



REGULATORY SERVICES COMMITTEE

REPORT

17 November 2011

Subject Heading:

P1413.11 – 178 Crow Lane canopy
(received 22 September 2011)

Report Author and contact details:

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Policy context:

Local Development Framework
The London Plan
National Planning Policy Statements/
Guidance

Financial summary:

None

The subject matter of this report deals with the following Council Objectives

Ensuring a clean, safe and green borough	<input checked="" type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input checked="" type="checkbox"/>
Valuing and enhancing the lives of out residents	<input type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

This report concerns an application for a canopy which is partially completed. The application has been referred to Committee as there is extensive, relevant planning, planning enforcement and appeals history and the applicant is a relative of a Councillor. Staff consider that the proposal would be contrary to Green Belt Policy DC45 contained in the Local Development Framework Core Strategy and

Development Control Policies Development Plan Documents and PPG 2 (green belts) and refusal is therefore recommended. In accordance with the requirements of the Constitution the Monitoring Officer has reviewed the processing of the application to ensure that it has been processed following standard procedure.

RECOMMENDATIONS

It is recommended that planning permission is refused for the following reason:

1. The site is within the area identified in the Local Development Framework as Metropolitan Green Belt. The Local Development Framework Policy DC45 and Government Guidance as set out in Planning Policy Guidance Note 2 (Green Belt) is that in order to achieve the purposes of the Metropolitan Green Belt it is essential to retain and protect the existing rural character of the area so allocated and that new buildings will only be permitted outside the existing built up areas in the most exceptional circumstances. The special circumstances submitted in this case are not considered to amount to the very special circumstances needed to over-ride the presumption against inappropriate development in the green belt and the proposal is therefore contrary to Policy DC45 of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document and PPG2 (green belts).

REPORT DETAIL

1. Site Description

- 1.1 The application site is located to the northern side of Crow Lane and comprises No. 178 Crow Lane and land to the rear of this building. It forms part of a larger site which includes 188 Crow Lane and is in a commercial use for the storage of containers in connection with a removals business. In addition to the frontage building, the application site contains a number of buildings which provide ancillary office accommodation together with some storage. This application is one of two submitted for buildings at the application site (the other having planning reference P1803.10); both of which are visible on site, if not entirely complete. The site has direct access onto Crow Lane. The site is within the Metropolitan Green Belt.
- 1.2 The surrounding area is a mixture of residential (mainly to the road frontage), many with commercial activities behind and a purely commercial area to the east of the application site beyond No. 158 Crow Lane. There are also open vegetated areas along Crow Lane to the West and to the north of the application site, beyond which lies the London – Southend Railway Line.

- 1.3 At the site visit the applicant pointed out a number of old vehicles under the newly constructed canopy but otherwise there was no activity taking place under the canopy.

2. Description of Proposal

- 2.1 The proposal is a resubmission following a recent withdrawal and is for the retention of the canopy. The canopy is located in a central location beyond the existing frontage buildings, at its nearest point, 56m or so from the back edge of the public highway to Crow Lane. The canopy is comprised of steel uprights and roof beams with a plywood/canvas roof covering. The canopy structure is 37m long and 15m wide. It has a pitched roof with a ridge height of 9.2m above ground level (eaves height 6.5m above ground level) with gables to the southern and northern elevations. Retractable shutters are present on the southern elevation.
- 2.2 The applicant indicates that the Company was established in 1847 and that the canopy provides an ancillary building which provides a much needed dry environment for the unloading of lorries using the company's forklift truck; the height of the building being determined by the size of the forklift truck. The dry environment is, according to the applicant, required for Health and Safety reasons. This forms the case for very special circumstances.
- 2.3 The only difference between this scheme and the withdrawn scheme is that the applicant is offering to have none of his existing container business containers within an area marked "B" which is basically to the main road frontage and within the area marked "A" (which covers the remainder of the applicant's site) the applicant is offering to limit the number of containers stacked on top of each other to a maximum of 5 containers. This also forms part of the special circumstances case put forward by the applicant. He indicates that he would be willing to enter into a S106 legal agreement such that he would agree to be tied to this arrangement for his existing container business if he is granted planning permission for the canopy and the steel clad building (subject of a separate planning permission P1414.11) proposed.

3. History

The planning history relating to 178 Crow Lane and 188 Crow Lane are inextricably linked due to them being in the same ownership and as they have a physical connection. There is extensive planning history relating to the application site/sites and the following are the relevant applications:

- 3.1 P1402.90 (178) – erection of a storage building - refused; subsequent appeal dismissed
P1177.94 (178) – retention of a building for use as a museum – refused 6/1/95; subsequent appeal dismissed

P1012.95 (178) – building for use as a museum – refused 11/10/95; subsequent appeal dismissed

P1451.98 - buildings for vehicle maintenance, workshop, store, office and WC (at 178-188 Crow Lane) – granted 28-05-99

P0384.00 (188) – repair and refurbishment of existing building for storage and museum – lapsed 7/11/02; appeal made (not determined)

P0158.01 (188) - replacement building for museum, offices, workshop and storage – refused Jan 2002; appeal dismissed 29/7/02

P1513.02 (188) – replacement building for museum, offices, storage and workshop at rear. This application was called-in by the Secretary of State who decided to refuse planning permission

P1803.10 – steel clad building - withdrawn

P1804.10 – canopy - withdrawn

4. Consultation/Representations:

4.1 23 neighbouring and nearby properties were notified of the application. A site notice was posted and a press notice was issued. No replies have been received.

4.2 The London Fire and Emergency Planning Authority have previously written to advise that as a site currently in use by large vehicles the access is satisfactory for their emergency vehicles.

4.3 The London Fire Brigade (water supply) have previously written to advise that no additional, or alterations to the existing, fire hydrants are required for the site.

5. Staff Comments

5.1 This application is being referred to committee as there is significant planning history in relation to development, in terms of planning applications, enforcement and appeals. In addition, this proposal is put forward before the committee due to the applicant being a direct relative of an elected councillor. This report has been passed to the Monitoring Officer, who has confirmed that pursuant to the requirements of the Council's Constitution, the application has been processed in accordance with standard procedure.

5.2 The issues in this case are the principle of the development, its impact in the Green Belt and the street scene, impact on the amenities of nearby residential occupiers and highways/parking. Policies DC33, DC36, DC45, DC55 and DC61 of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document are relevant. Also relevant are London Plan Policies 2.7 and 7.16 and PPG2: Green Belts and PPS7 Sustainable Development in Rural Areas. Also relevant are the comments made by Planning Inspectors in dismissing earlier schemes.

- 5.3 The proposal is for a canopy to be used to provide dry working conditions to workers loading/unloading containers. Previous applications for buildings at this site have been dismissed at appeal principally on green belt grounds. The applicant on this occasion has asked for two buildings to be considered, one for a museum (P1804.10) and the other is this stand-alone canopy. This proposal is nonetheless considered on its own planning merits.

Principle of development

- 5.4 Policy DC45 of the LDF Core Strategy and Development Control Policies DPD indicates that planning permission for development in the Green Belt will only be granted if it is for agriculture and forestry, outdoor recreation, nature conservation, cemeteries, mineral extraction and Park and Ride facilities. This is the list drawn from national planning guidance, PPG2 "Green Belts".
- 5.5 The existing use of the application site is a commercial removals depot which does not fall within any of the listed categories. The proposed development of a canopy of approximately 255 sq. m is therefore inappropriate development in the Green Belt, by definition harmful in principle to the purpose of the green belt.
- 5.6 In addition, consideration is made as to whether the proposal creates other additional harm caused by the physical impact on openness, on visual amenity in the streetscene, on residential amenity etc.
- 5.7 The reasoned justification to Policy DC45 refers to Planning Policy Guidance Note 2 – Green Belts which states a general presumption against inappropriate development. By its very nature, inappropriate development is considered to be harmful to the Green Belt, in principle. In order to outweigh such harm, together with any additional harm caused by the physical impact of the building on the setting and openness of the Green Belt, very special circumstances must be clearly demonstrated. If not, the application should be refused.
- 5.8 Policy DC45 clarifies that in order to achieve improvement to both the open nature and Green Belt environment at existing authorised commercial /industrial sites, it may be justifiable to grant permission for a use which would not normally be acceptable in terms of Green Belt policy. Any such proposal would need to be the subject of the Departure procedure. This proposal is not for redevelopment and would not result in a substantial decrease in the amount of building on the site or any improvement to the local Green Belt environment, such that this proposal has not been considered as falling under that aspect of the policy.
- 5.9 The applicant has submitted a supporting statement which he wishes to be taken as a "very special circumstances" case sufficient to outweigh the harm caused to the green belt. First it is necessary to consider what harm arises from the proposed development.

Impact on the character and appearance of the green belt

- 5.10 The five purposes of the green belt are to check the unrestricted sprawl of large built-up area; to prevent neighbouring towns from merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and, to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 5.11 The Planning Inspector in his decision letter dated 25th September 2003 in relation to the application site indicated that the site has a role in restricting the growth of the built-up area and in preventing the coalescence of Romford and Dagenham which meet the first two purposes of the green belt. In his view the site in this part of Crow Lane “retains a distinct open and low-density character, and it appeared to me to continue to perform the roles of separating neighbouring settlement and restricting urban sprawl”.
- 5.12 The Planning Inspector further noted that “The appeal site is part of a narrow finger of Green Belt that links areas to the north and south of Crow Lane” such that “I consider it to be a sensitive part of the Green Belt. If the openness of the land were to be further reduced, an undesirable fragmentation of the Green Belt could result.”
- 5.13 The status of the application site in green belt terms has not diminished since the Planning Inspector made his comments. The site continues to fulfil the first two purposes of the green belt even though the use of the site itself does not fall within the range of appropriate uses of land in the green belt.
- 5.14 The structure would, although 9.2m high, 37m long and 15m wide would not be particularly visible from Crow Lane although it is visible from directly adjacent to the vehicular access onto Crow Lane and from views from the public highway to the west of the existing frontage building. In addition as containers cover much of the remainder of the site and are stacked at least 4 high in rows close to the canopy to its north and west with other existing buildings to the east of the application site, this new structure is not particularly visible from longer distance views.
- 5.15 Containers are stacked along the northern boundary of the application site. It is clearly a historic feature of the current use, which is of itself an inappropriate use in the green belt, that there are containers at the application site. The structure would therefore not be visible from public viewpoints immediately adjacent on open land to the north of the application site. Also with the high container stacks to the northern boundary, although the railway is elevated, it is not currently possible to see the canopy from this public viewpoint.
- 5.16 Nonetheless containers can be removed from the application site and moved around the site in connection with the applicant’s business such that they would not provide a permanent physical screen. Notwithstanding that

the site's established and historic use which pre-dates Planning (i.e. before 1948) causes some harm to the green belt by its very nature, the height and location of the containers currently do reduce the visibility of the structure.

- 5.17 If the use were to cease, while the containers would be removed, any structures including the canopy would remain permanently on the land. Notwithstanding the open sides of the structure, it encloses a space and has a roof covering of over 550 sq.m in area raised between 6.5m and 9.2m above ground level. It is therefore considered that it would have greater visibility from public viewpoints and therefore, due to its size, scale and inappropriateness in the green belt, would have an adverse impact on the openness of the green belt and purposes of including the site within it.
- 5.18 The replacement of an area for the storage of containers by a permanent building would not increase openness at the application site and no other area within the application site is proposed to be retained as open to compensate.
- 5.19 The Planning Inspector clarified that the fundamental aim of Green Belt policy is to prevent urban sprawl by "keeping land permanently open". Staff therefore consider that the development of this permanent structure results in harm to the open character and appearance of this part of the green belt and the purposes of including land within it, contrary to Policy DC45 and PPG2.

Impact in the Street Scene

- 5.20 The structure would not be very visible from Crow Lane. This is partly because the canopy is located some 50m from the back edge of the highway to Crow Lane and as there are intervening existing storage buildings and 2-storey office/ancillary buildings closer to the highway.
- 5.21 The structure would be partly visible from the adjoining industrial site and would appear to be similar in scale and form to other industrial buildings, albeit in newer materials. However the adjoining industrial area lies outside the green belt.
- 5.22 It is therefore considered that there would be no significant adverse impact on visual amenity in the streetscene.

Impact on Residential Amenity

- 5.23 There are residential properties opposite the application site and along both sides of Crow Lane to the east and west of the application site. Of itself it is not considered that the canopy would have any significant impact on the adjoining neighbouring occupiers amenity, in part as it is located some distance away (approximately 55m from the rear elevation of the nearest residential property)

- 5.24 Given the current use of the site for container storage, it is considered that the canopy of itself would not be likely to increase the level of activity on site, although clearly workers would be able to work under the canopy's dry/sheltered conditions more than during normally wet or colder periods, such as during the winter, when work may be limited to shorter periods or not at all during inclement weather. There is, nonetheless, no suggestion that the canopy would increase either the number of the current workforce or the number of containers currently handled at the application site. It is therefore considered that there would be no significant increase in noise and disturbance beyond that existing.

Highways

- 5.25 There is no change proposed to the highway accesses to the application site. The London Fire and Emergency Planning Authority indicate that the access should meet particular requirements.
- 5.26 The proposed buildings would not reduce the existing internal "road" width and there are no objections on highway safety grounds.

