



Appeal Decision

Site visit made on 26 November 2020

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2021

Appeal Ref: APP/L5810/D/20/3256412

91 Wyatt Drive, Barnes, London, SW13 8AN

- 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 D Buyanovsky against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref: 20/1426/HOT, dated 27 May 2020, was refused by notice dated 26 June 2020.
 - The development proposed is a garden room.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The explanatory text to Policy LP13 of the London Borough of Richmond Upon Thames Local Plan refers to paragraphs 79-92 of the National Planning Policy Framework (the Framework) applying to Metropolitan Open Land. That 2012 version of the Framework was replaced in 2019. The equivalent paragraphs of the 2019 Framework, insofar as they relate to this appeal are not materially different. It is on the basis of this recent version of the Framework that I have made my decision. I am satisfied that there would be no prejudice in me doing so.

Main Issues

3. The main issues are:
 - whether the proposal constitutes inappropriate development within Metropolitan Open Land;
 - the effect on the character of the area;
 - the effect on a boundary tree, and
 - If the proposal constitutes inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal would constitute inappropriate development within Metropolitan Open Land

4. Part of the site for the proposed garden room lies within Metropolitan Open Land. Policy LP13 of the Local Plan indicates that Metropolitan Open Land will be protected and retained in predominantly open use. Inappropriate development will be refused unless 'very special circumstances' can be demonstrated that clearly outweigh the harm to the Metropolitan Open Land. The explanatory text to the policy refers to specific paragraphs of the Framework applying to Metropolitan Open Land, these include paragraphs defining inappropriate development.
5. London Plan policy 7.17 also advises that the strongest protection should be given to London's Metropolitan Open Land and inappropriate development refused, except in very special circumstances, giving the same level of protection as in the Green Belt.
6. The construction of new buildings should be considered as inappropriate, as outlined in paragraph 145 of the Framework, subject to certain listed exceptions. The proposed garden room would not fall within any of the exceptions and therefore must be regarded as inappropriate development affecting Metropolitan Open Land.

Effect on character

7. This part of Wyatt Drive is characterised by detached dwellings with generally open rear gardens and boundary tree cover. The main exception is No.89 Wyatt Drive which has a small garden room. The proposed garden room would be sited within the rear garden and close to the rear boundary of No.91 Wyatt Drive. It would be around 2.5 m in height with a floor area of around 51.87 m². It would comprise a home office, WC and 'garden room'. A building of the size proposed would be out of proportion with the main building and would appear incongruous. It would occupy a significant portion of the space alongside the rear boundary and would harm the open character of the rear garden and area of rear gardens in this part of Wyatt Drive. I find the proposed garden room would conflict with Local Plan policy LP13 and London Plan policy 7.17 because of the harmful effect on the Metropolitan Open Land. It would also conflict with Local Plan policy LP1 which seeks to ensure that development respects, contributes to and enhances the local environment and character.

Effect on boundary tree

8. The proposal would result in the removal of a tree which is located near the rear boundary fence and the boundary with the neighbouring property. The Council considers that there has been no submission of an adequate tree survey, arboricultural impact assessment or replacement tree planting proposals. The appellant has advised that the tree is not a good specimen, not protected and could cause damage to the fence and the neighbour's garden room.

9. I saw at my site inspection that the tree in question added to the visual amenity of the area. However, it was not a mature specimen and was located close to the structures referred to by the appellant. Accordingly, I consider that the loss of this tree could be offset by replacement planting, required through the imposition of an appropriate planning condition and other such conditions as necessary to survey and protect any trees and shrubs that could be impacted upon by the development. This would ensure that the biodiversity, ecology, and visual amenity of the area would be maintained and enhanced. Subject to such a condition the loss of the tree would not conflict with Local Plan policies LP1, LP13 and LP15 regarding biodiversity, and LP16 concerning trees.

Other Matters

10. The appellant considers that the garden room constructed near the rear boundary of No.89 Wyatt Drive in Metropolitan Open Land has set a precedent for that type of development. The Council has advised that there is no record of it being approved and it is assumed that it has been constructed unlawfully. Even so, the garden room is triangular in footprint and significantly smaller in size and scale than that proposed at No.91. I find, therefore, that the existence of the garden room at No.89 is insufficient reason to allow the appeal before me.
11. The appellant has suggested that the use of the garden room could be controlled via a condition that the building should not be used as anything other than a garden room/home office without the written approval of the Council. However, the imposition of such a condition would not affect the main determining issues in this appeal.

Conclusion

12. The proposal would constitute inappropriate development within Metropolitan Open Land and would conflict with London Plan policy 7.17, and Local Plan policy LP13 which seeks to protect Metropolitan Open Land and retain its predominantly open use. Significant harm may be accorded to the presumption against inappropriate development. The loss of a tree could be resolved through conditions. However, the harm by reason of inappropriateness, and harm to the character of the rear garden and locality, is not clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
13. I have taken all other matters raised into account. For the reasons given above I conclude that the appeal should be dismissed.

Martin H Seddon

INSPECTOR