



Appeal Decision

Site visit made on 12 December 2023

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 March 2024

Appeal Ref: APP/N5090/D/23/3325813

Hadley Lodge, Hadley Common, Monken Hadley, Barnet EN5 5QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Michael Constantis against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/1179/HSE.
 - The development proposed is tennis court in rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for tennis court in rear garden at Hadley Lodge, Hadley Common, Monken Hadley, Barnet EN5 5QD, in accordance with the terms of the application, Ref 23/1179/HSE, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Dwg.No. 000 – Site Location Plan
 - Dwg.No. 004 – Site Location Plan, Proposed Block Plan
 - Dwg.No. 005 – Proposed Floor Plan
 - Dwg.No. 006 – Proposed Elevations
 - 2) Within six months of the date of this decision, details of a scheme of soft landscape works shall be submitted to the local planning authority for its written approval. These details shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate; and a scheme of management and maintenance for a period not less than five years following implementation of the approved scheme. The approved scheme shall be carried out no later than the first planting and seeding seasons following the approval of the details and managed and maintained in accordance with the approved scheme of management and maintenance.

Preliminary Matters

2. The description given in the planning application form refers to the development being 'part retrospective'. Because this is not an act of development I have removed these words from the description. Nevertheless, I observed that the development had been partially constructed at the time of

my visit and it appeared, as far as construction had progressed, to be consistent with the submitted plans. My determination of the appeal is therefore based on the submitted plans on which the Council made its decision.

3. The appeal site is within the Monken Hadley Conservation Area (the CA). Accordingly, the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the area.
4. An update to the National Planning Policy Framework (the Framework) was published on 19 December 2023. Other than changes to paragraph numbering, there are no material changes relevant to the substance of the appeal.

Main Issues

5. The main issues are:
 - whether the proposal would comprise inappropriate development in the Green Belt having regard to the Framework and the development plan;
 - the effect of the proposal on the character and appearance of the area, bearing in mind the extent to which it would preserve or enhance the character or appearance of the CA; and
 - the effect of the proposal on biodiversity.

Reasons

Whether inappropriate development in the Green Belt

6. The appeal site lies in the Green Belt and forms part of the garden of a residential house. The garden covers an expansive area stretching to the south and sloping downhill from the house.
7. The development plan policies most relevant to this issue are Policy CS7 of Barnet's Local Plan (Core Strategy) Development Plan Document – September 2012 (the CS), Policy DM15 of Barnet's Local Plan (Development Management Policies) Development Plan Document – September 2012 (the DMP), and Policy G2 of the London Plan – March 2021 (the LP). Together these policies seek, in respect of this issue, for development to protect open spaces including Green Belt, and for development proposals in the Green Belt to be considered in line with the provisions of the Framework.
8. Paragraph 154 of the Framework establishes that the construction of new buildings should be regarded as inappropriate in the Green Belt. Exceptions to this include the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
9. The proposal would provide facilities for outdoor sport and recreation. This would be on private land and, in all likelihood, for the private use of residential occupiers. Nevertheless, the Framework does not distinguish between public and private use in determining whether such development is inappropriate.

Accordingly, the proposal would fulfil the first part of the test of inappropriateness.

10. The second part of this test relates to openness and the five purposes of the Green Belt, as defined by the Framework. At the time of my visit, construction work on the tennis court had been suspended leaving the exposed base and outer retaining walls visible. Even acknowledging that the materials in situ at the time of my visit appeared rather stark against the green and natural backdrop of the remainder of the garden, due to the sunken nature of the structure, it was only prominently visible when very close to it. When stood further from it, views were extremely limited. In particular, due to the topography of the land, the structure was not at all apparent from many vantage points downhill to its south. Moreover, the proposal seeks to colour the finished structure green to match its surroundings more closely. Views from neighbouring properties would be limited and the proposal includes no permanent fencing or boundary treatments, with only the tennis net and poles being erected on a temporary basis whilst in use. Accordingly, based on my observations on site and the potential effects of the completed development, I find the proposal would preserve the openness of the Green Belt in visual terms.
11. The Planning Practice Guidance (the PPG) establishes that openness has both a visual and spatial aspect. In spatial terms, the proposal would involve engineering works and it would create an artificial structure in an otherwise natural environment. Nevertheless, the proposal would occupy a very small portion of the vast garden area and the resulting changes to the topography of the land would be insignificant. Given the site's context, the overall scale of the development would have a limited effect on its surroundings, and the openness of the Green Belt would be preserved in spatial terms.
12. The Council suggests that the dwelling has been extended over the years and the proposal would surpass the 25% increase above the original volume of the dwelling that the Residential Design Guidance SPD uses as a guiding principle for extensions in the Green Belt. However, whilst the Framework lists the size of additions over and above that of the original building as a consideration in determining whether an extension or alteration to a building would be inappropriate, such considerations do not apply when determining whether facilities for outdoor sport or recreation would be inappropriate. In such cases, the assessment of inappropriateness relates only to whether it preserves the openness of the Green Belt and whether it conflicts with the purposes of including land within it. Accordingly, any previous extensions to the dwelling hold limited weight in my assessment.
13. For the reasons given above, I conclude that the proposal would provide an appropriate facility for outdoor sport and recreation, and it would preserve the openness of the Green Belt. Consequently, it would not conflict with any of the five purposes of the Green Belt, as set out in paragraph 143 of the Framework. It would therefore not be inappropriate development in the Green Belt and would accord with Policies CS NPPF, CS1 and CS7 of the CS, Policies DM01 and DM15 of the DMP, Policy G2 of the LP and the Framework, the aims of which have been previously set out in respect of this issue.

