



# Appeal Decision

Site visit made on 29 April 2024

by **Helen O'Connor LLB MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 May 2024

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**Appeal Ref: APP/L5810/W/23/3327811**

**Ham Polo Club, Petersham Road, Petersham, Surrey, TW10 7AH**

- 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 Samantha Pedder of Ham Polo Club Ltd against the decision of Richmond Upon Thames London Borough Council.
  - The application Ref 21/2454/FUL dated 6 July 2021, was refused by notice dated 27 February 2023.
  - The development proposed is an extension to the existing sand arena.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - Whether the proposal constitutes inappropriate development on Metropolitan Open Land (MOL);
  - The effect of the proposal on the character and appearance of the area having particular regard to designated heritage assets, and;
  - If there is harm by reason of inappropriateness, whether it together with any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

## Reasons

### ***Is the development inappropriate?***

3. The appeal site lies within designated MOL. Policy G3 of the London Plan, March 2021 (LP) states that MOL is afforded the same status and level of protection as Green Belt. It confirms that MOL should be protected from inappropriate development in accordance with national planning policy tests that apply to the Green Belt.
4. The extension to the existing sand arena would result in a level rectangular area measuring approximately 40m x 90m, with surfacing materials to support horse riding. It would be enclosed by timber fencing approximately 1.5m in height.
5. With reference to Green Belt policy in the National Planning Policy Framework (the Framework), the type of development proposed predominantly comprises

- an engineering operation owing to the grading and surfacing of the land, whereas the perimeter fencing would constitute new building works.
6. Sub-paragraph b) of paragraph 155 of the Framework explicitly identifies engineering operations as not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Moreover, paragraph 154b) of the Framework allows an exception to the general presumption against the construction of new buildings in the Green Belt. This includes the provision of appropriate facilities for outdoor sport and outdoor recreation, subject to a similar proviso that the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
  7. It follows that these exceptions would equally apply to MOL. The appellant asserts that the proposal would fall within the exceptions permitted in the Framework.
  8. Logic dictates that it must be possible to permit some such engineering operations and buildings whilst also preserving openness, as otherwise these exceptions in the Framework would serve no purpose. It follows that 'preservation' in this context should not be interpreted to mean the preclusion of any changes or additional built form.
  9. Planning Practice Guidance<sup>1</sup> (PPG) confirms that openness is capable of having both spatial and visual aspects. The effect arising from a particular development on those aspects effectively falls to a matter of planning judgement in each case.
  10. In this instance, aside from the fencing, the sand arena extension would be devoid of built form or volume with the changes taking place at ground level. Hence, it would remain open. My approach on this is broadly consistent with that of the Inspector<sup>2</sup> for the construction of a sand school in Dorset that has been brought to my attention.
  11. In terms of the enclosure fencing, it is explained that it must be close boarded and be of the minimum height required to provide suitable facilities for arena polo, as the ball is bounced off the fence during play. Effectively the fencing comprises part of the playing surface for this outdoor sport. On that basis, I am satisfied that the fencing would comprise an appropriate facility for outdoor sport. Seen in combination with the flat arena area, there would be a marginal change to the prevailing open spatial qualities of the land.
  12. In visual terms, there would be an impact owing to the displacement of natural vegetation by a manufactured riding surface and the introduction of a timber fence. The Council considers that this would result in a noticeable change in character<sup>3</sup>. Be that as it may, the effect on the character of the area is something I shall consider further as part of the second main issue. In terms of visual openness, the land would remain predominantly open in nature and the restricted height of the perimeter fencing would allow for views over it. To an extent the landscaping proposals would also assist in softening the visual impact of the development. Hence, whilst there would be visual changes to the

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<sup>1</sup> Paragraph: 001 Reference ID: 64-001-20190722

<sup>2</sup> Appeal reference APP/D1265/W/21/3266411

<sup>3</sup> Paragraph 9.10 Committee report

land because of the proposal, the attribute of visual openness would be largely preserved.

13. Assessing the development holistically, it would result in some spatial and visual changes, but they are ones that I judge would ultimately preserve the openness of the MOL.
14. Furthermore, having regard to the five purposes of the Green Belt set out in paragraph 143 of the Framework, it is not convincingly shown that any would be compromised by the proposal. Instead, the development would be consistent with paragraph 150 of the Framework whereby beneficial uses of the Green Belt are encouraged, including the provision of opportunities for outdoor sport and recreation.
15. Adapting this to the purposes of including land in the MOL, paragraph 8.3.1 of the LP explains that MOL is strategic open land within the urban area, that amongst other things, improves Londoners' quality of life by providing localities which offer sporting and leisure use. Policy LP13 of the London Borough of Richmond Upon Thames, Local Plan, July 2018 (RUTLP) specifically identifies open recreation and sport as appropriate uses within MOL.
16. It follows that the proviso applicable to sub-paragraphs 155b) and 154b) of the Framework would be met and consequently, the proposal would fall within development permitted under those exceptions. Therefore, it would not amount to inappropriate development within the meaning of the Framework. Hence, it would not be inappropriate development in the MOL. In these circumstances, it becomes unnecessary to further consider whether there are very special circumstances to justify the development.
17. Consequently, as I find no conflict with national Green Belt policy, there would be no conflict with policy G3 of the LP or policy LP13 of the RUTLP which seek to protect MOL from inappropriate development.

### ***Character and appearance and designated heritage assets***

18. The appeal site forms part of Ham House Registered Park and Garden (Grade II\*) (hereafter referred to as the RPG), which were the gardens and pleasure grounds attached to Ham House, a Grade I listed building. These are the central components of the Ham House Conservation Area (CA) within which the appeal site also lies.
19. The significance of Ham House is derived in part from its importance as a Jacobean mansion house owing to its exceptional architectural and aesthetic qualities and historical associations. The latter includes providing the meeting place of the 'Cabal', the chief ministers to the court of King Charles II. Ham House was built in 1610 for Sir Thomas Vavasour, and its formal gardens were then laid out.
20. The gardens and pleasure grounds are an intrinsic part of the aesthetic qualities of Ham House as it was intended to be experienced within a deliberately designed landscape. Therefore, the RPG forms an important part of the listed building's setting. As such, the significance of the RPG is inevitably closely connected with that of Ham House and vice versa. Together they provide an exceptional example of a 17<sup>th</sup> century country residence that reflects the considerable power and prevailing fashion of its historical occupants.

21. As outlined in the Council's documents, Ham House Conservation Area Statement No.23, and Ham and Petersham Conservation Area Character Appraisal and Management Plan, the CA is focused on Ham House and its wider estate. It follows that there is a good deal of crossover between the significance of the Grade I listed Ham House and Grade II\* RPG with that of the CA. In broad terms, the significance of the CA stems primarily from the heritage value of the 17<sup>th</sup> century country house and grounds in a distinctive rural setting adjacent to the River Thames.
22. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) contain statutory duties to have special regard to the desirability of preserving listed buildings and their settings, and to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
23. The RPG is comprised of many distinctive and varied components. These include impressive tree lined avenues through the estate, clearly denoting linear routes from which views and vistas of the house, grounds and surrounding wider landscape can be appreciated. One of the avenues that contributes towards its heritage significance is Melancholy Walk, which runs adjacent to the appeal site. Today the path is lined with lime trees and is a public right of way. Melancholy Walk is shown<sup>4</sup> on the Slezer and Wyke map of 1671-2 and John Rocque's survey of 1746, adjacent to an area planted with multiple rows of trees.
24. Closest to the main house within the RPG are gravelled terraces and highly ornamental formal gardens. This includes the Cherry Garden which lies between Ham House and the appeal site. According to the list entry for the RPG, this area was identified as the Principal Garden in Robert Smythson's plan of 1609. It now has a formal stylised design with diamond shaped beds, hornbeam tunnel arbours and an eastern brick wall consistent with the Slezer and Wyke 1671-2 map. The list entry further states that it is thought there was a clairvoie out onto Melancholy Walk. Moreover, iron railings at the eastern end of the terraces allow for views of Melancholy Walk and beyond.
25. Historic mapping provided in the heritage statement indicates that the appeal site was in an outer part of the grounds, which is consistent with its more removed position from the main house. They show the lands as being planted with trees, and probably part of a large orchard adjacent to the east of Ham house and gardens. The aerial photograph<sup>5</sup> taken in 1949 shows the appeal site as part of a field with mature trees along the boundaries, which is consistent with the shape of the historic orchard land.
26. In summary, part of the significance of the RPG comes from the distinct and contrasting visual and functional elements of the grounds and their interrelationship with each other and the main house. Graduating eastwards from Ham House is the formal Cherry Garden, then the linear avenue of Melancholy Walk with more naturalised areas of trees and fields beyond.
27. This is still clearly discernible today, even though land to the east of Melancholy Walk forms part of the grounds of Ham Polo Club. My observations were that

