



Appeal Decision

Site visit made on 21 January 2021

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 08 March 2021.

Appeal Ref: APP/L3625/W/20/3258530

Rowans Hill, Coulsdon Lane, Chipstead, CR5 3QG

- 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 Gareth McCullough against the decision of Reigate & Banstead Borough Council.
 - The application Ref: 19/02269/F dated 8 November 2019, was refused by notice dated 16 July 2020.
 - The development proposed is change of use to an independent school for children with autism and related special educational needs and disabilities, with the provision of ancillary facilities including a playground, noise barriers and canopy and additional parking.
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Decision

1. The appeal is allowed and planning permission is granted for change of use to an independent school for children with autism and related special educational needs and disabilities, with the provision of ancillary facilities including a playground, noise barriers and canopy and additional parking at Rowans Hill, Coulsdon Lane, Chipstead, CR5 3QG in accordance with the terms of the application, Ref 19/02269/F dated 8 November 2019, subject to the conditions set out in the schedule at the end of this decision letter.

Preliminary Matters

2. The application was amended a number of times prior to determination and my decision is based on the proposals as determined by the Council. The description of development as set out on the application form provided a considerable amount of detail on the proposed use and development; I have therefore taken the description as set out by the Council on the decision notice and which the Appellant used on the appeal form.
3. As part of the appeal process the Appellant submitted a signed and dated Unilateral Undertaking which provides for payment of a travel plan monitoring fee to the County Council, in the event that planning permission is granted. At the same time a letter was received from the Council advising that as part of the process to complete the unilateral undertaking, a parcel of land was identified as being outside the ownership title of the Appellant and which would be required to enable the improved access to be provided. In the event of permission being granted, pre-commencement conditions have been recommended relating to the provision of the improved access points and

visibility splays. This letter was forward to the Appellant for comment and the Unilateral Undertaking to the Council for comment. No further representations were received.

4. On 1st September 2020 the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987. These Regulations amend and simplify the system of Use Classes and, amongst others, a new class F1 has been created, the Learning and Non-Residential Institutions use class. However, as the application was submitted prior to the new Regulations coming into effect, the Regulations provide that the application should be determined on the basis of the use or use class referenced in the application. That is therefore the basis of my assessment.

Main Issues

5. The main issues in this appeal are:
 - a) Whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies, and
 - b) whether the proposal would be a sustainable form of development.

Reasons

Issue a) Whether Inappropriate Development

6. The appeal property is a vacant, large detached residential property in extensive grounds, comprising a lawned area to the rear of the house with planting and woodland to the side and rear boundaries. To the rear and to the side of the main house is a detached garage / outbuilding which appears to have accommodation at the upper level. There are two vehicular access points to the site off Coulsdon Lane with residential properties on both sides of the road. The appeal site is situated within the Green Belt and an Area of Great Landscape Value.
7. The proposed development would change the use of the existing building and site to an independent Special School for Children with Special Educational Needs and Disabilities (SEND). The School would operate as an autism special school with a capacity for 50 boys of secondary school age, with an estimated 15 members of staff. The proposed School would operate in conjunction with an existing school in Croydon, relocating some pupils to the new school and enrolling new pupils.
8. The National Planning Policy Framework (Framework) sets out the government's planning policies to secure sustainable development. Paragraph 133 sets out the great importance that the Government attaches to Green Belts and that the essential characteristics of Green Belts are their openness and their permanence. Paragraph 143 confirms that *inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances*. Paragraph 146 sets out that a number of forms of development are not inappropriate in the Green Belt providing they preserve its openness and do not conflict with the purposes of including land within it, including at d) the re-use of buildings providing that the buildings are of permanent and substantial construction and e) material changes in the use of

the land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).