The Case for Special Circumstances

- 5.27 As set out above, in cases where in principal and actual harm has been identified, very special circumstances must be demonstrated in order for the proposal to be considered favourably. The applicant's special circumstances case will now be considered below. For ease, each strand of the case is highlighted in italics with staff comments given underneath:
- 5.28 *The canopy is required to provide a dry environment for workers to meet Health and Safety*

Staff comments:

- The removals company has operated without the need for a dry environment/covered area at the application site for a significant period of time. There is no suggestion raised by the applicant that the industry has undergone some specific and significant change which means that this covered/dry area is required by legislation. Staff recognise that the provision of such an area would be desirable given the outdoor nature of the work, however, no evidence has been submitted to demonstrate that this is an essential operating requirement such that it amounts to very special circumstances to over-ride the presumption against inappropriate development in the green belt.

- 5.29 *The canopy needs to be at this height to accommodate machinery including the fork-lift*

Staff comments:

- The applicant indicates that the height is required for their forklift truck. The proposed height of the canopy is 9.2m at its apex and 6.5m at eaves level and it is likely that this would be needed to accommodate a fork-lift truck with its mast raised. Nonetheless, as no details have been submitted of the actual dimensions, a smaller building height may also work.

5.30 *The canopy needs to be this size to accommodate more than one operation at a time*

Staff comments:

- No details have been submitted regarding the size of the forklift truck(s), the size of the container lorries, numbers of staff involved or why the canopy needs to be of a scale to accommodate more than one operation at a time.

5.31 *A Section 106 agreement would be entered into to prevent the provision of containers to the frontage area and limit their provision across the remainder of the site*

Staff comments:

- At the time of the site visit there were no containers stored to the area in front of the former dwelling, now office building. While it is considered appropriate for there not to be containers to the front of this building the use pre-dates the planning system and any use must currently accord with the Certificate of Lawful Development. It is therefore not considered that the applicant deciding not to use this area for container storage would bring about any specific environmental improvement.
- The offer to restrict container stacking to a maximum of 4 which are likely (at 2.5m high each) be a minimum of 10m high would similarly not bring about any specific or significant environmental improvement.
- Both items on offer could be effected at any time by the applicant and Staff do not consider that they are specifically related to offsetting the impact of the proposed canopy and steel-clad buildings.

5.32 In the light of the detail set out above, Staff do not consider that the special circumstances case put forward in relation to the canopy amounts to the very special circumstances needed to outweigh the harm identified.

5.33 Staff have considered whether a temporary or personal permission would be appropriate. However, Staff consider that the circumstances raised by the applicant are similar to those put forward to Planning Inspectors and the Secretary of State, in previous appeal cases, who all concluded that the

additional buildings, even if ancillary to the main use of the site as a removals company, would be inappropriate and harmful development in the green belt. They also considered that the applicant's wish for additional buildings neither provided very special circumstances to outweigh that harm. The principle of additional buildings at this site has been tested several times previously and Staff consider that there has been no fundamental change in Green Belt policy since the last appeal decision in 2004.

6. Conclusions

- 6.1 Staff consider that this proposal in the green belt is inappropriate in principle. It is further considered that there would be harm to the open character and appearance of the green belt.
- 6.2 Members may apply judgment to the merits or otherwise of the very special circumstances case but the extensive appeal history is an important material consideration to which significant weight should be attached. Staff consider that there is demonstrable harm and that the reasons promoted and proposed S106 restrictions to the existing use do not constitute the very special circumstances needed to outweigh that harm. Staff therefore recommend that planning permission be refused.
- 6.3 In the event that Members reach a different conclusion about 1) the nature and degree of harm and/or 2) the merits of the applicant's very special circumstances case in outweighing such harm, any resolution to grant planning permission would need to be referred to the Secretary of State as a departure in accordance with the Town and Country Planning (Consultation) (England) Direction 2009 as the application by reason of its scale, nature and location would have a significant impact on the openness of the Green Belt.

IMPLICATIONS AND RISKS

7. Financial Implications and risks:

- 7.1 None

8. Legal Implications and risks:

- 8.1 The applicant is a relative of an elected councillor. This report has been passed to the Monitoring Officer and the Monitoring Officer is satisfied that the application has been processed in accordance with standard procedure.

9. Human Resource Implications:

- 9.1 None

10. **Equalities and Social Inclusion Implications:**

10.1 The Council's planning policies are implemented with regard to Equalities and Diversity.

BACKGROUND PAPERS

1. The planning application as submitted or subsequently revised including all forms and plans.
2. The case sheet and examination sheet.
3. Ordnance survey extract showing site and surroundings.
4. Standard Planning Conditions and Standard Green Belt reason for refusal.
5. Relevant details of Listed Buildings, Conservation Areas, Article 4 Directions.
6. Copy of all consultations/representations received and correspondence, including other Council Directorates and Statutory Consultees.
7. The relevant planning history.