
Appeal Decision

Hearing held on 16 February 2016

by **David Smith BA(Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18th March 2016

Appeal Ref: APP/G5180/W/15/3133230

Old Hill Farm, Old Hill, Orpington, Kent, BR6 6BN

- 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 Bill Heaseman against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/15/00981/FULL3, dated 3 March 2015, was refused by notice dated 5 August 2015.
 - The development proposed is change of use of and external alterations to existing buildings to create mausoleum with associated parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of and external alterations to existing buildings to create mausoleum with associated parking and landscaping at Old Hill Farm, Old Hill, Orpington, Kent, BR6 6BN in accordance with the terms of the application, Ref DC/15/00981/FULL3, dated 3 March 2015, subject to the conditions in the schedule below.

Preliminary Matter

2. The description of development on the application form refers to a single building. However, it is evident from the information provided and from the Council's description of development that the proposal relates to two buildings and so I have considered the appeal accordingly.

Background and Main Issue

3. An appeal for a similar proposal at the site was dismissed in February 2015 (Ref: APP/G5180/A/14/2216675). The Inspector found that the proposal would not be inappropriate development in the Green Belt, would not harm openness, would improve the character and appearance of the site and would not harm living conditions of nearby residents. However, the appeal was dismissed because of the impact on local highway conditions. The Council accepts that this decision has addressed most of its previous objections and there is no reason for me to take a different view. Therefore the main issue in this appeal is the effect of the proposal on highway safety along Old Hill with particular reference to parking.

Reasons

4. The proposal is to convert and upgrade two existing buildings to create a mausoleum with 690 individual crypts or vaults. The site is currently occupied by a garden maintenance company.
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5. The layout accompanying the application showed a total of 40 parking spaces within the site. However, it became apparent at the site inspection that some of them along the north-west boundary would have the effect of removing a small clump of trees that form part of an area of protected woodland (Tree Preservation Order 1989 No 172A). This would be unacceptable. However, scope exists for additional permanent parking to be laid out on land within the appellant's control in place of an existing re-cycling yard and without harm to the Green Belt. This could be secured by condition and therefore I shall assess the proposal on this basis although one space would be likely to be occupied by a mini bus when not in use.
6. The site would only be open to visitors between 0930 and 1600 hours on weekdays and 1000 and 1500 hours at weekends. There would be no more than one interment a day when the deceased is placed inside the individual crypt. The appellant also explained that these occasions would be limited to immediate kin and would not take the form of a funeral with a cortege and hearse. Instead the body would be collected by the operator after the ceremony and brought to the site. Interment would also probably be on another day. It was suggested that vehicle numbers at such times could be restricted to 15 but limiting this by means of condition would not be reasonable or enforceable. Nevertheless no other visitors would be permitted.
7. Relatives are subsequently likely to come and pay their respects to loved ones. The appellant proposes an appointment system in order to regulate usage and to control numbers. Visitor logs could be kept and made available on-line for inspection by the Council. In addition, there would be 4 members of staff based at the site.
8. Any future operator would be likely to have an interest in ensuring that the site was secure and that the experience of visitors was a pleasant one. For example, ensuring that there was no 'overlap' between those attending an interment and those wishing to visit the resting place of family members would appear to be sensible and humane practice. In addition certain key elements of the use could be controlled by condition and a site management plan agreed with the Council. This could cover matters such as the operation of an appointment system for all visitors to the mausoleum, measures to control the number of vehicles attending interments and the keeping of a register of all those visiting the site.
9. There is a limit to the extent that the Council would be able to 'micro-manage' the use of the site but conditions along these lines would provide some control over the proposed mausoleum in future years. Accordingly it is reasonable to base any assessment on the expectation that the proposal would function broadly along the lines explained at the hearing.
10. The previous Inspector found that the circumstances encourage car-based travel and it is accepted by the appellant that most trips to the site would be made by that mode. However, this is not a development that would generate significant movement so that paragraph 34 of the National Planning Policy Framework does not apply. The footpaths down Old Hill and towards Green Street Green are steep and improvements to their surface treatment are unlikely to lead to greater usage of them by visitors. However, the use of a mini bus to collect visitors from nearby stations or bus stops could encourage some people to consider alternatives.