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<sup>4</sup> Plates 1 & 2, Paragraph 4.2.6, Archaeology Desk Based Assessment and Heritage Statement prepared by AB Heritage Archaeological Consultancy

<sup>5</sup> Plate 5

the shape of the former orchard area is still legible. Although there are fewer trees than was historically the case, the predominant appearance of the appeal site as a grassed field with some trees and shrubs, reinforces verdant rural qualities which are important to this part of the RPG and setting of Ham House. Glimpses of these aspects of the appeal site are possible through the railings from terracing at Ham House, as well as from Melancholy Walk.

28. Accordingly, as one progresses along Melancholy Walk, the experience is one that would resonate with that of previous generations. The deliberate and longstanding arrangement of greenery, and associated relative quiet are attributes that hold heritage value as they allow for a deeper connection with the past. This is reinforced by the many representations received which describe the enjoyment derived from the historic landscape and Melancholy Walk in particular.
29. The visual impact of the surfacing and associated activity of the existing sand arena at the northern end of Melancholy Walk adversely encroaches into this experience within the RPG. Nevertheless, owing to its modest size, its presence and impact are relatively low key. Overall, as most of the appeal site comprises grassland, it contributes positively to the significance of the RPG. Linked to that, it reinforces positive aspects of the setting and therefore, the significance of Ham House. For similar reasons, it contributes positively to the significance of the CA.
30. The proposal would considerably increase the size of the existing sand arena such that the surface<sup>6</sup> comprising a mixture of silica sand and stabilising fibres would encroach further southwards thereby displacing grass and vegetation. Even though it may look like a sand surface, it would reduce the extent of overall verdancy and the present impression of naturalness that reinforces positive qualities of the RPG. Moreover, given its size, glimpses of the surface would be seen from Melancholy Walk and the terrace of Ham House, particularly so when trees are not in full leaf. It is also likely to feature in some views from upper floor windows in the eastern elevation of Ham House. To a degree this is illustrated in Photomontages 1, 2 and 6, which show the proposed views from the north and south terrace of Ham House across Melancholy Walk.
31. In addition, a 1.5m high close boarded timber fence would enclose the extended arena. Notwithstanding its modest height, the length and solidity of the fencing in combination with the level surfacing of the arena would represent an obviously man-made engineered incursion into the historic landscape. Moreover, views of the fencing on the far side across the proposed arena would be possible and would appear starkly against the surfacing in the foreground, as is illustrated in photomontage 1.
32. Significant reference is made to the proposed additional native tree, hedgerow and shrub planting<sup>7</sup>, which has been designed to be sympathetic to the historic context and would in part provide screening. I acknowledge that to an extent this would assist in softening the visual impact of the proposals. Nevertheless, this would take time and would not fully surmount my more fundamental concerns that overall, the rural and verdant qualities within this part of the RPG would be adversely eroded.

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<sup>6</sup> Paragraph 6.14 Appellant's Appeal Statement

<sup>7</sup> Soft Landscape Proposals, drawing number GL1457 07A

33. It is not convincingly explained how the facility would preserve or enhance those qualities which I have identified to be important to the historic value of the RPG, the setting of Ham House or the CA. Instead, it would augment a feature which I have already found to have a minor negative effect on those designated heritage assets.
34. The appellant explains that the grassed area south of the existing sand arena is used for stick and balling, whereas it is intended to use the proposed extended arena for winter polo, riding lessons, schooling for lunging/dressage and jumping<sup>8</sup>. Winter polo is described<sup>9</sup> as a fast-paced version of the game, using perimeter walls to bounce and pass the ball (albeit larger and softer), with the whole team quickly switching between attack and defence. The other proposed pursuits are also likely to involve greater activity and equine paraphernalia on the site than has formerly been the case, especially in winter months.
35. Such proximate activity would be likely to erode the tranquillity of Melancholy Walk. Although it may be of interest to some, the evidence does not show how such increased activity would be sensitive to the deliberate historic landscape. Historically, the appeal site formed an outer area of the RPG with a preponderance of trees that would have allowed its natural and rural qualities to dominate. In turn this would have provided a calm and restful setting to those traversing Melancholy Walk.
36. Taking these factors together, the proposals would impinge harmfully on important green and tranquil qualities of the RPG, which in turn would undermine the special interest of Ham House and the CA. Therefore, in relation to Ham House and the CA, conflict would arise with sections 66 and 72 of the Act.
37. In the parlance of the Framework, the proposal would result in less than substantial harm to the significance of the RPG, which is acknowledged in the submitted heritage statement<sup>10</sup>. I also find a similar level of harm would result to the setting of Ham House, and therefore its significance as a designated heritage asset. For similar reasons, as its character and appearance would be neither preserved nor enhanced, there would be less than substantial harm to the CA as a whole. Paragraph 208 of the Framework states that in these circumstances, the harm should be weighed against the public benefits of the proposal.