Character and appearance

14. The CA covers an extensive area of varied character including large areas of woodland, publicly accessible commons and residential areas of differing density and typology.
15. The Monken Hadley Conservation Area Character Appraisal Statement – Adopted January 2007 (the CAS), states that the area has a rich history associated with a predominantly rural society. The appeal property is a large, detached dwelling fronting Hadley Common. It is located close to the village centre of Monken Hadley, which contains several notable buildings of historic importance, including the Church of St Mary the Virgin.
16. The closest neighbouring properties to both sides of the appeal site fronting Hadley Common are similarly large, detached houses with spacious gardens to the rear. The rear gardens slope downhill and afford views over fields and woodland towards the more urban areas to the south. The immediate area is predominantly residential, comprising mainly of large, detached dwellings at a lower density than is found in other parts of the CA. Insofar as it relates to the appeal, the significance of the CA is predominantly derived from the spacious character of residential development in proximity to the historic village centre, and the role played by the expansive gardens of the residential properties in long-ranging views of the CA as a whole and beyond.
17. For the reasons previously identified, the proposal would be of a scale and nature that it would not be prominently visible in the surrounding landscape or from neighbouring properties. It is also noted that tennis courts are a prevalent feature in the gardens of many nearby properties. Although the nearby examples are generally more enclosed than the appeal proposal, be this by boundary treatments or natural vegetation, due to the considerations noted previously the proposal would not disrupt the present harmony or spaciousness that is characteristic of the area.
18. For the reasons given above, the proposed development would not be harmful to the character or appearance of the area and would preserve the character and appearance of the CA. It would therefore accord with Policies CS NPPF and CS1 of the CS, and Policies DM01 and DM06 of the DMP. Together these policies seek, in respect of this issue, for development to be based on an understanding of local characteristics and to preserve or enhance the character or appearance of conservation areas. It would also accord with the provisions of the Framework and the CAS in respect of this issue, which have similar aims.

Biodiversity

19. The Natural Environment and Rural Communities Act 2006 (as amended) includes a duty that every public body must, in exercising its functions, have regard to the purpose of conserving biodiversity. The PPG advises that assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.
20. The Council identifies constraints to development include the King George Field Site of Interest for Nature Conservation (SINC) and the potential for the development to impact on great crested newts or their terrestrial habitat.
21. A Botanical Survey was submitted by the appellant in support of the appeal. Because the appeal was submitted under the Householder Appeals Service, the

- Council would not usually be given the opportunity to comment on the appeal submission. However, because this was not before the Council when determining the planning application, in the interests of natural justice, the Council has been given the opportunity to respond to the additional details submitted. I have taken account of these comments in determining the appeal.
22. The submitted evidence notes that the site was used as an orchard prior to the construction works for the tennis court taking place. I am provided with historical aerial photographs, which indicate the grass of this land was mown short during this period.
 23. The remainder of the field in which the tennis court is located is ungrazed grassland that appears to have been left to develop naturally. The Botanical Survey notes that the area is managed by regular but infrequent cutting, although it is understood to have been mown more regularly in the past to maintain a neat appearance. It is evident from the submitted aerial photography and my observations on site that similar practices take place in many of the neighbouring gardens, with some featuring extensive manicured lawns. In this sense, it is important to remember that the site remains a residential garden and a degree of recreational activity associated with its residential use is to be expected.
 24. The submitted evidence suggests that even prior to development taking place, the part of the site occupied by the tennis court was of limited biodiversity value. I am provided with no substantive evidence that the proposed development would significantly harm the biodiversity value of the site, particularly given the potential for associated impacts due to the inherent residential use of the land. The Council has suggested, in the event of the appeal being allowed, that a biodiversity net gain assessment should be secured by condition. However, I am mindful that householder development is exempt from the requirement to demonstrate biodiversity net gain. Accordingly, I do not consider such a condition would be reasonable or necessary.
 25. The proposal does, however, provide an opportunity to secure proportionate biodiversity enhancements and this is reflected in the recommendations of the submitted Botanical Survey. Given the scale and nature of development, this could be secured through a scheme of soft landscaping.
 26. I acknowledge the Council's concern regarding the effects of the proposal on great crested newts. However, given the nature of the site prior to development taking place, I am provided with limited evidence that the proposal would have any adverse effects on the species or their terrestrial habitat. Nevertheless, it should be noted that the legal protections for great crested newts under the Wildlife and Countryside Act 1981 and other legislation continue to apply.
 27. For the reasons given above, the proposal would not be harmful to biodiversity and would accord with Policy DM16 of the DMP and Policy G6 of the LP, which together seek the retention and enhancement or the creation of biodiversity, and for SINCs to be protected. The Council's decision notice also refers to London Plan Policy 7.19E, as referenced in Policy DM16, although this appears to form part of a previous iteration of the London Plan and it is therefore no longer part of the development plan.

Conditions

28. Because the development has commenced it is not necessary to include the standard time limit condition. A condition relating to a list of approved plans is necessary in the interests of certainty. A condition requiring details of a scheme of soft landscaping is necessary in the interests of protecting the character and appearance of the area and promoting biodiversity.

Conclusion

29. For the reasons given above, I conclude that the appeal should be allowed subject to the conditions listed in my formal decision.

P Storey

INSPECTOR