9. I am satisfied that the existing buildings on the site are of permanent and substantial construction and that the principle of the proposed change of use of these buildings and the rear garden area to educational use would not be inappropriate development. There would be some consequential changes to the layout of the grounds to allow for parking and turning as well as to create playground and associated areas, but these would not materially affect the openness and would not conflict with the purposes of including land within the Green Belt. These associated elements would also not be inappropriate development. The Council also drew the same conclusion in respect of the proposed change of use and these layout amendments.
10. Some minor associated operations in the form of acoustic measures would be introduced to protect surrounding residential neighbours. These would include a minimum 2.5 m fence particularly along the western boundary and branching into the site. Given the limited length of the fence line and its siting close to a belt of existing trees I agree with the Council that it would not materially affect the openness of the site; it would not be inappropriate development.
11. The acoustic proposals also include for a canopy cover linking the main house with the outbuilding, but very limited details have been provided as to the nature and materials for this element. The Appellant indicates that the principal purpose of this element would be to serve as an acoustic screen for the neighbouring properties and to serve this purpose would integrate with the boundary wall and rise to a height of 5m.
12. I agree with the Council that this would be considered under Paragraph 145 of the Framework which states that the construction of new buildings are inappropriate with a limited number of exceptions including under sub section c) which refers to the extension or alteration of a building providing that it does not result in disproportionate additions over and above the size of the original building. The Framework does not define the term, 'disproportionate'. The Council has also referenced Policies NHE5 and DES1 of the Council's Local Plan Development Management Plan 2019 (DM Plan). In this regard. Policy NHE5 specifically addresses under 1) extensions and alterations to buildings in the Green Belt but Policy DES1 seeks a high quality of design in all new development which I do not consider is directly relevant to this consideration as to whether the proposal would be inappropriate development within the Green Belt.
13. The Council has referred to previous extensions to the house although no detailed information has been provided. Similarly, the Appellant has referenced the demolition of various structures in the grounds as part of these proposals, but again these have not been set out in detail. Although the details are not before me, the canopy would, as I understand the proposal, be attached to an existing wall and to the sides of the house and former garage building. It would however be open on the side facing into the site. It would not in my view be visually prominent or in a visually prominent part of the site. Given its modest size and footprint in relation to the built form and size of the site and in particular its open sided form, I do not consider that it would be a disproportionate addition to the original building or would harm openness. It would not therefore be inappropriate development.

14. Taking all of these factors together, it is my conclusion that the proposed development would not be inappropriate development for the purposes of the Framework and development plan policy. The development would not harm the openness of the Green Belt in this location. There is therefore no need for the development to be justified by special circumstances.

Issue b) Sustainability

15. There is no dispute between the Council, the Highway Authority and the Appellant that given the location of the site in relation to public transport facilities, most trips would be by private vehicle. However, the Appellants advise that given the specialist nature of the School and the particular needs of the individual pupils, most travel movements are bespoke and public transport, even if accessible, would not be a practical option. Shared transport would be used where possible, including a school shuttle bus service for pupils and staff members.
16. It is my understanding that the School site has been specifically selected because of its location and the opportunities for a bespoke curriculum to meet the needs of the students. I have been provided with no information to suggest that the selected School site would not be a suitable site to meet the needs of the pupils.
17. Paragraph 111 of the Framework promotes the use of Travel Plans and the Appellants have submitted a Travel Plan which sets out in detail the proposed transport arrangements for students and staff. I consider that this could be controlled by condition and a signed and dated Unilateral Undertaking has been submitted to cover the costs of monitoring the Travel Plan. I appreciate that the operator could change over time but given the size of the site, the available accommodation and bespoke form of development, this would be likely to limit the number of potential alternative users.
18. Accessibility to the site and the modes of transport to be used are but one aspect of sustainable development as set out under the Framework, including under paragraph 8 and under Policy CS10 of the Council's adopted Core Strategy (Core Strategy). Whilst there is no dispute that the most trips would be by private vehicle and that therefore there would be a tension with one of the criteria (criterion 6) set out under Policy CS10 of the Core Strategy, the proposed use of the site would meet many of the economic and social aspects of sustainable development. Indeed, paragraph 94 of the Framework notes that it is important that there is a sufficient choice of school places to meet the needs of existing and new communities. Furthermore, the Framework is clear that sustainable transport should be promoted but it does recognise at paragraph 103 that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision making.
19. In the particular circumstances of this case, and the clear reasons for the location selected, I do not consider that the proposed use would harm the principles of sustainable development. The scheme proposals would not comply with one of the criteria of Policy CS10 of the Core Strategy, but taking all aspects of sustainable development into consideration, there would be no material conflict with the overall objectives of both the Framework and Policy CS10 of the Core Strategy to secure sustainable development.

Other Considerations

20. Both the access points as existing have very restricted sight lines, particularly in a westerly direction. Without improvements to the access points and visibility splays, and given the narrowness of the road, the proposal would not provide a safe access and egress for the site and for other road users on Coulsdon Lane and would therefore be a reason for refusal.
21. The proposals include for works to the access points to improve the access arrangements and the visibility splays. It has, however, transpired that not all the land required for these works is within the control of the Appellant. I therefore agree with the Council that the resolution of this matter and the provision of the required improvements to both access points would require to be undertaken before commencement of development, and in these circumstances consider that a Grampian condition is required. I also agree with the Council that it would be necessary to ensure appropriate measures were put in place to enable parking and related servicing to be within the site for reasons of highways safety for users of Coulsdon Lane.
22. The site is within an Area of Great Landscape Value (AGLV), but given the limited external works proposed and the existing planting and vegetation to the side and rear boundaries, I am satisfied that there would be no material harm to the landscape setting of the site and to the landscape and scenic beauty of the wider AGLV. The Council also raised no concerns in this regard.
23. Although the surrounding uses are primarily residential dwellings, given the very large size of both the site and the existing building, and on the basis of the information before me, the appeal site would be suitable for the proposed use in terms of the accommodation and open space it would offer. A range of acoustic measures are proposed and subject to these being in place, I am satisfied that the proposed use would not be unneighbourly or materially harm the living conditions of surrounding neighbours. Moreover, the School would not be operating at the very times when the residential neighbours would be most likely to wish to enjoy their gardens.

Conditions

24. The Council has suggested a number of conditions in the event that planning permission is granted. I have already set out why I consider that conditions relating to the provision of access improvements and visibility splays must be pre-commencement conditions because of the substandard form of the existing access points, from the point of view of highway safety. For the same highway safety reasons, I also agree with the Council that a Construction Transport Management Plan is both required and needs to be approved and implemented pre-commencement.
25. To improve the sustainability of the proposed use in accessibility terms, a condition to require a travel plan as offered by the Appellant and requested by the Council should be imposed. However, as the submitted Travel Plan includes for a number of the measures to be in place prior to occupation, it is my view that an updated Travel Plan should be submitted and approved prior to first occupation in order that these matters can be controlled and monitored from the outset. The Appellant has offered for individual conditions to be imposed on elements of the Travel Plan but I consider that a holistic approach would be more useful to secure the overall accessibility objectives. In the

interests of sustainability, I also agree that 2 of the parking spaces should be set up for recharging but I consider that the requirements are clear and that there is no need to require further details to be first submitted.

26. A range of conditions are required to ensure that the details of various acoustic measures, to follow on from the information provided by the Appellant's Acoustic reports, are in place to ensure that the living conditions of the neighbours are respected. However, I consider that these measures need to be approved and in place prior to the use commencing rather than the development commencing. For the same reason, that is to protect the amenities of residential neighbours, I also agree that conditions to regulate the proposed use of the site are necessary.
27. Although the application was accompanied by a detailed arboricultural assessment, including with reference to trees to be felled and trees to be retained together with protection measures, this appeared to be based on the previous permitted residential redevelopment scheme. I consider that this should be revisited to ensure that it is fully comprehensive in relation to the development now proposed and in respect of the access and visibility works required to be undertaken in compliance with other conditions on the permission. In order to be effective and protect existing trees and to relate to the access and visibility works, this condition also needs to be pre-commencement. I also agree that a landscaping scheme should be provided but I consider that this can be later in the programme and need not be a pre-commencement condition.
28. Finally, I shall impose a condition to list the approved plans for the avoidance of doubt and in the interests of proper planning.
29. In accordance with Section 100ZA (5) of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018, I have requested and received the Appellant's written agreement to the imposition of the several pre-commencement conditions I consider it necessary to impose. In the interests of fairness to both the Appellant and the Council I have also provided the opportunity for comment where I have proposed changes to the conditions proposed by the Council that could be regarded as being more onerous in their requirements. I have taken the further representations into account.

Conclusion

30. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR

Schedule of Conditions (1 – 20 inclusive):

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan (unnumbered); 1067.P01.4; 1067.P01.3; 1067.P01.2; 1067.P01.1; 1067.P01.5 Rev D; 1067.P01.6 Rev A.
- 3) No part of the development hereby approved shall be first commenced unless and until the proposed amended vehicular access points to the site on Coulsdon Lane, with visibility splays, have been constructed and provided to the satisfaction of the Local Planning Authority, in accordance with a detailed scheme to be first submitted to and approved in writing by the Local Planning Authority, based on drawing ref: Feargal Carolan 1067.P01.5 Rev D dated 21 May 2020. Thereafter the vehicular access points shall be retained and maintained as approved and the access visibility splays shall be kept permanently clear of any obstruction over 0.6m high.
- 4) No part of the development hereby approved shall be first commenced unless and until pedestrian inter-visibility zones measuring 2m by 2m have been provided to the satisfaction of the Local Planning Authority, on each side of each access off Coulsdon Lane, the depth measured from the back of the footway (or verge) and the widths outwards from the edges of the access. No obstruction to visibility between 0.6m and 2m in height above ground level shall thereafter be erected within the area of such zones.
- 5) No part of the development hereby approved shall be first commenced unless and until a Construction Transport Management Plan (CTM Plan), has been submitted to and approved in writing by the Local Planning Authority, to include details of:
 - (a) parking for vehicles of site personnel, operatives and visitors
 - (b) loading and unloading of plant and materials
 - (c) storage of plant and materials
 - (d) programme of works (including measures for traffic management)
 - (e) provision of boundary hoarding behind any visibility zones
 - (f) HGV deliveries and hours of operation
 - (g) vehicle routing
 - (h) measures to prevent the deposit of materials on the highway
 - (i) HGV movements to or from the site shall take place between the hours of 9.00 am and 4.30 pm only, nor shall the contractor permit any HGVs associated with the development at the site to be laid up, waiting in Coulsdon Lane outside of these times
 - (j) on-site turning for construction vehicles.

The construction of the development shall be carried out in full accordance with the approved CTM Plan unless otherwise agreed in writing with the Local Planning Authority.

- 6) The use hereby permitted shall not commence until the following facilities have been provided in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority for:
- (a) The secure, level and covered provision for 20 bicycles storage spaces, as outlined on the approved plans.
 - (b) Clear guidance to all visitors and servicing operations (excluding waste collection) that stopping and or parking on Coulsdon Lane is not promoted and a system to ensure that visitors and service operations shall be pre-booked and managed to enter and exit the site in forward gear.
- 7) The use hereby permitted shall not commence until an updated School Travel Plan based on the Travel Plan (Ref: 11356/JT/002/04 dated May 2020 prepared by Sanderson Associates) has been submitted to and approved in writing by the Local Planning Authority, to include the timescales for further survey work to be undertaken. The Travel Plan shall be prepared in accordance with the sustainable development aims and objectives of the National Planning Policy Framework, Surrey County Council's "Travel Plans Good Practice Guide", and in general accordance with comments provided by the Travel Planning Officer. The approved Travel Plan shall be implemented for the site in accordance with a timescale to be agreed in writing with the Local Planning Authority and every subsequent occupation of the development, and thereafter the Travel Plan shall be maintained, reviewed and developed to the satisfaction of the Local Planning Authority.
- 8) The use hereby permitted shall not commence unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for the loading and unloading of vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking / loading and unloading / turning areas shall be retained and maintained for their designated purpose.
- 9) The use hereby permitted shall not commence unless and until at least 2 of the available parking spaces associated with Education use are provided with a fast charge socket (current minimum requirement: 7kw Mode 3 with Type 2 connector - 230 v AC 32 amp single phase dedicated supply).
- 10) The use of the site hereby approved shall operate as a school only and during weekdays and school term time only and shall not be used for any other purposes during the weekends and holiday periods.
- 11) Notwithstanding Condition 2, the use hereby permitted shall not commence until the following details, based on the plan in Annex D of the Noise Assessment by Civil Engineering Dynamics, Rev A, have been submitted to and approved in writing by the Local Planning Authority:
- a) detailing of the boundary treatments;
 - b) details of the siting, design, materials and finishes of the minimum 2.5m high acoustic fences;

- c) details of the siting, design, materials and finishes and acoustic performance of the canopy noise barrier between the main building and the garage annexe;
- d) The school amenity space, including the playground area, shown in blue, shall be surfaced and delineated as indicated in para 7.4 of the Noise Assessment by Civil Engineering Dynamics, Rev A.

These details shall be implemented as approved prior to the commencement of the use hereby permitted and shall be retained and maintained thereafter to the satisfaction of the Local Planning Authority.

- 12) The use hereby permitted shall not commence until a Playground and Amenity Space Management Plan has been submitted to and approved by the Local Planning Authority detailing how the amenity spaces will be managed, in particular but not limited to the management and supervision of free play within the playground, organised teaching sessions within the amenity area and management of lunchtime groups in accordance with the details specified in Rowans Hill Noise Assessment by Civil Engineering Dynamics, Rev A. The approved Management Plan shall be implemented as approved prior to the commencement of the use hereby permitted unless otherwise agreed in writing with the Local Planning Authority.
- 13) There shall be no teaching or practicing of musical instruments on the site at any time without the prior approval in writing of the Local Planning Authority. Details of the provision and mitigation will need to be approved in writing by the Local Planning Authority and this should include an adequate design of sealed glazing and suitable ventilation for thermal comfort of future occupiers.
- 14) The forest school area shall only be used within the hours of 08:30 to 14:00 hours Monday to Friday.
- 15) The use hereby permitted shall not commence until details, full specifications and elevational drawings of the kitchen extraction and filtration equipment, and an ongoing maintenance plan, have been submitted to and approved in writing by the local planning authority. The use hereby permitted shall not commence until the approved details are fully implemented. The approved fume extraction and filtration equipment shall thereafter be retained and maintained in working order for the duration of the use in accordance with the approved details.
- 16) The use hereby permitted, or the operation of any building services plant, shall not commence until an assessment of the acoustic impact arising from the operation of all internally and externally located plant has been submitted to and approved in writing by the local planning authority.

The assessment of the acoustic impact shall be undertaken in accordance with BS 4142: 2014 (or subsequent superseding equivalent) and current best practice, and shall include a scheme of attenuation measures to ensure the rating level of noise emitted from the proposed building services plant is 5db less than background.

- 17) The use hereby permitted, or the operation of any building services plant, shall not commence until a post-installation noise assessment has been carried out to confirm compliance with the noise criteria. The scheme shall be implemented in accordance with the approved details and

attenuation measures, and they shall be permanently retained and maintained in working order for the duration of the use and their operation.

- 18) No development hereby permitted shall commence including demolition and groundworks preparation until a detailed, scaled Tree Protection Plan (TPP) and the related Arboricultural Method Statement (AMS) have been submitted to and approved in writing by the Local Planning Authority. These shall include details of the specification and location of exclusion fencing, ground protection and any construction activity that may take place within the Root Protection Areas of trees (RPA) shown to scale on the TPP. The AMS shall also include a supervisory regime for their implementation & monitoring with a reporting process to the Local Planning Authority. All works shall be carried out in strict accordance with these details when approved.
- 19) Notwithstanding Condition 2, the use hereby permitted shall not commence until a scheme for the landscaping of the site including the retention of existing landscape features has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of hard and soft landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, and hedge or grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities and an implementation and management programme.

All hard and soft landscaping work shall be completed in full accordance with the approved scheme, prior to the use commencing or within the first planting season following completion of the development hereby approved or in accordance with a programme agreed in writing with the local planning authority.

Any trees shrubs or plants planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, shrubs of the same size and species.

- 20) Notwithstanding Condition 2, the use hereby permitted shall not commence unless and until full details (and plans where appropriate) of the waste management collection point, (and pulling distances where applicable), have been submitted to and approved in writing by the Local Planning Authority. The waste collection point should be of an adequate size to accommodate the bins and containers required for the approved use. The development shall be provided with the above facilities in accordance with the approved details prior to the use first commencing.