#### *Heritage balance*

38. The principal benefit would be an increase in playing polo and other equine sport and recreational activity, including more even usage throughout the year. This could encourage new participants into the sport. Furthermore, the sand arena would also provide a more secure area for turning out horses. Additional planting could be secured the would be generally sympathetic to the historic environment and would provide biodiversity net gain. Some economic benefits would be derived from the proposals including probable employment opportunities and during construction.
39. Nevertheless, paragraph 205 of the Framework stipulates that when considering the impact of a proposed development on the significance of a

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<sup>8</sup> Paragraph 1.1, Appellant's Appeal Statement

<sup>9</sup> Pages 1-2, Design and Access Statement

<sup>10</sup> Paragraph 7.5.2

designated heritage asset, great weight should be given to the asset's conservation. It explains that the more important the asset, the greater the weight should be. In this case, harm would result to several designated assets, of which the RPG is Grade II\* and Ham House is Grade I listed, respectively denoting their particular and exceptional heritage importance.

40. Overall, given this particularly sensitive context, I am not persuaded that the sum of public benefits would outweigh the harm. Consequently, the proposal would conflict with national policy to protect the historic environment.
41. In coming to my findings, I have had regard to the views of Council Officers expressed in the Council's Planning Committee report and pre-application advice. Nevertheless, I have formed my own judgement taking into account the entirety of the available evidence, including my own observations. Setting aside comments on archaeology, Historic England did not comment on other heritage matters<sup>11</sup>. I do not consider that indicates tacit support, rather it is a neutral stance.
42. Accordingly, I find that the proposal would be harmful to the character and appearance of the area and would result in unjustified harm to designated heritage assets. Therefore, it would be contrary to policy HC1 of the LP and policies LP1 and LP3 of the RUTLP. Amongst other things, these policies require development to conserve or enhance the significance of heritage assets and be compatible with local character. In addition, conflict would arise with policy G1 of the Ham and Petersham Neighbourhood Plan 2018-2033, January 2019 which identifies the appeal site as a valued green space. The policy seeks to conserve and enhance such spaces by protecting them from the adverse impacts of development.

### **Other Matters**

43. My attention is drawn to differences between the appeal scheme and a previous all-weather polo facility on the site that was refused permission in 2004. The appellant contends that by comparison the appeal scheme is an improvement. Be that as it may, I have determined the proposal on its own planning merits. Furthermore, on the evidence presented, I do not consider that an unimplemented planning approval in 2012 for an all-weather facility is directly comparable as it was in a different location. As such it would have had a different impact on the designated heritage assets considered above. Therefore, it has had little bearing on my determination.
44. I have taken account of the representations received during the application and appeal, including those made in support of the proposal. The matters raised in support have been addressed as part of the main issues and included in the heritage and overall planning balances.

### **Planning balance and conclusion**

45. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Although I did not find the proposal would be inappropriate development in the MOL, it would cause unjustified harm to designated heritage assets which are an irreplaceable resource. On that basis, the appeal

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<sup>11</sup> Table of consultees, Section 7, Council's Planning Committee Report

scheme would conflict with the development plan, relevant national policy and the expectations of the Act.

46. The public benefits arising from the scheme detailed in the heritage balance above are also relevant to the overall planning balance. However, those material considerations would not justify making a determination other than in accordance with the development plan taken as a whole.

47. Therefore, for the reasons given above the appeal should be dismissed.

*Helen O'Connor*

INSPECTOR