



Appeal Decision

Site visit made on 10 October 2023

by M J Francis BA (Hons) MA MSc MCIffA

an Inspector appointed by the Secretary of State

Decision date: 21 November 2023

Appeal Ref: APP/P5870/D/23/3323781

37 Gilhams Avenue, Banstead, Sutton SM7 1QL

- 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 David Deadman against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2023/00258, dated 17 February 2023, was refused by notice dated 11 May 2023.
 - The development is proposed electronic entrance gates set between facing brick piers, a widened crossover to SCC highways standards and new timber post and rail fencing.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council amended the description of the proposal. This is not, however, the same description used on the decision notice. I have, therefore, used the description on the application form in the banner heading above. This is the basis on which I have determined the appeal.
3. The proposal is partly retrospective because at the time of my visit a length of wooden fence had been constructed from one side of the vehicle access point to the junction of the boundary with No 39 Gilham's Avenue.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and the effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area; and
 - If the development is inappropriate, whether the harm by reasons of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposed development.

Reasons

Inappropriate development and openness

5. The appeal site is located in the Green Belt. The Framework says that the construction of new buildings, which by way of case law, covers gates and fences, should be regarded as inappropriate development. This is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraphs 149 and 150 of the Framework define the types of development that are regarded as exceptions to inappropriate development in the Green Belt. This does not include fences and gates.
6. The host property is a single storey dwelling with a drive, parking and turning area to the front. This is fringed by lawn, borders and hedging to the sides. The existing site plan and submitted site photograph show that the front of the site was open to the adjoining road, where the lawn merges with the existing grass verge. The verge contains a sycamore and an alder tree, both of which are subject to Tree Preservation Orders.
7. The Framework indicates that an essential characteristic of Green Belts is their openness and that the fundamental aim of Green Belt policy is to keep land permanently open. Openness includes both a visual and a spatial aspect.
8. The proposal includes the fence, which the submitted plans show as 1350mm in height, brick gate piers and metal, automated gates. The site was previously open to the road and so the construction of the fence and the proposed gates, as well as planting to the rear of the fence, would, therefore, change the site in spatial terms. Moreover, it would alter the site visually, from a very open frontage to one that is contained by a boundary and gates. This would be visible from the adjoining road and would therefore reduce the openness of the site and would cause moderate harm in this regard.
9. In this respect the proposal fails to accord with the Framework and Policy 24 of the Sutton Local Plan 2014-2031, (LP), 2018, which amongst other things states that planning permission will not be granted for inappropriate development in the Green Belt, and that any new buildings or structure should preserve the openness of the Green Belt.

Character and appearance

10. Gilham's Avenue, on which the appeal site is located, is a large, roughly semi-circular residential area of detached housing in generous plots. Number 37 (No 37) Gilham's Avenue is within a small cul-de-sac, located off the central part of the avenue.
11. The proposal is for a wooden fence with cleft posts and three rails, either side of brick piers and a metal gate. Whilst there are a variety of front boundary treatments along Gilham's Avenue, the majority are low, brick or stone walls, with some hedges.
12. I noticed, however, that No 42 Gilham's Avenue had a similar style wooden fence to that found at No 37. It also had wooden gates. Whilst most properties within the avenue had open drives, with no gates, there were a limited number where entrance gates had been constructed. Furthermore, from what I saw, No 37, was, prior to the construction of the fence, the only property in this road, without any form of front boundary.
13. The fence is low in height, open, and built in a traditional form. It is located to the rear of the trees growing on the verge, with a line of planting behind it. Sited on a narrow road, and within the shadow of the trees when they are in

leaf, the fence would not be very noticeable. The gate piers and gate would not be much higher than the fence. Whilst these would be more visible, their location at the edge of this small cul-de-sac, would not result in them appearing over-dominant in this location. Therefore, the proposal would not appear excessive and incongruous and, consequently, would not harm the character and appearance of the area.

14. Therefore, the proposal would accord with Policy 28 of the LP which amongst other things, seeks to make a positive contribution to the street frontage and respect the local context.

Other considerations

15. The appellant has detailed that the proposal is to provide security and screening for the dogs that he owns and for when his grandchildren visit. This benefit is of a personal nature which I give some limited, positive weight.
16. The proposal received no objections from consultees or third parties. An arboricultural report¹ was submitted and the Council's tree officer had no objection to the proposal. I have no reason to form a different view.
17. The appellant has provided photographs of a number of properties along Gilham's Avenue and Banstead Road where front boundaries include brick pillars and walls, metal fences and railings. I saw most of these properties when I visited No 37. I have not, however, been provided with substantive evidence of these sites and their boundaries and so I cannot be sure whether these cases are directly comparable. I have, therefore, determined the appeal on its own merits, based on the evidence before me.

Planning Balance

18. The Framework confirms that the Government attaches great importance to Green Belts. Substantial weight should be given to any harm to the Green Belt, and I have found that the proposal would constitute inappropriate development in the Green Belt and is, therefore, by definition, harmful to it.
19. The Framework confirms that inappropriate development should not be approved except in very special circumstances. It goes on to confirm that 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.
20. I have found that the proposal would not harm the character and appearance of the area and would not conflict with the development plan in this regard. However, for the reasons given, this, and the other considerations that have been advanced in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development therefore do not exist.

Conclusion

21. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations that outweigh

¹ Proposed minor development at 37 Gilham's Avenue, Banstead, Surrey, SM7 1QL, Arborweald Environmental Planning Consultancy, 14 March 2023.

the identified harm and that warrant a decision other than in accordance with the development plan.

22. Therefore, for the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR