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## Appeal Decision

Site visit made on 10 June 2025

by **G Bayliss BA (Hons) MA MA MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

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**Appeal Ref: APP/K3605/W/24/3356595**

**Skylark/ Ms De Hoop Boat Mooring, Old Wharf, River Thames, NW of Cherry Orchard Gardens, West Molesey, Surrey KT8 1QY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr E Gjika against the decision of Elmbridge Borough Council.
  - The application Ref is 2024/0981.
  - The application sought planning permission for a temporary period for retrospective application for a residential mooring of a houseboat known as Skylark/Ms De Hoop without complying with a condition attached to planning permission Ref 2020/2061, dated 26 April 2022.
  - The condition in dispute is No 3 which states that: The development hereby permitted shall be limited to a period of two years from the date of this decision. At the end of that period or when the moorings cease to be occupied by those occupants listed in Condition (2), whichever is the soonest, the boats hereby permitted and all associated paraphernalia including those permitted by Condition (5) shall be removed and the land restored to its former condition within three months of the cessation of use in accordance with a scheme of work that shall first have been submitted to the Local Planning Authority for approval in writing.
  - The reason given for the condition is: to allow time for the family to find alternative accommodation or an appropriate and suitable location. This period would also allow the Council time to complete its ongoing work in respect to addressing permanent residential need for boats.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) in December 2024. I have considered its amendments against the earlier version and the parties have provided updated comments which I will take into consideration in this appeal.
3. Retrospective planning permission was granted following an appeal hearing on 26 April 2022 for a temporary period for the residential mooring of a houseboat known as Skylark/Ms De Hoop<sup>1</sup> (comprising two boats). At the same time, the Inspector considered retrospective applications for other residential moorings of houseboats in a similar area which were all dismissed. In the case of the appeal before me, although the Inspector found harm in relation to the Green Belt, flood risk, ecology and other harm, the residential mooring of the houseboat was granted a temporary two-year consent, subject to conditions, as the welfare of a child was the primary concern, and this helped to demonstrate the 'very special circumstances' necessary to outweigh the harm to the Green Belt and other harms identified. The

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<sup>1</sup> Planning appeal Ref. APP/K3605/W/21/3266938

Inspector considered that a 2-year period would allow the Council to progress its policy position in relation to permanent residential moorings and/or for the family to find alternative accommodation. A discharge of conditions application was granted in 2022 (Ref. 2022/2187) which included confirmation that the appellant would comply with the 2-year time period (Condition 3). This appeal proposal seeks to vary that time limit. The appellant requests that planning permission is granted on a permanent basis or for a further temporary period to allow the Council to find suitable, alternative moorings for the appellant that are better than the current mooring. The appellant also requests that consideration is given to restricting planning permission to the appellant and his immediate family.

4. The appellant is seeking either a permanent permission or a further time-limited permission, which the appellant suggests as being 3-4 years. The houseboat has been on the current mooring for a significant amount of time, and I am mindful of the reasons why the previous Inspector considered that 2 years would be an adequate period for the temporary consent. Therefore, in my decision, I will primarily consider a permanent planning permission but will also have regard to a temporary permission and restricting a permission to a personal consent where appropriate.
5. Since the earlier appeal was determined, the Council advises that the emerging Local Plan has been found to be unsound following an Examination in Public and that no weight should be afforded to the previously emerging strategic policies. I will, however, refer to The Boat Dwellers Accommodation Assessment and The Boat Dwellers Site Assessment (2022) which were prepared as background documents and which have some relevance to this appeal.
6. The previous Inspector considered that matters of waste and recycling, and cycle parking could be controlled by suitably worded planning conditions. Nevertheless, in this case, the Council has maintained these reasons for refusal and both parties have addressed them. As the appellant's mooring includes a second boat for storage, it seems reasonable that a bicycle could be securely stored on that boat without causing too much inconvenience and I am satisfied that this matter could be controlled by condition were I to allow the appeal. In relation to waste and recycling, I am concerned by the distance of the houseboat from a public road and I need to be assured that all types of waste can be appropriately dealt with. I have therefore considered this matter in my decision.
7. Enforcement appeals relate to this site and others nearby which I am advised are currently invalid. There is no substantive evidence to suggest that these are determinative to the issues before me, and I will deal with this appeal on its merits.

