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# Appeal Decision

Site visit made on 26 June 2024

**by M Aqbal BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 02 August 2024**

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**Appeal Ref: APP/L5810/W/23/3331481**

**Anglers Hotel, 3 Broom Road, Teddington TW11 9NR**

- 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 Jackson, Fuller Smith and Turner Plc against the decision of Richmond Upon Thames London Borough Council.
  - The application Ref is 19/2740/FUL.
  - The development proposed is works to rear beer garden, including installation of seating booths, lighting, raised seating area and other works.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The development for which planning permission is sought has already been undertaken. As part of the appeal submissions, the appellant has provided additional drawings and documents. This includes: A ground finishes plan – Drawing:1005/P11 Rev A; Details of raised platform seating area and ramp – Drawing:1005/P10 Rev A; Details of shed and walkway: Drawing 1005/P12; A Fire Risk Assessment and a Flood Risk Assessment report (August 2023). These drawings and documents are submitted to address additional information which the Council requested and relate to the development subject of the application, Therefore, I have accepted these in determining the appeal and do not consider that the interests of any party have been prejudiced by my having done so.

## Main Issues

3. The main issues are:
  - i) Whether or not the proposal would be inappropriate development on Metropolitan Open Land;
  - ii) the effect of the proposal on the purposes and openness of the Metropolitan Open Land;
  - iii) the effect of the proposal on the character and appearance of the area including heritage assets;
  - v) the effect of the proposal on flood risk and drainage;
  - vi) the effect of the proposal on fire safety; and,
  - vii) 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 needed to justify the proposal.

## **Background**

4. The appeal site comprises the beer garden of The Anglers Hotel, public house ('the Anglers'). The beer garden is located to the rear of the Anglers and faces the River Thames.
5. The proposal seeks planning consent for various installations at the beer garden. These include: A number of seating booths, a larger pergola with seating area, a raised seating area, oak posts forming a walkway ('colonnade'), a number of sheds, fencing and entrance gate, associated hard landscaping, lamp posts, festoon lighting and a ramp which is located next to the pub building.

## **Reasons**

### *Inappropriate development*

6. The appeal site is located within Metropolitan Open Land ('MOL'). Policy LP 13 of the Local Plan (Adopted 2018) ('LP') relates to Green Belt and MOL. This says that such land will be protected and retained in predominately open use; Inappropriate development will be refused unless 'very special circumstances' can be demonstrated that clearly outweigh the harm to the Green Belt or MOL; Sets out appropriate uses within Green Belt or MOL; That development will be supported if it is appropriate and helps secure the objectives of improving the Green Belt or MOL. Also, this Policy recognises that there may be exceptional cases, where inappropriate development, such as small scale structures for essential utility infrastructure, may be acceptable.
7. The Framework sets out the Government's policy in relation to Green Belts. Policy LP 13 of the LP is broadly consistent with the Green Belt aims of the Framework. Also, the supporting text to LP Policy LP 13 is clear that this applies equally to Green Belt or MOL. In addition, that the Green Belt provisions of the National Planning Policy Framework (the Framework) also apply equally to MOL.
8. The appeal site is an established beer garden and the proposal does not relate to a change of use or includes essential utility infrastructure. As such, for the purposes of Policy LP 13 of the LP, this is inappropriate development.
9. However, the Framework says that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt and then goes on to specify a number of exceptions under Paragraph 154. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are listed under Paragraph 155 of the Framework.
10. The appellant advises that the sheds located on the eastern side of the beer garden (sheds C and D) are used in connection with kayaking and paddleboarding equipment. However, I have limited evidence to support this. Even if I was to accept that these sheds fall within the exception to inappropriate development under Paragraph 154 b) of the Framework, this also requires that such development needs to preserve the openness of the Green Belt and not conflict with the purposes of including land within it. However, for the reasons set out below, the sheds do not preserve openness.

11. In respect the access ramp, the appellant argues that this is an appropriate extension to the existing approved raised terrace and to the pub building. Nonetheless, the original building has already been extended and on the level of information provided, it has not been clearly shown that along with the existing extensions, the access ramp is not a disproportionate addition to the original building, as required under paragraph 154 c) of the Framework.
12. Based on the appellant's submissions it has not been demonstrated that all the other elements of the proposal are not inappropriate development.
13. Therefore, and in light of my findings on openness, as set out below, the proposal constitutes inappropriate development.