11. Old Hill is used as a local short cut and is quite busy. A total of 1,965 vehicles were counted between 0700 and 1900 hours in July 2013 with the greatest levels in the morning peak. At the lower end it is two-way and the proliferation of parked cars can make negotiating this part tricky. There is a playground and recreation area nearby and children live in Old Hill. Local residents also indicate that traffic levels along Old Hill have increased over the years, the 40mph speed limit is exceeded and the one-way restriction sometimes ignored. The fatal accidents referred to in the vicinity are a stark reminder of the potential perils for drivers but there is no direct link between these and the use of Old Hill. Indeed, as at 2013 there had been no personal injury/road traffic accidents within 50m of the appeal site within the previous 5 years.
12. However, whatever the existing difficulties of using Old Hill, the key question is what would be the impact of the proposal? In assessing this it should be borne in mind that the site is currently in commercial use and generates traffic. This is said to comprise about 15 or 20 vans arriving in the morning and then returning at various times during the day. Indeed, over 5 hours in the morning peak, mid-morning and later afternoon a total of 40 movements into the site and 39 out of it have been recorded.
13. The last Inspector found that at times a "significant concentration" of vehicle movements would occur. However, additional information has been provided based on a survey of an existing mausoleum in Peterborough. This does not have the same surrounding population density as a site on the edge of London. Public transport links may also be better even though the bus stop is some 200m from the mausoleum itself. Nevertheless it is the only evidence of a comparable site that has been put forward and the findings are not disputed by the Council. That said, they evidently represent a 'snap shot' of a given day.
14. The survey indicated that 9 cars attended the facility and that 2 trips were made by bike. There are 104 occupied crypts at the site in Peterborough and the mausoleum opened in 2000 suggesting a slow rate of 'take-up'. The average length of stay by visitors was 5 minutes and no interment was taking place at the time.
15. By 'factoring up' the number of visits in relation to the crypts proposed the Council suggested that there could be an aggregate of 60 vehicles at the appeal site. However, on a normal day these would be likely to be spread across it rather than everyone arriving at the same time. Due to the intention to create a "beautiful" setting, visitors may wish to stay for longer than 5 minutes in contemplation and reflection. Even allowing for this and the likelihood that the site would be more popular than the one in Peterborough, the available parking capacity should be adequate. There is no clear evidence that parking accumulation would be an issue.
16. The use of the crypts may proceed more quickly than at Peterborough and the appellant did not dissent from the contention that this might take place over a period of about 30 years. In that event, interments would still be infrequent. It could be that large families would wish to attend and so this could involve quite a significant gathering. However, any operator could be expected to provide a good experience at an emotional time and would not wish mourners to be inconvenienced by the absence of on-site parking.
17. If that were not the case then one option would be for visitors to park on Old Hill. The potential for uncontrolled and indiscriminate parking here is the

Council's main objection. There is nevertheless scope to park quite close to the site entrance and this is undertaken at present by country park users. Further erosion of the bank is not desirable but other locations along Old Hill would be foolhardy. This is because they would cause an obstruction or result in possible damage to vehicles and so they are not serious options. Consequently in the event that visitors could not park within the appeal site they would either use one of the informal opportunities in Old Hill or they would go somewhere else.

18. However, it would be unlikely to come to that as there is potential for overspill parking within the appeal site. This could be provided on land within the existing yard close to the permanent parking area. Understandably the previous Inspector expressed concern about an increase in parking to the extent that the Green Belt would be harmed and openness undermined. But in the location identified that would not be the case.
19. Nobody can be completely certain about the pattern of use of the appeal site over the coming years and the consequent number of car journeys to and from it. Nevertheless it is reasonable to expect, based on the evidence available, that on most days attendance would be quite low. On certain days of the year there may be more pressure from visitors and some interments might involve a high number of relatives. However, it is likely that an operator would have safeguards in place to manage the site on such days and it would be in that company's interests to do so. Importantly controls could be exercised by condition and of particular relevance is the potential to provide overspill parking to cope with future fluctuations in demand.
20. As far as the general use of Old Hill is concerned the normal daily flows would be insignificant compared to the existing general level of use. Furthermore, these would be outside peak hours when existing usage is at its lowest and would replace the traffic that currently goes to and from the site. Whilst recognising that meeting cars coming down the hill in the lower section is awkward there would be no material increase in road hazards.
21. The access is positioned at the top of a hill along a fairly narrow and winding lane. Sight lines to the standard sought by the Highway Authority could be provided to the left on exit with only minimal trimming of the roadside vegetation. This would represent a minor improvement. Whilst entering and leaving the site would require care this is the same for all turning manoeuvres. The entrance would not appear so unexpectedly and visibility would not be so restricted that the proposal would cause inherent danger to road users.
22. There is a public footpath that pedestrians could use to walk up and down Old Hill and to link up with the country park or the footpath that goes from Beechwood Avenue to Farnborough Way. Crossing the road in the vicinity of the appeal site entrance would need to be done with caution but the proposal would not add significantly to the difficulty of this task. In general terms those on foot are well catered for and their safety would not be jeopardised.
23. Overall the proposed development would not harm highway safety along Old Hill. As such, it would comply with Policy T18 of the Unitary Development Plan which seeks to ensure that road safety is not adversely affected.