### **Main Issues**

8. The main issues are:
  - Whether or not the development would comply with national planning policy which seeks to steer new development away from areas that are at the highest risk of flooding;
  - Whether or not the development is inappropriate development in the Green Belt, including its effect on openness, having regard to the Framework and relevant development plan policies;

- Whether or not the development would provide acceptable living conditions for existing and future occupants with regard to waste management;
- The effect of the development on protected species;
- Whether or not the development is in an acceptable location with regard to the development plan, including the character and appearance of the area; and
- If 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 the development.

## Reasons

### *Flooding*

9. The appeal site lies within Flood Zone 3B, a functional floodplain with the highest category for flood risk. The previous Inspector noted that no sequential test followed by an exception test or flood risk assessment had been undertaken by the appellant to accord with the Framework and Policy CS26 of the Elmbridge Core Strategy (2011) (ECS). The Inspector considered the appellant's claim that the development was a water-compatible use and that boat dwellers would know what to do in the event of a flood. However, both the Council and the Environment Agency (EA) commented that a flood risk assessment would still be required for water-compatible development. The Inspector found that even though the boat itself was considered less of an issue because it would float, the critical matter was a failure to adequately demonstrate the effect of flooding on the riverbank and towpath, and what mitigation would be necessary and appropriate for evacuation. The Inspector concluded that flood risk matters were not adequately known and understood and judged the development to be harmful in that regard.
10. In the appeal before me, the circumstances in relation to flooding appear to be largely the same and the appellant is mainly relying on the plans approved in that appeal and the further details submitted to discharge the flood risk assessment condition<sup>2</sup>. However, both the Council and EA maintain that whilst the submitted information was acceptable for the temporary consent, it would not be suitable to inform a permanent residential use as it would not comply with the Planning Practice Guidance<sup>3</sup> or the Framework.
11. The EA has again strongly objected to this appeal proposal, reiterating that the site falls within a flood risk vulnerability category that is inappropriate to the Flood Zone and the absence of an adequate site-specific flood risk assessment. They state that whilst boats are water compatible, people are not and if permanent residential use is proposed in a high-risk flood zone, a safe access/egress route is required during a flood. They consider that no such route has been proposed or assessed. They further comment that the proposal has not considered increased flood risk due to climate change, emergency response, and the effect of the development on flood flow routes.

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<sup>2</sup> Ref. 2022/2187, Condition 8

<sup>3</sup> Flood risk and coastal change

12. The appellant states that when flooding recently occurred, the appeal site and towpath near Cherry Orchard Gardens did not flood and the boats were safe. However, that is insufficient for me to be certain that this will be the case in the future. The appellant also refers to the forthcoming Thames Flood Alleviation Scheme as being able to deliver a reduction in flood risk. However, the EA comments that this scheme is still underdevelopment with no fixed timeline for its implementation and, whilst it will deliver a reduction in flood risk, at this stage it is not able to be used as evidence to allow development in an area which may benefit from it in the future. In any event, it has not been adequately demonstrated to me that this scheme on its own would ensure the safety of the occupiers of the houseboat.
13. The appellant refers to a recent appeal decision relating to a mooring on the river in Spelthorne. However, based on the details before me it appears that this boat is in a residential area/boatyard and it is not clear whether a flood assessment was submitted as part of the proposal or whether a safe access/egress route would be required in the event of a flood. I therefore do not find that this example is comparable to the circumstances before me.
14. Flooding may be an issue which affects all boats moored along this part of the river, and the appeal site may have some attributes which favour it in the event of a flood. However, in the absence of an adequate flood risk assessment and mitigation strategy, I am not assured that the flood risk associated with a permanent use or extended temporary use of this site is fully understood. It is therefore not possible to determine the safety of the development and its occupants for the lifetime of the proposal. It is suggested by the appellant that similar flooding concerns relate to boats on temporary overnight moorings, but the occupants of these boats would be able to move more readily to other suitable sites or to avoid areas where flooding is a known concern.
15. Considering the further evidence submitted as part of this appeal and my assessment of the site, I see no reason to conclude differently to the previous Inspector. The development does not comply with the Framework which seeks to steer new development away from areas that are at the highest risk of flooding. It also conflicts with ECS Policy CS26 and Policy DM13 of the Elmbridge Development Management Plan (2015) (EDMP) which seek to reduce flood risk, and for development to be located in areas which accommodate flood resistance and resilience measures.

