



Appeal Decision

Site visit made on 29 November 2022

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

Appeal Ref: APP/A5270/W/22/3291557

Former David Lloyd Tennis Club, Greenford Road, GREENFORD, UB6 0UX

- 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 Cars against the decision of London Borough of Ealing.
 - The application Ref 216177FUL, dated 3 November 2021, was refused by notice dated 15 December 2021.
 - The development proposed is Change of use from tennis court (Use Class F2(c) to external car storage (Use Class B8); installation of fence; installation of door.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal site is designated as both Metropolitan Open Land (MOL) and Community Open Space. Policy G3 of the London Plan, 2021 (the London Plan) states that MOL is afforded the same status and level of protection as Green Belt. Policies contained within the National Planning Policy Framework (the Framework) in respect of development within the Green Belt are therefore applicable. As such, the main issues in this appeal are:
 - whether the proposal would be inappropriate development in the MOL, including any effect on openness, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
 - if the proposal would be 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 it.

Reasons

3. The appeal site is a former tennis court area associated with the David Lloyd Tennis Club. The site comprises two disused tennis courts which have been fenced off and are surrounded by mature trees and vegetation. The site has fallen into disrepair; the hardstanding has cracked and has weeds growing through and the fence itself is in poor condition. An area of reasonably dense vegetation and mature trees separates the site from the nearby David Lloyd Club and car park. Access to the site is via a quiet narrow road and other buildings are sporadic with large gaps between any built development. These features result in the area having a verdant, green and open character and appearance.

Whether inappropriate development

4. Policy G3 of the London Plan states that MOL should be protected from inappropriate development in accordance with policies within the Framework in respect of development within the Green Belt. Similarly, Policy G2 of the London Plan reaffirms that the Green Belt should be protected from inappropriate development and development proposals that would harm the Green Belt should be refused except where very special circumstances exist.
5. Paragraph 147 of the Framework identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The meaning of inappropriate development is contained in paragraphs 149, 150 and 151 of the Framework. Certain forms of development are identified within those paragraphs which are deemed not inappropriate.
6. Paragraph 150 identifies some such 'not inappropriate' forms of development, and this includes, at part e, material changes in the use of land provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Paragraph 150 part g also states that limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development would be considered not inappropriate. In this case, due to the policies within the London Plan, the same considerations and restrictions apply to MOL.
7. Policy 2.18 of the Ealing Development Management Development Plan Document, 2013 (DPD) reflects this and states that the size of development within green and open spaces, including MOL, and its impact upon visual openness must be kept at a minimum and goes on to say that development should not compromise the visual openness of open and green spaces.
8. Openness has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
9. The proposal is for the change of use of the tennis courts to outdoor car storage and includes the installation of a new non-illuminated sign, CCTV cameras, solar powered sensor lights and a security fence around the site with a sliding access gate. The proposal is to provide storage for a maximum of thirty cars positioned in two lines at the centre of the site.
10. The area of hard surfacing present on site would not increase and there would be no requirement for any additional built structures to facilitate the proposed use. However, the site is currently largely free from obstruction and appears as a clear and open space. The addition of around 30 parked motor vehicles across the centre of the site would reduce that space. In addition the vehicles would be visibly prominent when viewed through the surrounding fence within the site. The proposal would also introduce further paraphernalia associated with the proposed use such as signage, lights and cameras. This paraphernalia would also contribute to a reduction in openness.
11. I accept that vehicles are not fixed structures, however, there would be no limit as to how long vehicles would remain on site and though vehicles would be

removed from time to time they would likely be replaced by other vehicles. As such, in my view, the proposal would undoubtedly significantly erode the openness of the MOL from both a spatial and visual perspective.

12. I acknowledge that the proposed fencing and gate would be similar, though improved, to that which is currently in-situ on site. However, though the proposed fencing would be the same height as the existing fence the change in the design and materials would result in a bulkier fence with a greater visual impact. As such, this element of the scheme would, in my view, contribute towards a degradation of the visual element of openness.
13. I note the appellant's suggestion that the existing fence could be retained with the addition of vehicular gates rather than replaced with the alternative design. However, this would not be sufficient to mitigate the harm I have identified to openness overall.
14. For the reasons set out above I consider that the proposal would cause harm to the openness of the MOL and, thus, would conflict with Policy 2.18 of the DPD and would not fall within any of the exceptions within the Framework set out above. The proposal would therefore constitute inappropriate development within the MOL.

