework, namely to preserve its openness.

11. The description of development on the application form makes reference both to a change of use and to engineering operations. Although not advanced by the Appellant, for the sake of completeness, I have addressed whether the proposal would fall to be considered under either Paragraph 146 b) engineering operations or e) material changes in the use of the land. However, I consider that the proposed development would not fall into these exceptions due to the harmful effects on openness that it would entail, which I have described above.
12. Taking all these matters together, I have no doubt that the proposal would be inappropriate development, for the purposes of development plan policy and the Framework.

Issue b) The Conservation Area

13. The site lies within the designated heritage asset of the Strand on the Green Conservation Area. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas.
14. Although historically there may have been a more active riverside with moored boats and structures, a key component of the significance of the Conservation Area today is the very open sweeping riverside frontage, with attractive buildings of different periods forming the backdrop to the unencumbered and open riverside. There is a marked absence of permanent built structures along this part of the foreshore which contributes to its attractive and distinctive character and appearance. The introduction of permanent built development would detract from this open vista along and across the river and would fail to preserve the character and appearance of the Strand on the Green Conservation Area. This would conflict with Policies CC4 and GB6 of the Local Plan as well as the Framework which, amongst other things, seek to protect the significance of designated heritage assets.

Issue c) Flood Risk

15. The Council also raised as a reason for refusal that it had not been demonstrated that the proposal would not lead to an increase in the number of persons or property at risk of flooding in the area. At the appeal stage the Appellant submitted a revised Flood Risk Assessment, upon which the Environment Agency has commented. I share the Environment Agency's concerns that there is still insufficient information provided, particularly in respect of the parts of the proposal that would be in close proximity to the flood defence and how they may impact the integrity and lifetime of the defence. It is not therefore possible to conclude that there would not be an increase in the number of persons or property at risk of flooding in the area. This would conflict with Policy EQ3 of the Local Plan as well as Paragraph 163 of the Framework which, amongst other things, seek to ensure that flood risk is not increased elsewhere.

Issue d) Other Considerations

16. The Framework indicates at Paragraph 144 that substantial weight should be attached to any harm to the Green Belt. Very special circumstances to justify such development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In accordance with Paragraph 7.56 of the London Plan supporting Policy 7.17, these considerations are equally applicable to this proposal within the MOL. I now turn to the other considerations in support of the development which have been put forward.
17. The Appellant has contended that the proposal would lie within the Blue Ribbon Network and would accord with Policy 7.27 of the London Plan which supports new infrastructure for water dependent uses, as well as Policies GB5 and GB6 of the Local Plan. I agree that there is a multifunctional role of the Blue Ribbon Network which extends to include residential moorings. I have also had regard to the fact the Port of London Authority has not raised an objection to the proposal, although it makes clear that there are further consents to be obtained. These matters all add some weight in favour of the proposal.
18. The supporting text to Policy GB6 of the Local Plan also sets out that residential moorings can contribute to the Borough's supply of housing. The Appellant has drawn my attention to the Officer's report recommending approval of an application at Waterman's Park in Brentford for the creation of 26 residential moorings under its reference P2015/4055 / 00607/AM/P5. Whilst at Paragraph 7.10 the Officer indicates that whilst it would not be practical to secure the proposed moorings as affordable rented accommodation or sold as affordable housing, the Officer goes on to set out that houseboats are considered a more affordable alternative type of accommodation as boats would be likely to cost less than housing in the area; thus by their very nature such development aids housing choice and lower cost housing in the area. There is very limited information before me as to the how the proposed moorings would be operated in the case before me, and it would be small scale and only relate to two residential moorings, but the potential opportunity to widen housing choice and potentially provide lower cost housing add some limited weight in favour of the proposal.

19. In the above example at Waterman's Park, the Appellant has emphasised that the Council did not raise objection to development in the MOL. Each case must be assessed on its individual merits, but I have nonetheless had regard to that example in so far as the case information has been made available to me. Although I accept that the two locations are not physically very far apart, the character and appearance of the two locations are very different. Furthermore, it would appear from the Officer's report that there were very different circumstances pertaining to that proposal whereby there had been a long use of the site for unauthorised moorings. It does not therefore directly compare with the proposal before me and only very limited weight can be afforded to this argument.
20. The Appellant has indicated that the proposal offers the opportunity to improve the riparian biodiversity of the riverbank and has offered to accept a condition in this regard. However, no substantive details have been put forward in this respect or indeed to demonstrate that the proposal would not cause any harm to the existing biodiversity or the riverbank and foreshore in this location. I am therefore unable to give more than very limited weight in respect of this offer in support of the proposal.

Issue e) Overall Planning Balance and Conclusion

21. I have already found that substantial weight must be given to the harm to the MOL by reason of the inappropriateness of the proposal. The harm from loss of openness, my conclusion that the proposal would not preserve the character and appearance of the Conservation Area and that it has not been adequately demonstrated that there would not be an increase in the number of persons or property at risk of flooding in the area all add to that harm. The totality of the harm I have concluded is not clearly outweighed by the other considerations advanced in its favour. I do not therefore find that the very special circumstances required to justify the proposed development exist.
22. Moreover, the Framework is clear that once harm to the significance of a designated heritage, such as a conservation area, is found that the degree of harm should be assessed. In this case, the proposed development would cause less than substantial harm to the significance of the Conservation Area. Nevertheless paragraph 193 of the Framework is clear that great weight should be given to the conservation of heritage assets irrespective of the level of harm identified. Furthermore, the harm should be weighed against the benefits of a proposal, as set out at paragraph 196 of the Framework. I have found that there would be some public benefits from the provision of two residential moorings to add to the quantity and variety, including potentially at a lower cost, of the local and wider housing provision. However, given the small scale of the proposal, the public benefits would carry limited weight and therefore the great weight I attach to the harm that it would cause to the significance of the Conservation Area clearly tips the balance against its approval. The proposed development would therefore conflict with the Framework insofar as, amongst other things, it requires heritage assets to be conserved in a manner appropriate to their significance.

23. No material considerations advanced in favour of the appeal scheme would justify a decision other than in accordance with the development plan, with which, in terms of the above-cited policies, it would clearly conflict. Accordingly, for the reasons set out above and having regard to all other matters raised, including in representations, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR