

Technical Note & Summary Position for demonstrating ‘Very Special Circumstances’ for developing on Metropolitan Open Land (MOL)

RE: Marble Hill Play Centre, Marble Hill Park

Preamble

This technical note and summary position should be read in conjunction with the report setting out the context and Very Special Circumstances, prepared by Marble Hill Playcentres and the Design and Access Statement, prepared by Maybourne Architects and Project Managers.

Policy context

NPPF (2019)

When considering any planning application, local planning authorities should ensure that substantial weight is 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.

A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.

London Plan Policy 7.17

The strongest protection should be given to London’s Metropolitan Open Land and inappropriate development refused, except in very special circumstances, giving the same level of protection as in the Green Belt.

MOL has an important role to play as part of London’s multifunctional green infrastructure and the Mayor is keen to see improvements in its overall quality and accessibility. Such improvements are likely to help human health, biodiversity and quality of life

London Borough of Richmond upon Thames Local Plan Policy LP13

Inappropriate development will be refused unless ‘very special circumstances’ can be demonstrated that clearly outweigh the harm to the Green Belt or Metropolitan Open Land.

Development will be supported if it is appropriate and helps secure the objectives of improving the Green Belt or Metropolitan Open Land.

Improvement and enhancement of the openness and character of the Green Belt or Metropolitan Open Land and measures to reduce visual impacts will be encouraged where appropriate.

Where a development proposal affects designated Green Belt or MOL, the applicant is required to submit an assessment that compares the footprint and floorspace of existing structures and buildings with the footprint and floorspace of the proposed development. This will enable the Council to make an informed judgement in relation to the overall impact on, and potential loss of, designated Green Belt or MOL. Any increase in either footprint or floorspace within designated Green Belt or MOL will need to be fully justified by the applicant.

London Borough of Richmond upon Thames Local Plan Policy LP28

The Council will work with service providers and developers to ensure the adequate provision of community services and facilities, especially in areas where there is an identified need or shortage.

Proposals for new or extensions to existing social and community infrastructure will be supported where: 1. it provides for an identified need; 2. is of a high quality and inclusive design providing access for all; and 3. where practicable is provided in multi-use, flexible and adaptable buildings or co-located with other social infrastructure uses which increases public access.

Development pressures and high land values in the borough mean there is pressure to redevelop sites and it can be difficult to find new sites for community use, especially for use by voluntary groups. The Council will resist the loss or change of use of existing social or community infrastructure. Consequently, the potential of re-using, refurbishing or redeveloping existing sites for continued social or community infrastructure use must be assessed in order to preserve a sufficient range and amount of such infrastructure across the borough.

London Borough of Richmond upon Thames Local Plan Policy LP29

The Council will work with partners to encourage the provision of facilities and services for education and training of all age groups to help reduce inequalities and support the local economy.

Draft London Plan (currently being prepared)

Policy G3 of the Draft London Plan states that “development proposals that would harm MOL should be refused. MOL should be protected from inappropriate development in accordance with national planning policy tests that apply to the Green Belt”.

Local Plan – Infrastructure Delivery Plan 2017

Excerpts from the Infrastructure Delivery Plan:

Early Years Education:

Demand is likely to remain high for pre-school and nursery places as identified by the number per year of live births in the borough.

Special Educational Needs:

The Council is committed to improving the educational outcomes of children with special educational needs (SEN)

Arts and Culture:

Despite the pressure on public funding, we will retain all our existing cultural facilities and where there is a need improve, supporting a wide range of organisations including those in the voluntary sector to achieve their ambitions

Play facilities:

A combination of a slightly rising child population over the next ten years and policy emphasis on the promotion of children's play means that demand for children's play facilities is likely to increase slightly

Provision for older children and young people also needs improvement. They need some places where they can be safe and welcome. Furthermore, basic accessibility needs to be improved for children with special needs; accessible toilet facilities and parking are important

Children living in areas of relative disadvantage are less likely to be able to afford paid for play facilities and are unlikely to travel to other areas for free play opportunities

The report recognises that there are significant costs attached to the maintenance and upgrade of existing facilities.

Very Special Circumstances

A degree of weight will be accorded to each factor that is considered a benefit that outweighs the harm to the impact on or loss of MOL.

An individual factor(s) taken by itself could be deemed to outweigh the harm however there is merit in assessing the combination of factors that could outweigh the harm. Case law exists setting out that a number of factors, none of them "very special" when considered in isolation, may when combined together amount to very special circumstances and goes on to say that "there is no reason why a number or factors ordinary in themselves cannot combine to create something very special."

Ultimately, the case for development must be decided on the planning balance qualitatively rather than quantitatively.

It is accepted that there will be some impact on openness in respect of the proposal because the development by its very nature increases the development foot print in MOL and as such "very special circumstances" need to demonstrate to outweigh the implicit harm from inappropriate development in MOL. The benefits are assessed under the three strands of sustainability - economic, social and environmental.

Transferring this test to the MOL scenario, the benefits and VSC's must be demonstrated to outweigh the harm to the MOL that is inherent in its development.

As set out within the report, it is considered that there are positive aspects to the development in support of the proposals, the key issues being:

- The site is previously developed land and its redevelopment is encouraged both at a national level within the Framework and a local level. Given that it is developed land, its quality and contribution as MOL can be described as being relatively poor.
- The site and in particular the buildings on site are currently in a poor condition which does not make a positive contribution to the character or appearance of the MOL location.
- There are significant visual benefits that the redevelopment of this site. This will be demonstrated through a townscape and visual impact assessment, paying particular attention to those views and vistas set out in the Proposal's Map, namely the view west of King Henry's mound.
- The development will retain, improve and increase the amount and level of service towards the local community, particularly those most vulnerable in society. This offers a significant social benefit to the community.
- With significant planting, the development will result in a substantial improvement to the visual quality of not only the MOL, but the wider Historic Park and Garden and setting of the conservation area and listed Marble Hill House. Moreover, the development will greatly increase the biodiversity value of the area.
- The buildings will be to a high standard striving to meet BREEAM 'excellent' rating and an efficient energy system that significantly reduces the carbon footprint. The development will strive to be carbon neutral.
- The proposed development will result in a significant reduction in the amount of surface water run-off affecting the area resulting in a positive benefit in respect of reducing the flooding potential of the surrounding area.

The factors considered above individually may not be considered by the Council to represent Very Special Circumstances, however collectively these factors combine with sufficient weight to represent the very special circumstances that would overcome the harm to the MOL.

To assist in the decision-making process the following benefit/ dis-benefit table has been produced.

	Material Consideration	Very Special Circumstance (MOL Policy)	Exceptional Circumstances	Weight to be afforded (limited/ moderate/ substantial)	Impact in balancing exercise (negative / neutral/ positive)
BENEFITS					
1	The site is previously developed land.	This is a benefit as nationally the Government encourages the effective use of land by re-using land that has been previously developed (brownfield land)	This is an exceptional circumstance as the Play Centre is firmly established in the park and reduced pressure to built on other green field sites	Substantial	Positive
2	The development will contribute to the offer of valuable services within the Borough.	This is a benefit given the existing location of the centre and direct link with the local community	This is an exceptional circumstance as there is a demonstrated need	Substantial	Positive
3	Removal of existing structures	This is a benefit as the existing structures have limited contribution to the visual quality of the area.	This is not an exception circumstance	Moderate	Positive
4	Enhanced planting	This is a benefit as the site identifies on the Proposal Map for tree planting and from a visual amenity perspective the proposals will reduce the impact of the development on the visual assessment of the area	This is an exception circumstance	Substantial	Positive
5	The development will retain and create employment opportunity (directly and indirectly) in addition to that associated with construction, thus	At a national level the Government is committed to securing economic growth in order to create jobs and confirms that significant weight should be placed on the need to support economic growth through the planning system. At a Local level	This is not an exceptional circumstance	Moderate	Positive

	an acknowledged economic benefit.	the Local Strategy includes creating a strong local economy which this would assist with			
6	A contribution to local council tax / business rates	This is a benefit associated with any new development	This is not an exceptional circumstance	Limited	Neutral
7	CIL levy which will contribute to improving local infrastructure.	CIL secured from this scheme (where relevant) would benefit both the future recipients of the site and the surrounding area by providing a significant contribution to improving local infrastructure	This is not an exceptional circumstance	Limited	Neutral
8	Reduction in the amount of surface water run-off	This is a benefit as at a local level there is an objective towards reducing flood risks	This is an exceptional circumstance as the current site adds to the flooding issues	Substantial	Positive
9	Provide an attractive and secure environment for the existing businesses on this site and assist in securing their survival at this site.	This is a benefit as the existing businesses are at risk of closing and the applicant has acknowledged that the worst-case scenario from their perspective is to leave the site. There is currently a large number of jobs at the existing businesses which will be maintained.	This is an exceptional circumstance given the limited options available to relocate or refurbish	Substantial	Positive
10	Biodiversity/ Ecological Enhancements	This is a benefit as this will result in a net benefit to biodiversity	This is not an exception circumstance	Moderate	Positive
DISBENEFITS					
	Material Consideration	Concerns	Weight to be afforded (limited/moderate/substantial)	Impact in balancing exercise (negative/neutral/positive)	
1	Inappropriate development in MOL	The proposals are inappropriate development within MOL which is, by definition, harmful to the MOL	Substantial	Negative	
2	Impact on openness	It is concluded that the proposals will have some impact on the openness of the MOL. Substantial weight is given to any harm to the MOL. 'Very special circumstances' will not exist	Moderate	Neutral	

		unless the potential harm to MOL by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.		
3	Visual Impact	In the short term, the site will be subject to harm from construction and development	Moderate (in the short term). Limited (in the long term when the replacement planting matures)	positive

The above benefits could potentially be secured via condition/ S106 clause and when taken together as a whole, are key to the consideration of the proposals.

This is considered to be a balanced decision in that whether the proposed buildings have a greater impact on openness is a subjective judgment. In this case it is considered that the proposals will result in a re-use of this previously developed land which will result in the efficient and effective use of brownfield land which is encouraged by Government.

Additionally, the development will result in the consolidation of the existing built form although it is acknowledged that the scale of development is significant and will have an impact on openness of the MOL.

The development has beneficial consequences of primary importance of social infrastructure and the environment by replacing dated and derelict facilities with a deliverable development within the medium term with associated ecological improvements.

Maintaining the use within the existing built form and seeking alternative sites was explored by the Play Centre prior to submission of this pre-application, however this has been discounted as set out in the accompanying report.

The purpose of the planning system is to contribute to the achievement of sustainable development. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to): making it easier for jobs to be created in cities, towns and villages; moving from a net loss of bio-diversity to achieving net gains for nature; replacing poor design with better design; improving the conditions in which people live, work, travel and take leisure; and improving access and opportunity to much needed social infrastructure.

Conclusion

It is considered that the redevelopment of the site is inappropriate development that would result in harm to MOL. A number of the benefits identified are considered individually to amount to 'very special circumstances', however where there may be doubt in this field, when taken together, cumulatively, these benefits are material and of significance.

Therefore, such significant weight should be attached to those positive aspects of the development proposal as set out above.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'BStaff', with a large circular flourish around the end.

Bryan Staff
Planning Director