



Appeal Decision

Site visit made on 2 August 2019

by S Poole BA(Hons) DipArch MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2019

Appeal Ref: APP/L5240/W/19/3227329

Gayfere House, Tollers Lane, Coulsdon CR5 1BD

- 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 Mr Xhevat Lita of Access Building Contractors Ltd against the decision of the Council of the London Borough of Croydon
 - The application Ref 18/02855/FUL, dated 6 June 2018, was refused by notice dated 7 January 2019.
 - The development proposed is described as the development of 5 x 5-bedroom dwellings and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- (i) whether the proposal would be inappropriate development for the purposes of section 13 of the National Planning Policy Framework (2019) and development plan policy;
- (ii) the effect of the proposal on the openness of the Green Belt;
- (iii) the effect of the proposal on the character and appearance of the area, with particular regard to the loss of, or harm to, protected trees;
- (iv) the effect on biodiversity, with particular regard to bats; and
- (v) if the proposal is 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

Whether the proposal would be inappropriate development

3. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt is inappropriate. A number of exceptions to this are identified including, under part (g), proposals comprising the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development. As the proposal

does not include any affordable housing, and this cannot be secured by way of a planning condition as has been suggested by the appellant, the second branch of part (g) is not applicable.

4. Previously development land is defined in the Framework as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. The Framework states that 'it should not be assumed that the whole of the curtilage should be developed'. Residential gardens which are not in 'built-up areas' are not excluded from the general definition of previously developed land.
5. The appeal site is occupied by a detached dwelling, Gayfere House, set within an extensive plot, which forms its garden and curtilage. It is situated on the edge of Coulsdon close to the junction between Coulsdon Road and Tollers Lane. The former includes a parade of shops with flats above and detached houses and the latter includes a green adjacent to the site and leads to areas of suburban housing. The other sides of the appeal site are predominately bounded by woodland and fields. On balance, whilst the appeal site bounds a built-up area, it is not in my view within a built-up area. For these reasons the appeal site constitutes previously developed land.
6. The proposal would comprise the erection of 5 detached 2-storey 5-bedroom houses with attached garages together with the formation of a road. This development would occupy a large proportion of the site and would not therefore comprise limited infilling. However, on the basis that the house and its garden constitute previously developed land it follows that the proposal comprises partial redevelopment.
7. Paragraph 133 of the Framework states 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. The openness of the Green Belt has a spatial as well as a visual aspect and is therefore best viewed as the absence of development.
8. I note that the substantial mature trees and vegetation surrounding the appeal site would, if retained and adequately maintained, limit the visual impact of the proposal to a large degree. However, as the proposal would involve the removal of a single-storey extension and erection of 5 detached houses there would be a substantial increase in the amount, volume and bulk of development within the site. The proposal would have a significantly greater impact on the openness of the Green Belt than is currently the case.
9. The proposal does not therefore represent a form of development that falls within any of the exceptions listed at paragraph 145 of the Framework. For these reasons it would be inappropriate development that is, by definition, harmful to the Green Belt. I attribute substantial weight to this.

Openness of the Green Belt

10. Due to its significant bulk the proposal would reduce the openness of the site, and therefore reduce and cause harm to, the openness of the Green Belt of which the site forms part. For the reasons set out above the proposal would cause harm to the openness of the Green Belt. It therefore also conflicts with the Framework in this respect, a matter to which I also attribute substantial weight.

Character and appearance

11. The entirety of the site is subject to a Tree Preservation Order and there are substantial trees on the boundaries of the site that make a significant contribution to the character and appearance of the site and its surroundings. The BS5837 Tree Survey Assessment (dated April 2017) indicates that many of the trees are of high or medium quality and could make a significant contribution to the appearance of the area for more than a further 20 years.
12. The appellant has identified 6 trees that would need to be removed to make way for the development. I note that these are small to medium-sized ornamental trees and that scope exists for their replacement as part of a landscaping scheme.
13. However, the information before me indicates that house 3 would encroach within the root protection area of a substantial Ash tree and would also require some crown reduction of this tree, which together with neighbouring trees would severely limit levels of sunlight reaching the rear garden of house 3. Similarly house 1 would be close to a substantial Oak tree and its rear garden would also be enclosed and overshadowed leading to further potential need to prune or remove trees.
14. Due to its layout, and in the absence of evidence to demonstrate otherwise, I conclude that the proposal would have an unacceptable effect on the life expectancy of a number of significant protected trees which would result in unacceptable harm to the character and appearance of the site and its immediate surroundings. This impact could not be adequately overcome by the imposition of planning conditions.
15. For these reasons the proposal is contrary to Policy 7.21 of the London Plan (2016) (LP) and Policy DM28 of the Croydon Local Plan 2018 (CLP). The latter seeks to protect and enhance the borough's trees by, amongst other matters, not permitting development that could result in the future avoidable loss or excessive pruning of preserved trees or trees that make a contribution to the character of an area.

Biodiversity

16. The appeal site includes areas of mown lawn, a wide range of sizes and types of shrubs and trees and a man-made pond. Due to the well-maintained, landscaped character of the garden I recognise that the existence of protected plants is unlikely, as suggested in the Preliminary Ecological Appraisals (2018). However, the Appraisal notes that the site has a moderate to high value for foraging bats.
17. The proposal would include the demolition of the single-storey side addition to the house and the construction of 5 large houses in close vicinity to mature trees. I note that the single-storey extension may not form an ideal habitat for bats. However, in the absence of activity/emergence surveys to determine the presence or absence of bats there is no evidence before me that the side addition, or other parts of the site, do not form a habitat for bats.
18. Government Circular 06/2005¹ states that the presence of a protected species is a material consideration when a development proposal is being considered

¹ Biodiversity and Geological conservation – Statutory obligations and their impact within the planning system

which would be likely to result in harm to the species or its habitat. It goes on to say that it '...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision' (paragraph 99).

19. The appellant has failed to demonstrate that the development would not result in harm to protected species within the site and as such I cannot conclude that the proposal would not have an unacceptable effect on biodiversity. The proposal is therefore contrary to LP Policy 7.19 and CLP Policies SP7 and DM27. The latter states that development proposals should have no adverse impact on species of animal or plants or their habitat protected under British or European Law, or when the Council is presented with evidence that a protected species would be affected. As LP Policy 7.20 relates to geological conservation I do not find conflict with this policy.

Other considerations

20. I turn now to consider whether there are any considerations sufficient to clearly outweigh the harm identified above in respect of inappropriateness and openness. Very special circumstances to justify inappropriate development will not exist unless the harm is clearly outweighed by other considerations.
21. The appellant states that the proposal would be constructed sustainably with locally sourced materials and labour where possible and I note that the proposal would not have unacceptable effects in respect of vehicular access.

Green Belt balancing exercise

22. I have found harm to the Green Belt by way of inappropriateness and to its openness. Substantial weight must be attached to any harm to the Green Belt. In addition, I have found harm in respect of the effects of the proposal on the character and appearance of the area and biodiversity. I attach substantial weight to this harm as well. The other considerations outlined above do not clearly outweigh the harm to the Green Belt and the other harm.
23. Very special circumstances to justify inappropriate development do not therefore exist. The proposal is therefore contrary to the Framework, LP Policy 7.16 and CLP Policies SP7 and DM26. Amongst other matters the latter policies state that the Council will protect and safeguard the borough's Green Belt and development proposals will be supported where they are compatible with national policies for protecting the Green Belt.
24. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should fail.

S Poole

INSPECTOR