#### *Whether inappropriate development and openness*

16. **Whether inappropriate development:** The Framework states that great importance is attached to Green Belts and in considering any planning application local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. It identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. It goes on to state that 'inappropriate development' in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In relation to the Green Belt, EDMP Policy DM17 is broadly consistent with the Framework.

17. Paragraph 154 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. The appellant considers that paragraph 154h) v<sup>4</sup> is relevant, suggesting that the bracketed list in this exception is neither closed or exhausted. The previous Inspector considered this same exception, along with similar observations from the appellant, and concluded that the Framework policy objective was to restrict residential uses in the Green Belt to infilling in villages, limited affordable housing or the redevelopment of previously developed land. Therefore, although it was feasible that the mooring of boats could form part of this exception, the Inspector considered that it did not extend to the permitting of permanent residential moorings through the back door. I have no compelling reason to disagree with the Inspector's findings and recognise that this view was supported by the Kingston Judgement<sup>5</sup>. Here the judge said that 'residential uses do not fall within paragraph 150(e)' (now paragraph 154h) v) because they are not of the same 'flavour or extent; as the 'such as' sports and recreation, cemeteries and burial grounds uses listed. 'If it [150e]) was simply an open-ended category then it is not clear why examples would be given at all.'" In any event, this exception is predicated on the preservation of openness and, as I set out below, I find harm in this regard. I therefore find that this exception is not applicable to the case before me.
18. The revised Framework in December 2024 introduced further developments that should not be regarded as inappropriate. In relation to paragraph 155, the appellant considers that the site is Grey Belt. As part of the glossary definition of 'Grey Belt' it is noted that this excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development. Footnote 7 includes areas which are at risk of flooding. Given my findings above, which references a detailed and fully justified objection from the EA, risk of flooding is a strong reason for refusing the development. The development does not therefore comply with the exception in paragraph 155 of the Framework.
19. Based on the above, the development is inappropriate development.
20. **Openness:** From the towpath near to the appeal site I saw moored boats of varying sizes and conditions, with some variety to the appearance of the land immediately around them. I noted that some boats had sectioned off areas of land alongside, some with domestic paraphernalia and storage of items, some boats were tied up without any visible boundaries or items on the bankside, and other boats appeared linked to dwellings nearby. I share the previous Inspector's conclusions that boat moorings are part of the wider character of this area. I also saw that the towpath is a popular recreational route.
21. The appeal site is located on the south bank of the river near to an area known as The Old Wharf which lies some distance from the road access at Cherry Orchard Gardens. At this point, the southern riverbank has a relatively open, grassy character with some trees and shrubs. It is in a relatively tranquil, rural area with Molesey Reservoirs to the rear which are mainly surrounded by greenery, reinforcing its rural character. I also noted dwellings on the opposite river bank, many of which were in generous plots with a rural character. Whilst the moored

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<sup>4</sup> Framework paragraph 154h) v. : material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)

<sup>5</sup> Ref: Royal Borough of Kingston Upon Thames v SSLUHC [2023] EWHC 2055 (Admin)

boats along the southern bank were typically spaced out in an irregular fashion, I saw a loose clustering of boats, including the appellant's houseboat, alongside the more defined bankside at The Old Wharf.

22. The EA stated in the previous appeal that The Old Wharf was historically an area for unloading coal to power the machinery at the reservoirs. They explained that coal boats would come and go on a daily basis with the wharf remaining free of boats for some of the time. I agree with the previous Inspector that the historic use of The Old Wharf is very different to how it is currently being used.
23. The appellant's houseboat, comprising the 2 boats, lies alongside a grassed area with a post and rope boundary enclosing a lengthy and seemingly private area which extends almost up to the towpath. Shrubs provide an element of screening. Spatially and visually, the permanence of the boat in this location and the enclosed area has eroded the openness of the Green Belt to a modest degree.
24. The appellant suggests that there is little visual difference between how the appeal site is currently being used and boats using temporary moorings. The appellant regards this as a fallback position. Whilst the appearance of the boats themselves would be similar, the previous Inspector, considering several retrospective applications for residential moorings at the hearing, noted that permanent moorings were typically associated with enclosures and domestication and that the visual differences with temporary moorings were significant. The Inspector also noted that there was little to suggest that temporary moorings would be in constant use, even along the wharf side, and there would be times when the riverbank would be open. In relation to this appeal, whilst there were no domestic items or storage alongside the appellant's boats within the enclosed area, I did see areas of storage and domestic paraphernalia nearby, although it was not possible to identify who this belonged to. I also saw that several other boats nearby had more solid fenced-off areas which, in some cases, substantially screened views from the towpath towards the riverside, and some had domestic and storage items within them. From the degree of permanence of many of these features, these boats appeared to be in permanent residential use, and these sites appeared very different to the boats with no associated enclosure or domestic items which appeared to be temporarily moored. I therefore agree with the previous Inspector's view.
25. From what I have seen and read, there is a reasonable expectation that if I allowed the appeal, then the area around the boats is likely to become more identifiable as a domestic area, with tables and chairs, waste storage etc. along with the creation of more privacy, as is evidenced by what is happening elsewhere around this site. Even if this was sought to be controlled by condition were I to allow the appeal and even if the appellant removed the enclosure and planting, it would be potentially unreasonable to resist some of this taking place because it would follow from a permanent occupation of the site. This would further erode the openness of the Green Belt.
26. Despite the passage of time since the last appeal, there is no compelling reason to conclude differently to the previous Inspector. The development is inappropriate development and causes harm to the openness of the Green Belt.

### *Waste Management*

27. The Council refers to its civil responsibility to provide refuse facilities to a residential site and states that this would not be possible on the appeal site as there is no suitable access. The Council agreed a waste management plan as part of the discharge of conditions application which included using EA facilities at Sunbury Lock for routine disposal of foul sewage and disposing of other domestic waste off-site either at point-of -collection or at recycling/refuse collection points. The Council advises that this plan was sufficient only for the temporary two year period of the consent.
28. The EA comment that the facilities at Sunbury Lock are discretionary only to help encourage the recreational use of river boats in transit and they are not intended to support permanently moored boats. It further comments that it is not guaranteed that these facilities or others nearby would continue to be available. The EA considers that foul drainage should be connected to a main sewer or other approved means of disposal to ensure that development does not cause an unacceptable risk of pollution to the water environment. Therefore, whilst the appellant may be happy to continue managing waste in the manner temporarily approved, I am not certain that the facilities currently used would be available in the long term. I am also not assured that these arrangements are adequate for all domestic needs. Nor can I be certain that any future occupiers of the houseboat would be happy to do the same.
29. A personal, permanent permission could be tied to the current occupant, but, given the above, I am not satisfied that the current, temporary waste refuse plan is acceptable for a further temporary or permanent basis. The management of waste would be different with short-term moorings as these travelling boats would most likely have access to serviced facilities.
30. I therefore consider that the development does not provide acceptable living conditions for existing and future occupants with regard to waste management. There is conflict with EDMP Policy DM8 which, amongst other things, requires refuse storage points to be accessible for collection vehicles and users. It also conflicts with the Framework which requires development to be appropriate for its location and provides a high standard of amenity.

### *Ecology*

31. In the previous appeal, the Inspector noted that the appellant's ecology report did not adequately survey the effect of the development on surrounding designated areas. These sites nearby include the Knight and Bessborough Reservoirs Site of Special Scientific Interest which forms part of the London Waterbodies Special Protection Area (SPA) and Ramsar. This is noted for overwintering birds, including the Shoveler and Gadwall but also of national importance for the Cormorant and Goldeneye. Also, the River Thames is designated as a Site of Nature Conservation Interest, recognised for its importance to water birds. The Inspector concluded that without undertaking such survey information of the wider area, it could not be known whether the development was having any harmful effect on these designated sites, and whether mitigation would be necessary and deliverable. Accordingly, the Inspector took a precautionary approach and found that the development would not accord with the relevant policies and the Framework.

32. Despite the Inspector's findings and further consultation on the current application, including an objection from the Surrey Wildlife Trust, no further substantive ecology information by an appropriately qualified specialist has been submitted by the appellant. I, therefore, have no compelling reason to conclude differently to the previous Inspector. The appellant has failed to demonstrate that the development would not be harmful to the ecology of the area including waterbodies, protected habitats and species. There is conflict with ECS Policies CS12 and CS15, and EDMP Policy DM5 and DM21. Alongside the Framework, these require the conservation and enhancement of biodiversity by protecting and seeking to improve all sites designated for their biodiversity importance, habitats and wildlife.

#### *Location*

33. EDMP Policy DM13 seeks to ensure that development proposals and uses at the riverside protect and enhance its character and landscape. I have already found that the permanence of the appeal development including the enclosure of an area of riverbank has caused harm to the openness of the Green Belt. This has harmed the distinctly rural character of the area which is a popular recreational route. I have also noted the potential for further harm should any storage or domestic items be placed near to the houseboat or the boundaries made more solid. I have also concluded that permanent residential houseboats in this vicinity have the potential to cause more harm to the area's character and appearance than those on temporary moorings.
34. The previous Inspector commented that the development broadly complied with parts of several criteria in Policy DM13, and that none of the criteria prohibited the mooring of boats. However, the Inspector concluded that the policy must be read as a whole, and highlighted conflict with criteria relating to character and appearance, biodiversity and flood risk. Importantly, the Inspector highlighted conflict with criterion a. which requires a strip of land to be retained free of development to maintain the open character of the riverside. Conflict was also found with ECS Policy CS12 which similarly looks to maintain and enhance the environment around the river as well as supporting public access and reducing flood risk. I agree that there is clear conflict with these policies. In particular, the enclosure of the river edge has encroached on the open character of the riverside and prevented access to others.
35. There are other residential moorings in the general area, and some of these may be for permanent houseboats as opposed to recreational moorings. However, it is unclear to me which are unauthorised or the circumstances surrounding any that are permitted. It is also suggested that EDMP Policy DM22 encourages further permanent moorings or houseboats if they protect the appearance of the riverside and do not add to congestion. However, given my findings above, the development does not protect the appearance of the riverside. Therefore, I agree with the previous Inspector and consider that the material change of use arising from this development is incompatible with the open riverside location. The development is therefore not in an acceptable location with regard to the development plan and has a harmful impact on the character and appearance of the area. There is conflict with EDMP Policies DM2 and DM13, and ECS Policy CS12. There is also conflict with the Framework which requires that developments function well and add to the overall quality of the area.

