



Appeal Decision

Site visit made on 28 June 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 September 2022

Appeal Ref: APP/L5810/W/21/3283632

Kokoro No Tomo Taggs Island, Hampton TW12 2HA

- 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 Ms Vanessa Burrow against the decision of Richmond Upon Thames London Borough Council.
- The application Ref 20/3047/FUL, dated 28 October 2020, was refused by notice dated 30 July 2021.
- The development proposed is removal of existing one-storey houseboat and mooring piles and construction of replacement two-storey houseboat with mooring piles.

Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is within an area designated as Metropolitan Open Land (MOL), to which the development plan gives the same level of protection as Green Belt. The main issues are therefore:
 - whether the proposal would be inappropriate development on MOL, having regard to the Green Belt policies in the revised National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - the effect on the openness of the MOL; and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

3. The appeal site encompasses a single storey dwelling attached to a residential mooring at Taggs Island. There are around 62 house boats arranged around the island's perimeter and a central lagoon. The intervening land around the dwellings, includes attractive mature trees, shrubs and grassed areas. A narrow bridge elevated above the house boats connects the mainland to the island and provides vehicular access to the internal roadway serving the individual plots and moorings.
4. The proposed development is within MOL which the London Plan (2021) gives the same level of protection as the Green Belt. The Framework states that the essential characteristics of Green Belts are their openness and their permanence. It further states that Green Belts serve a number of key purposes amongst which are to check the unrestricted sprawl of large-built-up areas. In light of this special status the Framework regards the construction of new buildings in the Green Belt as

inappropriate development, other than in a number of specified exceptional circumstances.

5. These include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces (paragraph 149 (d)) and limited infilling in villages (paragraph 145 (e)). The appellant considers that both of those exceptions are relevant in this case.
6. Policy LP13 of the Richmond Upon Thames Local Plan (July 2018) (Local Plan) sets out that MOL 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 MOL. The explanatory text of the policy refers to specific paragraphs of the Framework applying to MOL, including the concept of inappropriate development. Given that there are clear consistencies between the guidance in the development plan and the Framework, I have had regard to both in assessing the appeal.
7. Insofar as it relates to the exception in paragraph 145 (d) of the Framework, the proposal would result in the replacement of a building which would be in the same use i.e. a dwelling house.
8. There is no definition of the term 'materially larger' as prescribed in paragraph 145(d), whilst the development plan is similarly silent. Therefore, it would be a matter of planning judgement. The appellant indicates that the external area of the building would increase by approximately 9.4m². Moreover, there would be a modest, albeit noticeable increase in the width and length of the proposed dwelling. The height of the building would increase by 2.05m-3.05m, while the proposed cubic mass would more than double to around 336m³.
9. The scale of the proposal, particularly the additional storey and the significant volumetric uplift, results in an appreciable change in the size of the replacement dwelling, such that it would, in my view, be a materially larger building. Accordingly, the proposal would not satisfy the requirements of paragraph 145(d) and is therefore inappropriate development.
10. The appellant refers to the proposal's comparable volume and footprint with house boats nearby, particularly those that flank the appeal site, while assimilating well with the character of the street and riverside frontages. However, the requirements of the Framework in this respect relate solely to whether the replacement building would be materially larger than the existing, rather than a comparison exercise with other buildings nearby or an assessment of its effect on local character. Thus, I give those arguments limited weight in my assessment.
11. Turning to the exception outlined in paragraph 149 (e), the Framework does not define 'limited infilling' or 'villages'. The Local Plan, however, at paragraph 9.6.1 states that 'Infill development is considered as sites within street frontages including the development of a small gap in an otherwise built-up frontage'. But as that text relates to generic development proposals, I cannot be certain it would directly apply to MOL, while the word 'including' suggests a broader meaning of the term 'infilling'. Nevertheless, I afford it some weight in assisting with the meaning of the term.
12. The act of infilling would in my view be the filling of a space, hole, or an area between other objects. There are houseboats either side of the appeal site, but there is no gap or space between them as it is already occupied by the appeal dwelling. Therefore, in the terms described by the Local Plan and my own interpretation, the proposal would not constitute infilling.

13. The line of moored houseboats within which the appeal dwelling forms part, is not a typical street. There are no community facilities such as a hall, or shop on the island. Yet, properties are closely arranged around an internal road, while its detachment from the mainland and the compact arrangement of properties engenders a sense of cohesion and community. This gives it the impression of being a village. Notwithstanding this, my interpretation of 'infilling' would not relate to the appeal site. Accordingly, I do not consider that paragraph 149 (e) is relevant insofar as assessing whether the scheme is inappropriate development.
14. The proposal would not meet either of the exceptions, in paragraph 149, put forward by the appellant and so it would constitute inappropriate development in the MOL. Paragraph 143 of the Framework establishes that inappropriate development is by definition harmful. Therefore, it would not comply in this regard with the Framework, Policy LP13 of the Local Plan and Policy G3 of the London Plan (2021) where they require MOL to be protected from inappropriate development.

Openness

15. The concept of openness of the MOL relates to the absence of built development. Case law¹ in this respect advises that several factors are capable of being relevant and confirms that openness of the Green Belt, and therefore MOL, has a spatial as well as a visual aspect. As such the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. But equally this does not mean that the openness of the Green Belt has no visual dimension.
16. The appeal dwelling's front elevation and most of its roof are clearly visible from the elevated bridge that connects the island to the mainland. From this perspective the appeal dwelling appears modest in context with the larger two storey houseboats positioned either side (The Phoenix and Half Mile). Those taller houseboats create a gap above the appeal dwelling, framing views of the open spaces and tall mature trees on the island beyond. This alignment helps to reveal a sense of openness and verdancy above and to the rear of the moorings.
17. The placing of a two-storey dwelling at the appeal site, results in a building of increased height and mass, that would inevitably erode the spatial openness of the MOL in this location. Although the increased width and depth would be relatively modest, the vertical uplift would be significant as a proportion of the building's existing height.
18. In visual terms the new dwelling's increased height and mass would appreciably close the gap between The Phoenix and Half Mile, while increasing the density and built-up appearance of the riverbank. There would also be a clear diminution, particularly when observed from the bridge, of the open and undeveloped parts of the island. Whilst it may be sympathetic in appearance, size and materials to the existing houseboats, the proposal's additional massing, and the resultant effects on the openness of the MOL, would be clearly evident in views of the site. This would further erode the visual openness of the MOL compared with the present circumstances.
19. The appellant indicates that the replacement houseboat would sit on a similar footprint to the existing structure and would not result in further sprawl of the wider built-up area of Hampton. The small increase in terms of the proposal's footprint is acknowledged, however, a material loss of openness can occur upon spaces above a development. In this regard the additional storey proposed

¹ *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466.

represents a significant vertical uplift that would materially erode the openness of the site and amount to unrestricted sprawl.

20. The existence of development at the appeal site and the other houseboats around the island, in the appellant's view, limits the visual contribution to the openness of the MOL.
21. It is accepted that the houseboats have had the effect of reducing the perception of openness in the locality. Nevertheless, there are still open, undeveloped, and verdant areas on the island that all contribute to the openness of the MOL at this location, and their continued protection is a fundamental aim of local and national policies.
22. In both spatial and visual terms, the proposal would have a greater impact on the openness of the MOL than the existing situation. While the harm would be relatively moderate, given the scale of the development and the localised views of it and the surrounding land, this would be contrary to the Framework where it states an essential characteristic of Green Belts, and consequently MOL, is their openness. Moreover, the development would not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.

Other considerations

23. The appellant has referred to the limited lifespan of houseboats such as the appeal dwelling, given the nature and method of their construction. A replacement would be necessary as repairing defects would not be feasible in light of the houseboat's age. In addition, it is claimed that a modern houseboat replacement at the site would be more sustainable.
24. I recognise that the houseboat does not have a conventional construction and could deteriorate over time. Yet I have not been presented with any technical details that would clearly justify its replacement. For example, a construction condition report that highlights existing defects or structural problems that could affect the longevity of the dwelling. There are no specific details of how the proposal would be a more sustainable replacement, for example, through projected energy performance figures or specific carbon reduction measures, while compliance with the Borough's Sustainable Construction Checklist SPD has not been demonstrated.
25. A Predicted Energy Assessment has been provided; however, it is not clear whether this relates to the proposed dwelling given that no drawings are cross-referenced in that document. The appellant also proposes to integrate renewable technologies into the proposed dwelling. However, those are currently aspirations, whilst their feasibility has not been fully assessed at this stage. Therefore, given the limited information presented, I can only attribute minor weight, in favour of the appeal, to this consideration.
26. With an internal area of around 37.9m² the existing houseboat does not provide the 50m² internal floor area, required by national guidance², for a one bedroom two person dwelling while much of the internal space does not have an internal ceiling height of 2.3m recommended by the guidance. The larger, two storey proposal would comply with the standards prescribed and improve the quantity of internal space for the occupiers. There could, however, be less harmful ways of increasing the floor area that would limit the effect on openness. Accordingly, in the absence

² Technical housing standards - nationally described space standard (2015), Department for Levelling Up, Housing and Communities.

- of an assessment of the feasibility of those alternatives, the improved internal space standards only attract moderate weight.
27. The appellant indicates that the replacement houseboat would secure long-term viable accommodation where there are no viable alternatives. However, as there is no information on the assessment of alternative options in coming to that view, the matter attracts limited weight.
 28. There would be additional planting of shrubs and plants within the garden of the site that would enhance the site's biodiversity and appearance. The area designated for the planting is not particularly extensive, nevertheless these benefits are important and attract minor weight.
 29. A fallback position whereby the replacement of the existing houseboat with a larger vessel (capable of self-propulsion and navigation) has been mentioned. Although there may be no restriction on doing this, I have no details on whether such a vessel is currently available to the appellant and can legally be moored at the site. Therefore, I cannot be certain that it represents a justified fallback given that I have no compelling evidence that there is a real prospect that the scenario outlined would take place. Even if there was, the vessel could come and go and vacate the riverbank thus creating a gap that would enhance the openness of the MOL. In this regard the appeal scheme would have a more harmful impact. On this basis there would not be a comparable effect on openness, and I have given limited weight to the fallback position described.
 30. The appellant has referred to other schemes approved by the Council³ within the MOL. Each resulted in an increase in the scale of the host building, yet the Council did not deem the impacts harmful upon the MOL's openness.
 31. In the case of The Phoenix, a larger two storey houseboat, the approved scheme has a lesser impact on MOL openness given the greater volumetric and vertical uplift of the appeal proposal.
 32. The HB Milestones example relates to the replacement of a single storey houseboat with a two-storey structure. I note the similarities between that scheme and the appeal proposal, in terms of the additional storey. However, the Officer's report is somewhat vague with limited assessment of the effect on openness and which of the Framework exceptions to inappropriate development was considered. Accordingly, I cannot be certain that the scheme was assessed in the same way as I have assessed this appeal.
 33. The Ducks Walk case related to the replacement of a single storey houseboat with a larger structure that would be around 0.5m longer, 0.3m taller and 1.5m wider. The Council's officer's report stated that impacts on openness were limited and would not have a greater impact on the MOL. The appeal site, however, is in a different part of the MOL, while the proposal's height increase would be greater than the replacement at Duck's Walk, resulting in appreciable effects on MOL openness. Accordingly, the cases are not similar.
 34. No 25 Strawberry Vale does not relate to a houseboat scheme, but involved additions to a dwelling that would reduce MOL openness. Despite this, the Council held that planning benefits including ecological and landscaping enhancements would amount to very special circumstances. It is noted from the approved

³ LPA Refs: 18/3812FUL – The Phoenix, Taggs Island;
16/1949/FUL – HB Milestones, Taggs Island;
18/0580/FUL – Triffic Berth 5, 9 Ducks Walk, Twickenham;
20/0300/FUL – 25 Strawberry Vale, Twickenham.

drawings relating to that scheme, that those enhancements were extensive and covered a much larger area, in contrast to those at the appeal site.

35. Therefore, this appeal, can be clearly distinguished from the other cases referred to, and I have given them limited weight in favour of the proposal.
36. The Council's conservation officer has raised no objection, indicating that the scheme would visually compliment the other houseboats, while preserving the character and appearance of the Hampton Village Conservation Area. I have no reason to dispute those views, however, those matters, which relate to local character and heritage, would not overcome the harm I have found in respect of the effect on the MOL's openness. Accordingly, they attract limited weight.
37. The proposal would retain trees and ecological benefits secured through previous planning consents at the appeal site. Nevertheless, the absence of harm in those other regards is a neutral factor and does not weigh in favour of the proposal.

Planning Balance and Conclusion

38. I have found that the proposal would be inappropriate development on MOL. This is, by definition, harmful to the MOL. I consider that the nature of the harm that would arise in this regard would result from conflict with the Green Belt purpose of checking the unrestricted sprawl of large built-up areas. In accordance with paragraph 148 of the Framework I attach substantial weight to this harm. Additionally, I have found that the harm to openness would be minor in magnitude. This further weighs against the proposal.
39. Balanced against that are the other considerations discussed above. However, my conclusion is that those other considerations, when taken cumulatively, do not clearly outweigh the identified harm to the MOL so as to amount to the very special circumstances necessary to justify the appeal proposal. Consequently, very special circumstances do not exist. The proposal would be contrary to Policy LP13 of the Local Plan, Policy G3 of the London Plan (2021) and the provisions of the Framework.
40. For the reasons given above the appeal is dismissed.

RE Jones

INSPECTOR