Other considerations

15. Policy G2 of the London Plan states that subject to national planning policy tests, the enhancement of the Green Belt to provide appropriate multi-functional beneficial uses for Londoners should be supported. The supporting text to Policy G3 of the London Plan goes on to say that proposals to enhance access to MOL and to improve poorer quality areas such that they provide a wider range of benefits for Londoners that are appropriate within MOL will be encouraged. Examples include improved public access for all, inclusive design, recreation facilities, habitat creation, landscaping improvement and flood storage. The appellant holds that the current proposal falls within this category. Though I concur that the site is currently in poor condition, Policy G2 and the supporting text to Policy G3 refer explicitly to development which is appropriate within GB/MOL and, as set out above, this is not the case in this instance.
16. The appellant has suggested that additional vegetation and trees could be planted around the appeal site to improve landscaping, create habitats and increase biodiversity. However, no detail has been provided with respect to what this would entail, how or when it would be provided or how it would be maintained for the life of the development. Accordingly, this limits the weight I can give to it as a benefit of the scheme.
17. The supporting text to Policy G2 of the London Plan is also clear that though some parts of the Green Belt do not provide significant benefits to Londoners as they have become derelict and unsightly this is not an acceptable reason to allow development to take place.
18. Additionally, Policy 2.18 of the DPD states that, in respect of green infrastructure which includes the MOL, the coherence of green and open spaces and their integrity in fulfilling the complementary functions of nature conservation, heritage conservation and recreation remain the overriding principles governing their development and only development ancillary to the open space will be permitted. The proposal would also conflict with the

development plan in this regard as the proposed use cannot be considered to be ancillary to the open space.

19. However, I acknowledge that the proposal would provide some, limited, benefits. For example, the economic benefits of supporting a business to expand. I also recognise that the site is currently in poor condition and that the proposal would repurpose a currently redundant site. I note that the site has attracted instances of anti-social behaviour and that the redevelopment would severely limit opportunities for this to continue to occur.
20. I accept the evidence provided which indicates that the future use of the tennis courts is unlikely given the condition of the site and considering that new courts have been provided nearby. However, this does not indicate that the future use of the site for other purposes which would be considered not inappropriate within the MOL would be unfeasible.
21. The appellant has also stated that a tree survey and arboricultural report could be provided, and secured by condition, to ensure that the proposal would not have an adverse effect in this respect. However, such measures would simply ensure that no adverse effects occurred and would be a neutral factor rather than a benefit of the scheme.
22. I also note the appellant's evidence that no car transporters would be used, vehicle movements would be limited and no cleaning or repair works would take place on site. However, the lack of harm in these respects is also a neutral factor and not a benefit of the scheme and as such this element does not carry additional weight in favour of allowing the proposal.
23. The appellant has suggested that a temporary permission could be granted in order to safeguard the future of the MOL. Though this would indeed lessen the extent of the harm which I have identified by restricting it to a limited period, the proposal would, nevertheless cause significant harm by way of it being inappropriate development which is by definition harmful to the MOL.
24. The appellant states that other, more harmful, commercial operations are located in close proximity to the appeal site. However, I have not been provided with full details of these examples. The nursery which the appellant has mentioned was granted permission in 1998 under different circumstances and within a different context. Furthermore, the Council's evidence suggests that some of the other operations may be operating without the benefit of planning permission. In any event, the existence of other examples is not in itself a reason to justify granting planning permission.

Planning Balance

25. The Framework establishes that inappropriate development is, by definition, harmful to the Green Belt, and by extension the MOL, and should not be approved except in very special circumstances. Policies G2 and G3 of the London Plan echo this.
26. Paragraph 148 of the Framework sets out that substantial weight should be given to any such harm and very special circumstances will not exist unless the potential harm to the MOL, and any other harm, is clearly outweighed by other considerations.

27. I have found that the proposal would be inappropriate development in the MOL and would cause harm to the openness of the MOL. I give this harm significant weight. I have also found that the proposal would conflict with Policy 2.18 of the adopted DPD.
28. I have taken account of the other considerations raised as part of this appeal. Factors in support of the appeal include the economic benefits of supporting a growing business, the reuse of a redundant site and the reduction/elimination of anti-social behaviour in and around the site. I attribute these matters moderate weight.
29. I also acknowledge that additional planting around the site could improve the landscaping and boost the ecological value of the land. However, given the lack of detail provided I afford this consideration limited weight.
30. For the reasons set out above the cumulative benefits associated with the proposal are not sufficient to clearly outweigh the substantial weight given to the harm to the MOL I have outlined above. Consequently, the very special circumstances that are necessary to justify inappropriate development in the MOL do not exist.

Conclusion

31. For the reasons given above I conclude that the appeal should be dismissed.

L J O'Brien

INSPECTOR