### *Other considerations*

36. The Framework is clear that substantial weight should be given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
37. I have already considered the fallback position and concluded, along with the previous Inspector, that the visual difference between the appeal development, along with other permanently moored boats, and temporarily moored boats is significantly different. I have also concluded that, even on the Old Wharf, there would most likely be periods when parts of the riverbank would be free of touring boats reflecting its open, rural character. The appellant suggests that associated activity/disturbance would be greater with temporarily moored boats, but I am unclear as to why this would be necessarily harmful. I have also already considered that in relation to waste, boats on temporary moorings have the ability to travel to appropriately serviced sites or to take their waste home. Those using temporary moorings can also choose not to visit flood prone areas. I have visited the Thames Ditton marina to view the residential moorings established along the river, but I have insufficient evidence to understand whether the circumstances before me are in any way similar. I therefore do not consider that the suggested fallback would have any similar or worse effects than the appeal development and it therefore carries very little weight as another consideration in support of the scheme.
38. The Council confirms that it does not have a 5-year supply of deliverable housing sites. Therefore, 1 additional dwelling, would make a small but nevertheless worthwhile contribution to the Borough's housing need. Furthermore, Paragraph 61 of the Framework highlights that the needs of groups with specific housing requirements should be addressed, including an appropriate mix of housing types for the local community. It would also offer low-cost accommodation for those who wish to live off-grid. Whilst the appellant disputes the way in which information was gathered for The Boat Dwellers Accommodation Assessment and Boat Dwellers Site Assessment, these documents, identify a need for at least 10 licenced permanent moorings. Furthermore, the Council were unable to identify any land available to meet that need. There is, therefore, a clear, demonstrable and persistent unmet need for permanent residential moorings. As such, the appeal scheme delivering one unit of accommodation as this mooring attracts moderate weight.
39. Although the previous Inspector found harm by way of inappropriateness, loss of openness and any other harm, the welfare of a child provided the most significant factor that led to the demonstration of the 'very special circumstances' to outweigh the significant harm identified. On that occasion the appellant and his partner had an infant living permanently on the boat. The appellant advised that if the appeal were dismissed the family would be homeless and the Council was not able to set out definitively whether alternative accommodation would be available. The Inspector granted the temporary consent to allow the Council time to complete its ongoing policy work to address the need for permanent residential moorings and/or for the family to find alternative accommodation.
40. It appears that the permanent circumstances of the appellant have now changed since this appeal, and the appellant's partner and child are now in alternative

accommodation. Although it is stated that the child stays on the boat with the appellant for 3-4 days per week, there is little other evidence through medical or school records to suggest that the appeal site is the child's primary residence.

41. I have taken account of the advice in Paragraph 10 of the PPG<sup>6</sup> which relates to the best interests of a child in determining planning applications. This states that a decision maker needs to consider whether the children's best interests are relevant to any planning issue under consideration and the approach needs to be proportionate. It goes on to state that the decision maker needs to consider the case before them and be mindful that the best interests of a particular child will not always outweigh other considerations including those that impact negatively on the environment or the wider community. I have also had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
42. I have acknowledged above the reasons why the appellant is pursuing this proposal and have considered the sensitive nature of the information supplied to me as part of the appeal. The benefit to the individual and the appellant's family arising from an improvement in their living conditions is recognised. I also recognise that the appellant has strong connections with the local area. However, as the child no longer permanently resides on the boat and appears to have a permanent place to live elsewhere, this matter carries limited weight as a 'very special circumstance'.
43. Matters relating to riparian rights and landownership are not considerations for this appeal. There may be other permanently occupied houseboats moored in the area but there is little evidence before me to suggest that their circumstances are in any way similar to those before me such that I might take a different view. These matters do not amount to very special circumstances.

*Green Belt balance and whether very special circumstances exist*

44. I am conscious of the Borough's unmet need for permanent residential moorings and the lack of appropriate sites which would be adequately serviced by local infrastructure. Despite this pressing need, and the Council's efforts so far, it appears that identifying and securing appropriate sites is some way off. This leaves the appellant in a difficult position which has endured for some time. However, I have seen little evidence to indicate that the appellant has been actively looking for alternative sites during the two years of this temporary permission. In the absence of allocated sites or a policy on permanent moorings, each application will need to be assessed on its merits and where harm is identified the benefits must outweigh that harm. In this case, I have found significant harm arising from inappropriateness, loss of openness, and any other harm.
45. Very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. I have found that the housing need within the Borough, and the need for permanent residential moorings attracts moderate weight. The issue relating to the welfare of a child has

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<sup>6</sup> Planning Practice Guidance Ref. 21b-028-20150901

changed since the previous appeal, and this now carries limited weight. The other considerations in this case do not clearly outweigh the substantial weight that I must attribute to the harm arising from inappropriateness and loss of openness. Consequently, the 'very special circumstances' necessary to justify the development do not exist. Even if I were to consider a further temporary consent to allow the Council time to progress its policy process, this would not be appropriate due to the absence of a flood risk assessment, unknown effects on the ecology of the surrounding area and other matters raised. These matters are of such concern that without adequate evidence and mitigation a temporary consent is not justified. For the same reasons, it would be not acceptable to grant a personal consent. Therefore, the development conflicts with the Framework which seeks to protect the Green Belt and does not comply with EDM Policy DM17 referred to above.

### *Planning balance*

46. Where a Council does not have a Framework compliant housing land supply, Paragraph 11d) of the Framework advises that where the development plan policies which are most important for determining the application are out of date, planning permission for new housing should be granted unless: 11d)i. the application of policies in the Framework that protect areas or assets of importance provides a strong reason for the development proposed or 11d)ii. the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. I have found that the risks arising from flooding and Green Belt provide a strong reason for refusing this development. The presumption in favour of development as set out in paragraph 11d) of the Framework is, therefore, not engaged and the scheme should be determined under a normal planning balance.
47. The provision of one, permanent dwelling would assist housing supply, and I have recognised the need across the Borough for affordable housing and permanent residential moorings. These matters attract moderate weight. I have also taken account of the appellant's personal circumstances and the welfare of a child. The benefit to the individual and the appellant's family arising from an improvement in their living conditions is recognised, and these are personal circumstances to which I attribute weight in favour of the appeal. However, the circumstances have changed since the last appeal and the welfare of the child no longer outweighs the negative effects identified. This matter carries limited weight. I have also considered the fact that the appellant does not appear to have been actively seeking alternative permanent moorings or other accommodation.
48. The permanent residential mooring of this houseboat would constitute inappropriate development in the Green Belt which should not be approved except in very special circumstances. It would also not preserve, and would have a harmful effect on, the openness of the Green Belt. I have also found that risk from flooding also provides a strong reason for refusing the development and there is conflict with the development plan in relation to ecology, character and appearance, waste and matters of principle. For the reasons explained, I have also found that a further temporary consent or a personal consent would not be acceptable. These harms along with the other harms identified would conflict with the Framework and the development plan when read as a whole.

### **Other Matters**

49. Matters relating to the production of the emerging Local Plan and Boat Dwellers Accommodation Assessment and Boat Dwellers Site Assessment, including the way in which the information was gathered, is for the Council and is of little relevance to this appeal.
50. Other matters have been raised by third parties in respect of noise, anti-social behaviour, fire risk, the effect of parking on nearby streets, precedent and effect on local property values. These matters appear to have been addressed by the previous Inspector, and I see no substantive new information which suggests that any harm has been adequately demonstrated sufficient for me to find against the appeal on these matters.

### **Conclusion**

51. The appeal scheme conflicts with the development plan when considered as a whole and material considerations do not indicate that a decision should be taken otherwise. Dismissing the appeal would be a proportionate response to the level and range of harms that I have identified, even taking into account the rights of the appellants and the best interests of the child. Accordingly, I conclude that the appeal should be dismissed.

*G Bayliss*

INSPECTOR