



Appeal Decision

Hearing held on 10 July 2019

Site visit made on 10 July 2019

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/E5330/W/18/3211145

Eltham Town Football Club, 176 Footscray Road, London SE9 2TD

- 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 Eltham Town Football Club (ETFC) and Skillcrown Homes against the decision of the Royal Borough of Greenwich Council.
 - The application Ref 17/2487/F, dated 3 August 2017, was refused by notice dated 21 March 2018.
 - The development proposed is demolition of the existing clubhouse and structures on the site, and the erection of a new clubhouse (Use Class D2), improvements to the existing football pitches, a new under 7/8s football pitch and the erection of 21 residential dwellings (Use Class C3), together with associated car parking, landscaping and infrastructure works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The main parties have agreed that any approval should be the subject of a Section 106 planning obligation securing the provision of 21 affordable units (48% as affordable rented and 52% shared ownership) and financial contributions to sustainable transport measures, employment/training and carbon off-setting.

Main Issues

3. These are:
 - i. the effect of the proposal in the context of development plan policy for protecting Metropolitan Open Land (MOL) from inappropriate development and preserving its openness;
 - ii. the effect on the surrounding landscape as defined an Area of Special Character (ASC) and part of the South East London Green Chain (SELGC);
 - iii. whether the proposal would preserve or enhance the character or appearance of the Eltham Palace Conservation Area (EPCA)
 - iv. whether the harm to MOL, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.
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Reasons

i. The effect on MOL

4. The proposals relate to land occupied by ETFC situated to the rear of frontage development along Green Lane and Footscray Road. The existing club house and its parking area are accessed from a short cul-de-sac, Starbuck Close, which leads onto a small development of eight terraced townhouses. The first team football pitch lies beyond the club house and three further pitches are to the other side of the car park, at the rear of the housing along Green Lane. The far sides of the football pitches abut an extensive golf course and, combined with the appeal site, this forms part of a large area of MOL. A similarly-sized area of MOL is to the other side of Court Road. The linear development along this road dissects the two major green areas.
5. Policy 7.17 of the London Plan¹ (LP) sets out the Mayor's strong support to the protection of MOL from any development having an adverse impact on its openness. In respect of planning decisions, this policy gives MOL the strongest protection. This is equivalent to that protecting Green Belt, whereby inappropriate development should be refused except in very special circumstances and essential facilities allowed only where appropriate and maintaining openness. The supporting text applies the Green Belt policies set out in the National Planning Policy Framework (the Framework) which, following the February 2019 revision, are contained in paragraphs 133 – 147. Although not defined in the Framework, openness is generally held to be the absence of development and the effect of its loss can be both spatial and visual.
6. Policy OS2 of the Council's Core Strategy² (CS) establishes the same intent in regard to MOL in Greenwich as LP Policy 7.17, setting out the uses considered generally appropriate unless resulting in adverse change to the land's character. These uses include sports grounds and playing fields. CS Policy OS(a) provides detailed policy over development in MOL. It permits small-scale built development which has a primary function for a purpose ancillary and essential to an appropriate use as stated in Policy OS2. This is provided the design, scale, massing, siting and landscaping relate sensitively to other buildings on the site, to those on adjoining sites and to the character of the surrounding open land and the proposal is not visually intrusive and has a minimal impact upon the area's nature.
7. Paragraph 145 of the Framework regards the construction of new buildings as inappropriate in the Green Belt, as applied in this case to MOL, other than in certain exceptions. Regarding exception b), whether the new clubhouse with the inclusion of the social and catering facilities would be not inappropriate is a moot point. However, as the building would be sited deeper within MOL than the existing clubhouse this in a visual sense would not preserve its openness, which this exception requires. The same caveat applies to exception g), which might otherwise permit the clubhouse as the redevelopment of previously-developed land in this part of the site. Exception d), allowing the replacement of a building in the same use, is not dependent upon preserving openness but on this not being materially larger than that replaced. Although of a reduced

¹ The London Plan consolidated with alterations since 2011 - Mayor of London, March 2016.

² Royal Greenwich Local Plan Core Strategy with Detailed Policies – adopted 30 July 2014.

footprint, at two storeys and with a greater floorspace, I consider the new clubhouse to be materially larger than that existing, thus failing this exception.

8. Based on the Framework policy, the proposed new club house would therefore be inappropriate development within MOL that also reduces its inherent openness. Whilst of a high quality of architectural design, sensitive to its surroundings, the visual intrusion of the proposed clubhouse would give rise to conflict with the criteria set by CS Policy OS(a) for development in MOL. Harm from this part of the proposal therefore derives from both inappropriateness as well as loss of openness, and Framework paragraph 144 requires substantial weight be given to both.
9. However, the actual degree of MOL harm resulting from the new clubhouse is mitigated to a significant degree. This is through this being a replacement of largely appropriate facilities of a built footprint resulting in no net spatial loss of MOL, which make use of previously developed land and where existing tree growth immediately beyond, along with the further landscaping proposed, would limit visual intrusion on openness.
10. The 21 houses proposed would comprise a relatively compact development extending beyond the existing town houses into the area currently occupied by the club house. The development reaches beyond this and onto an undeveloped area between the first team football pitch and the back gardens of dwellings fronting Footscray Road. However, this housing scheme would comprise more than either limited infilling or the partial or complete redevelopment of previously developed land so cannot be classed as not inappropriate under exception g) of Framework paragraph 145.
11. In respect of the effect on openness in a visual sense, the site is partly enclosed within boundary trees. The impacts would be mainly from the development as viewed from the adjacent housing and less so from internal parts of the MOL. In a spatial sense there would be a net loss to the openness of MOL through the housing extending beyond the previously-developed footprint of the existing clubhouse into a greenfield area.
12. Whilst substantial weight must be attached to the MOL harm, due to the effect of the housing being both inappropriate development and causing a loss of openness, as with the clubhouse there are mitigating factors. Part of the built footprint would be the redevelopment of previously developed land which would not cause substantial harm to the openness of MOL. This contributes to meeting an identified affordable housing need which Framework paragraph 145 g) clearly signals as being not inappropriate. The development of housing over the remaining greenfield part of the site would amount to a small net loss of MOL on the edge of a built-up area. Here the degree of visual intrusion from the wider public realm would be quite restricted. The degree of MOL harm caused by the housing I find to be quite limited for these reasons.
13. Although a significant part of this proposal would be not inappropriate within MOL, in total the proposals would be, as well as causing an appreciable reduction in openness. However, I have had regard to the LVIA³ accompanying the application and agree broadly with its conclusions. These are that views to the appeal site are reasonably contained, due to the mature trees and vegetation located on the north, south and west boundaries and that the

³ Landscape and Visual Impact Appraisal Eltham Town Football Club se9. Turley May 2017

scheme is such that effects on both landscape character and visual amenity are minimised. This limits the degree of loss of openness in a visual sense. Whilst giving the harm found due to inappropriateness and loss of openness substantial weight, it is quite limited for the reasons explained. This is a consideration I return to in carrying out the balance as to whether very special circumstances exist to support the proposal.

ii. The effect on the surrounding landscape

14. Although the replacement clubhouse would be in a more separated position compared to the existing, this is a well screened part of the overall site where the building would be quite low profile, being partly submerged, and of a good quality contemporary design. The housing would be compactly arranged, sited in the most visually contained part of the site and also be of a good quality design. Unlike the uniform nature of the dwellings fronting Green Lane, the housing proposed would be adjacent the more mixed character of development along Footscray Road.
15. In addition to being within MOL, the appeal site is within an ASC as defined in the development plan proposals map. However, the scale, form, design and layout of the buildings proposed would integrate successfully into the surroundings and skylines and distant views both to and from the ASC would be adequately protected. Having given special consideration to the safeguarding, restoration and enhancement of the character, scale and quality of open spaces and associated building within the ASC, I find no material harm to arise from this proposal and consequently no conflict with CS Policy DH(I) in this regard.
16. The appeal site is within MOL that also forms part of the SELGC, which CS Policy OS3 states will be promoted and enhanced as an accessible, regional and local recreational resource and visual amenity. Although there is no public access to the appeal site, the improvements proposed to ETFC could increase sporting, recreational and other participation within this area. Consequently, I find no material conflict with the broad aims of this policy.

iii. Whether the proposal would preserve or enhance the character or appearance of the EPCA

17. The appeal site is located within and to one edge of the EPCA which is a large designation, encompassing the development along Court Road and the MOL either side. The Character Appraisal states that the area possesses a non-urban and predominantly rural character since it mainly comprises agricultural grazing land, public and private open space, playing fields and allotment gardens. I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the EPCA.
18. The proposal introduces a scheme of 21 modern dwellings and a new clubhouse of a contemporary design positioned more deeply within the site. As a whole the site would otherwise remain largely occupied by the football pitches that would frame the new developments. There would appear to be no disruption or cutting across of any historic features or linear patterns and the existing tree-lined boundaries would remain. The proposals are of an intrinsically good quality of design and landscaping, with the club house of a quite low-profile, contemporary appearance and the housing of a relatively compact layout.

19. It is appreciated that the significance of the EPCA relates in part to the expansive historic spaces that remain undeveloped around the important buildings, most notably Eltham Palace and Eltham Lodge, and this proposal would result in a degree of erosion of this at one fringe. Nevertheless, I find the harm caused by this peripheral and visually well-contained development to be relatively limited. Whilst I must give considerable importance and weight to any harm found, with the presumption that preserving the character and appearance of the EPCA is the preferred outcome, this would be less than substantial.
20. I have given weight to paragraph 196 of the Framework. This states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In this instance, the revitalisation of ETFC likely to result from these proposals, and the well-designed and improved facilities, would outweigh what I find to be the less than substantial harm to the EPCA. On this basis I find little harm to arise from any conflict with either LP Policy 7.8 or CS Policy DH(h) insofar as these require planning decisions to pay special attention to preserving or enhancing the character or appearance of the EPCA.

iv Whether very special circumstances would apply

21. Following the requirements of paragraph 144 of the Framework, I give substantial weight to the harm caused by this proposal to MOL through inappropriateness and loss of openness. However, whilst attaching this absolute degree of weight, the actual degree of MOL harm is quite limited for the reasons discussed. The peripheral location of the relatively small area of housing, partly occupying previously-developed land, that is in a quite visually contained space, well-screened by vegetation and framed to one side by a sports field, mitigates the actual degree of MOL harm significantly in my view. Similarly, the club house, whilst larger than the building it would replace, occupies a previously developed site with a reduced footprint where its position deeper into MOL is satisfactorily addressed by existing vegetation, thus limiting the degree of harm.
22. Coupled with the further landscaping measures proposed, these factors result in little material harm to the quality of the surrounding landscape or to the significance of the EPCA. Consequently, I find limited other harm to that found in respect of MOL. This overall harm must be clearly outweighed by other considerations for the very special circumstances to exist to support the proposal.
23. Paragraph 59 of the Framework explains that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed. Paragraph 73 states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their requirement set out in adopted strategic policies. LP Policy 3.3 and Table 3.1 provide this requirement which for Greenwich Borough is a minimum of 26,850 dwellings within the plan period of 2015-25 (2685 each year).

24. The Council's 2017-18 housing trajectory, in the latest Authority Monitoring Report covering that year, shows that in the first three years of the current LP period the Council had increasingly and significantly under delivered on the annual target of 2685 dwellings. Factoring in this under delivery and a 5% buffer, the Council calculates there is a 5.2 year supply of housing.
25. Over the question of housing supply, the glossary to the Framework provides a definition as to what might be counted as deliverable. This includes the requirement for clear evidence that housing completions will begin on site within five years on outline permissions for major development, development plan allocations or where a site has permission in principle or is included on a brownfield register. The Planning Practice Guidance provides further, more detailed advice over assessing housing supply.
26. The components of this supply are set out in the Council's statement, with the large sites of over 0.25 ha itemised. The appellants have provided a detailed assessment of housing supply, up-dated in response to the Council's statement just prior to the hearing. Having considered the Council's oral evidence countering this, I am nonetheless of the view that the appellant's detailed assessment of housing deliverability provides a cogent case for finding the estimated 5.2 year supply as potentially overly optimistic.
27. Considering the competing evidence, a robust case in support of a 5.2 year housing land supply has not been documented. However, regardless of whether or not there is at least a five year supply, I place significant weight on this not being a ceiling figure. Furthermore, the housing requirement set by LP Policy 3.1 is a minimum figure and the 2018 draft LP is reasonably likely to result in a substantial uplift in annual targets for Greenwich and across London.
28. By its nature, this is a relatively small-scale housing scheme making a quite modest contribution to housing supply. Nevertheless, in the context of a pressing need for housing in London, I attach significant weight to this. The residential development would be entirely affordable housing. The proposed mix is 52% intermediate tenure (shared ownership) and 48% affordable rented. The appellant has provided evidence that indicates below target completions for affordable housing in Greenwich in the context of worsening affordability ratios and an increasing number of households seeking accommodation. The evidence confirms an acute need for affordable housing in this area. Whilst a relatively small-scale scheme, very substantial weight can be given to the benefit of the delivery of 21 affordable homes, particularly as almost half would be available for rent.
29. The housing would help enable improvements to the ETFC facilities, including a new clubhouse and under 7/8s pitch, not capable of being readily secured through other funding streams. Sport England had consulted the Football Foundation on the proposal and it (on behalf of the FA) had given support in principle to the scheme as this will help to deliver on the proposals that are identified in the Council's Playing Pitch Strategy 2015.
30. CS Policy CH1 supports the development of new and improved community facilities where there are identified local needs and this is in line with the Council's strategy for the provision of services. Furthermore, CS Policy CH2 states that all development must allow and enable residents to lead more healthy and active lifestyles. The site is mentioned in the Council's Playing Pitch Strategy as in need of repair and the works would include a new playing field

for under 7/8s, increasing the number of pitches. In all, the improved sports facilities would be of significant benefit to Eltham. Whilst remaining a private club, the enhancements would likely lead to an overall greater level of participation, bringing tangible health and well-being advantages to the community.

31. It is accepted that the housing targets in LP Policy 3.3 and Table 3.1 do not depend on sacrificing MOL. However, in this case, the development would result in the loss of a reasonably small ancillary greenfield area and otherwise occupy that which is previously developed. This part of the MOL would remain mainly sports fields, where the developments would enable improved facilities and add to the benefits of the open space. Whilst substantial weight is given to the harm arising from the principle of protecting MOL from development, the actual adverse impacts in this case are found to be relatively limited. The housing, whilst of benefit in itself, would also enable enhanced sports facilities which comprise an activity clearly not inappropriate within MOL.
32. The harm to MOL, and any other harm, would in this case be clearly outweighed by the potential contribution made to affordable housing need which, subject to a phasing condition, could also bring forward improved sports facilities and other environmental enhancements. I consider these benefits, if realised, could amount to the very special circumstances required to justify the proposal. On this basis, the scheme could satisfy CS policies OS2 and OS(a) and LP Policy 7.17.

Other Matters

33. Having had regard to the submitted Transport Statement, I consider vehicular access and parking arrangements to be satisfactory for all parts of the scheme and that all transport modes and emergency services would be catered for adequately. I am satisfied that a turning head would be provided at the end of the new residential road, large enough to allow a refuse vehicle and a fire tender to turn around.
34. The proposal upgrades existing sports facilities, with the addition of an under 7/8s pitch, and there would not be a material increase in noise levels as a consequence. The existing clubhouse already accommodates social functions and setting the replacement further away from neighbouring housing would address any harm from noise and disturbance emanating from events held.
35. A report shows the Residual Land Value generates a deficit against the Site Value Benchmark and, whilst as such the proposals would not be commercially viable, the appellants are prepared to take the development forward as a result of unique site specific circumstances. Subject to requiring the phasing of the approved development so as to ensure delivery of the improved sports facilities, I do not find any risks associated with lack of viability to be compelling grounds for resisting what is proposed.

Unilateral Undertaking (UU)

36. An uncompleted Section 106 UU was submitted after the Hearing covering the matters outlined in paragraph 2 (above). The provisions of this are necessary to make the development acceptable in planning terms, directly related to it and fairly and reasonably related in scale and kind. The UU could therefore meet the tests set out in Regulation 122(2) of the Community Infrastructure

Levy Regulations 2010 and in paragraph 56 of the Framework. However, a completed UU, signed by all those party to the delivery of the development, has not been forthcoming. Therefore, the benefits dependent upon a completed UU are not assured and cannot be afforded any weight in this decision.

Final Conclusion

37. The presumption against development of MOL is an important principle of the LP and one to which I have given due weight. Set against this, what is proposed could potentially enhance sporting facilities and provide environmental benefits appropriate within MOL at relatively little cost to openness, whilst in a modest way helping to meet an acute need for affordable housing. However, I consider that the very special circumstances would only exist to justify the development if, along with the other benefits, the provision of 21 affordable dwellings were to be assured via a completed UU. This would also be necessary to provide the financial contributions to sustainable transport measures, employment/training and carbon off-setting required by the Council. No such completed UU was forthcoming after the Hearing within the reasonable period of time allowed for this. Therefore, I find for this reason that the other considerations in this case, insofar as these include significant benefits that depend on a completed UU, do not clearly outweigh the harm to MOL that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist and I therefore conclude that the appeal should be dismissed.

Jonathan Price

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ben Thomas	Savills
Oliver Milne	Savills
Joanna Ede	Turleys
Thomas Rumble	Woolf Bond
Kevin Clark	Skillcrown Homes
Tony Green	Eltham Town Football Club
Brian Baldwin	Eltham Town Football Club

FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Hartnett	Royal Borough of Greenwich Council
Matthew Durling	Royal Borough of Greenwich Council
Karen Montgomerie	Royal Borough of Greenwich Council

INTERESTED PERSONS:

David Pomfret	
John Gardner	
George Daniel	Savills (observing)