



Appeal Decision

Site visit made on 26 August 2021

by Michael J Muston BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2021.

Appeal Ref: APP/F5540/W/20/3262434

10 Staveley Gardens, Chiswick, London W4 2SA

- 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 Jeneen Galbraith against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 01068/10/P5, dated 24 January 2020, was refused by notice dated 5 May 2020.
 - The development proposed was originally described as two new adjoining houses and a two storey extension to the existing property.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two houses and a part single, part two-storey rear extension to 10 Staveley Gardens, at 10 Staveley Gardens, Chiswick, London W4 2SA, in accordance with the terms of the application, Ref 01068/10/P5, dated 24 January 2020, and the plans submitted with it, subject to the conditions contained in the schedule of conditions set out below.

Procedural Matter

2. The development was described on the application form as set out in the heading above. This was amended by the Council, to "*erection of two houses and a part single, part two-storey rear extension to 10 Staveley Gardens.*". This is also the description used by the appellant on his appeal form, and describes the works more fully than the original description. I have therefore used this amended description as the basis for my decision.
3. The new London Plan was adopted in March 2021. Both parties have referred to policies from the previous version of the London Plan. Similar policies exist in the 2021 Plan and I have referred to these up to date policies in my decision.

Main Issues

4. Policy G3 of The London Plan 2021 says that Metropolitan Open Land (MOL) is afforded the same status and level of protection as Green Belt, and that MOL should be protected from inappropriate development in accordance with national planning policy tests that apply to the Green Belt. The main issues are therefore:-

- whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
- the effect of the proposed development on the openness of MOL;
- the effect of the proposed development on the character and appearance of the area; and
- if the development is inappropriate, 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

Inappropriateness

5. The appeal site is on the edge of a small housing estate, which is washed over by MOL. Government policy in the National Planning Policy Framework (the Framework) says that inappropriate development in the Green Belt (and by virtue of Policy G3 of the London Plan, inappropriate development in MOL) is, by definition, harmful and should not be approved except in very special circumstances. Policy GB1 of the Hounslow Local Plan contains a similar message, saying that the Council expects development proposals to be compatible with and not inappropriate development in MOL.
6. Policy 149 of the Framework says that the construction of new buildings in the Green Belt (and in this case MOL) should be regarded as inappropriate, unless it falls within a list of exceptions. One of these is the extension of a building, provided that it does not result in disproportionate additions over and above the size of the original building, whilst another is limited infilling or the partial or complete redevelopment of previously developed land.
7. The Council does not object to the proposed extension to the existing dwelling, but considers the two proposed new dwellings not to amount to infilling and to be inappropriate development. I agree with the Council that the proposed extension does not result in a disproportionate addition to No 10, and that the two proposed dwellings would extend the existing terrace towards the Great Chertsey Road, and would not amount to infilling.
8. The appellant argues in their statement of case that the proposal constitutes the redevelopment of previously developed land. However, the Framework advises in its glossary that previously developed land excludes land in built-up areas such as residential gardens. The appeal site is currently a residential garden, and I therefore do not consider that the erection of two houses meets any of the exceptions set out in paragraph 149 of the Framework.
9. I conclude that the erection of two houses would constitute inappropriate development within MOL, contrary to Policy G3 of the London Plan, Policy GB1 of the Local Plan, and to government advice in the Framework.

Openness

10. The proposed new houses would extend the terrace into an area that is currently largely open. A permission exists for an additional dwelling on the end of the terrace (Ref. 01068/10/P4, approved October 2019) and a wooden-

framed garage is partly constructed on the remaining open land. However, the additional built form proposed in this application would be greater than the combination of the permitted dwelling and the partly built garage, and would as a result have a small effect on the openness of MOL. Paragraph 147 of the Framework says that inappropriate development is, by definition, harmful to the Green Belt (and in this case, to MOL), but I consider that the development would also result in limited damage to openness.

Character and appearance

11. In its Delegated Report, the Council argues that, although the two new dwellings would imitate the style of other dwellings on the street, the fact that each of them would be 0.8 metre narrower than other properties would make them appear cramped and incongruous, and fail to respect the rhythm of the street.
12. The development would result in the construction of a terrace, with gabled roofs at both ends, in contrast to the pairs of semi-detached houses with hipped roofs. However, permission exists for an additional dwelling, thereby creating a terrace. A combination of this, and the hip to gable conversion that has already taken place at No 8, means that a form of development that would disrupt the rhythm of the street already has permission.
13. The appeal proposal would include an additional new dwelling and would be a few metres wider than the 01068/10/P4 scheme. However, I do not consider that it would be materially more harmful to the street scene than what would result from the implementation of that permission. Nor do I consider that it would appear cramped or overbearing on the trees to the north-west.
14. On my site visit, I observed that the appeal site is at a lower level than the Great Chertsey Road, and screened from it by a belt of trees. The appeal proposal would result in built form being closer to that road and those trees than has resulted from other side extensions in Staveley Gardens. However, I agree with the appellant that this would not be readily apparent from Great Chertsey Road, or indeed any other viewpoint.
15. I conclude that the proposal would not have an unacceptable effect on the character or appearance of the area, and would comply with London Plan Policy D8, and Policies GB1, CC1 and CC2 of the Local Plan in this respect. These policies, amongst other things, seek to protect and improve the public realm, expect development proposals to respond to the context of the area in which they are set, and expect them to respond meaningfully and sensitively to the site and surrounding buildings.

Other considerations and conclusion

16. The appeal proposal would project substantially beyond the existing edge of built form on this side of Staveley Gardens. However, over half of this projection has already been permitted by virtue of the 2019 permission for one additional dwelling. In addition, the second new dwelling would be built on part of the garden to No 10 already occupied by the partly built garage. The extent to which the openness of MOL would be affected is therefore, as I have concluded above, limited. In addition, the part of MOL that would be affected by the development is between the edge of a small housing estate and a major

road, which would limit the degree of harm to MOL that the proposal would cause.

17. In addition, paragraph 60 of the Framework sets out measures required to significantly boost the supply of housing, whilst paragraph 119 says that planning decisions should promote an effective use of land in meeting the need for homes.
18. I consider that a combination of the points put forward by the appellant amounts to benefits of the proposal that clearly outweigh the harm to MOL by reason of inappropriateness and harm to openness. Consequently, there are very special circumstances in this case that justify allowing the development to proceed. The proposal therefore complies with advice in the Framework and consequently with Policy G3 of the London Plan. This compliance outweighs any remaining failure to comply with Policy GB1 of the Local Plan, in which the concept of the benefits of the proposal clearly outweighing the identified harm, and thereby amounting to very special circumstances, is not mentioned.

Other Matters

19. The Council also refused the application on the grounds that an energy statement had not been submitted detailing how the development as a whole would be zero carbon. However, the appellant has submitted an exchange of emails with the Council, demonstrating that such a statement was submitted, if not received at the time. The Council has accepted that this submitted statement overcomes this reason for refusal.

Conditions

20. As well as standard conditions relating to when the development should commence and compliance with the approved plans, a condition requiring the external materials used to match the existing building is necessary, to protect the character and appearance of the area.
21. As the site is close to a busy main road, a condition is required to ensure that the recommendations in the submitted acoustic report are followed, to protect future occupiers from noise from that source.
22. A condition requiring the submission of landscape works is not necessary, as full landscape plans have already been submitted as part of the application. A condition to ensure that the details shown on those plans are implemented is required, in the interests of the character and appearance of the area. These landscape plans do not show full boundary treatments, so a condition is also necessary to ensure such details are submitted and implemented, again in the interests of the character and appearance of the area.
23. The Council has also suggested conditions requiring the submission of details regarding energy use, water efficiency and the sustainable sourcing of materials. However, these are all included in the Energy and Sustainability Statement referred to above. In order to ensure that an energy efficient and sustainable development does take place on site, a condition is required to ensure that the recommendations contained in this submitted statement are implemented.
24. The Council has also suggested a condition preventing any additional windows in the side walls of all the "*rear additions*". It is not clear to me why such a

wide-ranging condition is necessary; however one preventing the insertion of windows in the south-east facing side walls of the rear extension to No 10 is required, to prevent unacceptable overlooking of No 8's rear garden.

25. The Council has suggested a condition entitled "*Hours of Construction*", but has not provided any suggested hours or other wording. I have imposed a standard version of such a condition, to help protect the living conditions of nearby residents during the construction period.
26. The Council has also suggested a condition removing many permitted development rights. The Framework says in paragraph 54 that "*planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so*". I do not consider that the reason given by the Council for imposing such a condition provides that justification, and I have therefore not imposed it.
27. The Council has also suggested a condition entitled "*Refuse Storage (Implementation)*", but without suggesting any wording or a reason why such a condition is required. The approved plans clearly show where refuse bins are proposed to be stored on site, and there is ample space to store them. There does not appear to be adequate justification for including a condition dealing with this matter.

Conclusion

28. For the reasons set out above, I conclude that the appeal should be allowed, subject to the conditions set out in the schedule below.

Michael J Muston

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling known as 10 Staveley Gardens.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: L(--)001, L(--)002, L(--)003, L(21)001, L(21)002, L(21)003, L(21)004, L(21)005a, L(21)006, L(21)008, L(27)001, 1804027-TK02, L(00)001 and Landscape Plans entitled "Planting Plan inc. Schedule" and "Planting Plan and Images".
- 4) Soundproofing for the new houses hereby permitted shall be constructed in line with the recommendations of the submitted Acoustic Design Statement, so as to provide insulation against external noise of not less than 43 dB(A), with windows shut and other means of ventilation provided.

- 5) The planting shown on the approved landscape plans entitled "Planting Plan inc. Schedule" and "Planting Plan and Images" shall be carried out within the first planting season following the completion of the development, and maintained thereafter.
- 6) Prior to first occupation of the approved dwellings, a plan shall be submitted to and approved in writing by the local planning authority, which indicates the position, design, materials and type of boundary treatment to be erected. The approved boundary treatment shall be completed before any of the dwellings hereby permitted are first occupied.
- 7) The recommendations included in the Energy and Sustainability Statement, with an Issue Date of 18/12/19, shall be fully implemented.
- 8) No windows or other glazed openings shall be formed in the south-west facing side walls of the rear extension hereby permitted to 10 Staveley Gardens.
- 9) Construction works shall take place only between 08:00 and 18:00 on Monday to Friday, between 08:00 and 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.