*Effect on openness and purposes of the MOL.*

14. Paragraph 142 of the Framework, states that the essential characteristics of Green Belts are their openness and their permanence. Openness has a spatial as well as a visual aspect.
15. According to the appellant, the raised seating area utilises existing seating areas which were either side of a former access. Nevertheless, this has resulted in a larger, raised seating area. This combined with the closure of the former access, has resulted in some erosion of spatial and visual openness.
16. The 'colonnade' comprises pairs of vertical Oak posts joined at the top with a horizontal Oak beam. These are arranged in a row to form a walkway. Notwithstanding that this incorporates gaps, the overall arrangement of this has a spatial and visual presence which reduces openness.
17. The seating booths are constructed of timber and incorporate roof forms. These are generally arranged in groups. Because of the footprints, massing and scale, of these groups of seating booths, these also reduce visual and spatial openness.
18. Although the appellant argues that the pergola is a temporary structure, this has been on site for a considerable period. This, combined with its sizeable footprint and height, results in a large structure with a degree of permanency, which has resulted in considerable reduction in spatial and visual openness.
19. Notwithstanding their heights, roof forms and timber construction, the sheds because of their footprints and massing also reduce spatial and visual openness, respectively.
20. The hard landscaping introduced along parts of the beer garden does not impact on openness. In the context of the structures this is attached to, the festoon lighting which comprises small lighting elements attached to lengths of cabling, does not result in any unacceptable effect on openness. The proposed fencing and gates are marginally above the heights of what could be erected under permitted development. In light of this fallback, the fencing and gates have no appreciable impact on openness. The access ramp is a modest structure and largely viewed against the back drop of the pub building and therefore its effect on openness is limited. The lamp posts are tall and slender and therefore these have a limited effect on visual openness.
21. I am satisfied that the proposal does not conflict with the purposes of the Green Belt, as set out in the Framework, which equally apply to MOL.

22. Nevertheless, and even though I have found that individually some of the elements of the proposal have limited or no impact on openness, cumulatively in views from within the appeal site and nearby, the proposal significantly reduces the spatial and visual openness of the appeal site and MOL. As such, the proposal fails to preserve the openness of MOL.

#### *Heritage assets*

23. The appeal site is located within the Teddington Lock Conservation Area ('CA'). There are also other designated heritage assets nearby.
24. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special regard to the desirability of preserving listed buildings and their setting. Section 72(1) of the same act imposes a requirement that special attention should be paid to the desirability that the character or appearance of the conservation area should be preserved or enhanced. Paragraph 201 of the Framework requires me to assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset).
25. The Anglers is identified as a Building of Townscape Merit ('BTM'). Based on the Teddington Lock CA Appraisal, this is described as: 'The two-storey 18th century building has a parapeted roof, white painted render finish and timber sash windows. This building is quite simple and elegant. The rear elevation, as seen from Teddington Footbridge, is more rustic in character with red/brown brick and black sash windows of more square proportions.'
26. The significance of this property is derived from its architectural form and appearance. Having regard to the Council's Supplementary Planning Document Buildings of Townscape Merit (Adopted May 2015) and the Framework, this qualifies as a non-designated heritage asset, which has a degree of significance meriting consideration in this decision.
27. The Teddington Lock CA is a comparatively small but a diverse conservation area, which includes a wide variety of buildings, structures and landscapes. The whole conservation area is unified by its relationship to the river.
28. Along the riverside there is a busy collection of boathouses, moored boats, wharfage and slipways which create a rich panorama of riverside activity and make this a centre of navigation and tourism on the River Thames.
29. Therefore, the significance of the Teddington Lock CA relates to its history which includes the relationship with the River Thames and the architecture of its various buildings and structures, which includes the Anglers and appeal site. As a BTM, and because of its location along the riverside, the Anglers makes an important contribution to the Teddington Lock CA.
30. To the immediate north of the appeal site is Teddington Footbridge. This is Grade II listed and comprises a single span suspension bridge. This was built in the late nineteenth century to replace the former ferry crossing operating between Teddington on the south bank and the north bank of the River Thames. The significance of this heritage asset derives from its history and this being a functional but attractive and relatively intact transport structure.
31. On the opposite side of Ferry Road to the appeal site is 27 Ferry Road (The Boat House) which is a Grade II listed building. This forms part of the former

Tough's Boatyard, now offices and café. Its significance is largely associated with its history and architecture.

32. There is a degree of intervisibility between the above Grade II listed heritage assets and the appeal site. Therefore, the appeal site forms part of the setting of these heritage assets. Even so, I am mindful that the appeal site is an established beer garden which is in part screened from these heritage assets by boundary treatments and planting. Given this context, whilst the proposal brings some change to the setting of these heritage assets, I do not consider this results in any unacceptable harm.
33. The proposal introduces considerable development in the beer garden of the Anglers. Because this relates to an established public house and such uses are not uncommon along the riverside, the proposal does not result in any harm to the setting of the Anglers or the significance of the Teddington Lock CA.
34. As such, and notwithstanding my findings in respect of MOL, the proposal would not harm the character and appearance of the area or heritage assets. Therefore, the proposal accords with LP Policy LP 1, this requires all development to be of high architectural and urban design quality. The proposal is also consistent with LP Policy LP 3, which requires development to conserve and, where possible, take opportunities to make a positive contribution to the historic environment of the borough. I find no conflict with Policy LP 4 of the LP, which seeks to preserve, and where possible enhance, the significance, character and setting of non-designated heritage assets, including Buildings of Townscape Merit. Also, the proposal accords with LP Policy LP 18, which says that the natural, historic and built environment of the River Thames corridor and the various watercourses in the borough will be protected.

#### *Flood Risk and drainage*

35. In accordance with LP Policy LP 21 a Flood Risk Assessment is required for all development in Flood Risk Zone 3a and 3b. The site lies in Flood Zone 3. The Flood Risk Assessment (August 2023) concludes that the site lies within an existing developed area and the proposal is for minor development in a robustly defended Flood Zone. Furthermore, that local authority designated access/egress routes are immediately available and not affected by the works and the sites operator is signed up to flood warning schemes. That there is no documented evidence of flood risk from any other sources. Also, that the development has a negligible impact on flood risk elsewhere and assuming the warning and evacuation procedures can be maintained over the lifetime of the development, then from a flood risk perspective the external ground-works to an existing Public House are considered acceptable.
36. I am informed that the Environment Agency have been consulted and have raised no objection but advise that a Flood Risk Activity Permit should have been obtained for the works. I have little information in respect of this and in any event, this would be a matter for the Environment Agency.
37. However, the proposal does not set out how the development would achieve the required surface water runoff rates or if any Sustainable Drainage Systems have or should be incorporated into the scheme. These are required under London Plan Policy SI 13. However, and in light of the above, I am satisfied that these matters could be dealt with by the Council's suggested condition if the appeal succeeds.

38. As such, the proposal would not conflict with LP Policy LP 21 and London Plan Policy SI 13. Together, these policies require that all developments should avoid, or minimise, contributing to all sources of flooding, without increasing flood risk elsewhere, and promote sustainable drainage.

#### *Fire Safety*

39. A Fire Risk Assessment was submitted with the appeal. This largely assesses the fire risk aspects in relation to the pub building and only makes limited reference to the beer garden insofar as describing some elements of this. Moreover, in relation to the proposal this does not specifically address all of the criteria set out in Policy D12 of the London Plan.
40. The Council has suggested a condition requiring a Fire Safety Statement. However, the submitted Fire Risk Assessment already concludes that: 'Essential action must be made to reduce the risk. Risk reduction measures should be implemented within a defined time period.' In light of this and because the development has already been undertaken, in the interests of fire safety, I am not satisfied that this matter should be left to a planning condition. As such, this would need to be addressed before the grant of planning permission.
41. Therefore, it has not been demonstrated that the proposal meets the fire safety requirements of Policy D12 of the London Plan.

#### *Other considerations*

42. In summary, the appellant asserts that the proposal is necessary for the operation of the public house as a meeting space for members of the community and as a sporting and leisure facility, and its vitality as a well-established public house within Teddington, and to sustain the viability of the non-designated heritage asset. Nevertheless, and whilst there may be some local and national policy support for these assertions, there is limited evidence to show how without the proposal and associated inappropriate development, these objectives could not be otherwise secured.
43. I have found that the access ramp is also inappropriate development in MOL. In accordance with the Framework, I attach substantial weight to the harm caused to the MOL. The access ramp allows wheelchair users to access the appeal site. As such, this carries moderate weight. I have had due regard to the Public Sector Equality Duty set out under the Equality Act 2010. However, the harm caused by the appeal proposal outweighs its benefits in terms of eliminating discrimination against persons with the protected characteristics of disability, advancing equality of opportunity for those persons and fostering good relations between them and others.

#### *Planning balance*

44. Overall, the proposal would harm the MOL by way of inappropriateness and loss of openness. The Framework requires substantial weight to be given to any harm to the Green Belt which applies equally to MOL. The proposal also fails to meet the Council's fire safety requirements in respect of new developments.
45. Having taken account of all considerations raised in support of the proposal, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary

to justify the development do not exist. As such, the proposal conflicts with Policy LP 13 of the LP and the Green Belt provisions of the Framework.

### **Conclusion**

46. I have found that the proposal would not harm the character and appearance of the area or heritage assets and would be acceptable in respect of flood risk and drainage. I have also found that the proposal would result in harm to the MOL and fails to show that the proposal meets the Council's fire safety requirements. For these reasons and overall conflict with the development plan, I conclude that the appeal should be dismissed.

*M Aqbal*

INSPECTOR