Other Matters

24. The last Inspector concluded that the development would not be harmful to the living conditions of nearby residents with particular regard to noise, odours and contamination. A condition could be imposed in relation to details of vault sealing, ventilation and drainage. Concerns were expressed at the hearing about noise from generators and the keeping of bodies but there is no evidence to undermine the previous findings made.
25. The appeal site is within a Site of Importance for Nature Conservation. There is reference to dormice, bat foraging areas and protected reptiles in the area. However, the proposal involves the conversion of existing buildings on a site which is largely in a clearing within the protected woodland. There is no firm evidence of the presence of these species within the appeal site and the development proposed would be unlikely to affect biodiversity in a negative way. In particular, the creation of the sight line would have a very minor impact on the roadside vegetation.
26. Some expressed concern about whether the proposed mausoleum would be a sustainable business model. In particular, that the pre-purchase of crypts would not provide a revenue stream for the future upkeep of the site and that this form of burial is usually undertaken alongside a cemetery rather than separately. However, it is not the function of the planning system to adjudicate on whether any particular business venture will be successful or not. Moreover, the Council has not raised any concerns about the long-term implications of the site both in terms of public health or any future liabilities it might have. Given this there is no reason for an objection to the proposal in land use terms.
27. Reference is made to various other appeal decisions from around the country concerning similar types of development. However, these will have been decided on the basis of their individual circumstances and so they are of limited weight in informing this decision.
28. It is also worth noting that the proposal would bring about a number of benefits. In particular, that the character and appearance of the area would be enhanced both by the upgrading of the buildings and by the creation of an attractive area with additional landscaping to complement the surroundings. The rather unsightly existing yard areas would be removed. The proposal would also increase burial capacity which is generally understood to be in short supply across the nation.
29. Throughout this decision the conclusions of the previous Inspector have been borne in mind. Like cases should be decided in a like manner. However, decision-makers can exercise judgement and like cases do not necessarily have to be decided alike. In any event, there are two significant differences between the respective proposals. Firstly, the number of vaults has been reduced from 1000 to 690 thereby materially reducing the potential for trips to the site by car. Secondly, there is information about travel patterns to a similar facility in Peterborough which was not available previously. Therefore, whilst the proposals are similar they can be differentiated to the extent that a different outcome is justified.

Conditions

30. I have considered the conditions suggested both by the Council and by the appellant having regard to the tests in the National Planning Policy Framework and the advice in the Planning Practice Guidance. Where necessary I have altered the proposed wording in the interests of clarity and effectiveness.
31. In order to provide adequate safeguards for highway safety and general conditions along Old Hill conditions are required to ensure the provision of 40 permanent parking spaces, identify an overspill area, secure the visibility splay and the submission of a construction management plan. A travel plan is necessary to secure the operation of a mini bus service for visitors. However, there is no need for any signage to be installed to announce the access.
32. In the interests of the appearance of the area landscaping details are required. These should take into account the existing groups of trees within the appeal site alongside the access road and at the far northern tip behind the buildings. Conditions should also be imposed to protect them during development. The approved planting should be implemented. For the same reason external lighting and boundary treatments should be controlled.
33. A site management plan is necessary to ensure that the use operates as intended in the long-term and I am satisfied that this would be enforceable. Further restrictions are required on the hours of opening, to restrict interments and to limit the number of crypts. For health reasons further details of the vaults should be agreed. Because the extent of the parking areas has not been settled details of surface water drainage should be given. The plans should be listed for certainty.
34. The Council accepted at the hearing that conditions relating to a highway safety audit, external materials and removal of permitted development rights for hard standings were unnecessary. The proposal would re-use existing buildings and there is no evidence that a condition is needed in respect of foul drainage. Any unexpected contamination found would be dealt with under other legislation and, in any event, the proposal would not involve any significant excavations.

Conclusions

35. Subject to conditions the proposal would not harm highway safety along Old Hill and would accord with the development plan. There are no other material considerations that outweigh these findings. Therefore, for the reasons given, the appeal should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 2014-01/02A, 06A, 07A, 08, 10A, 15 & HDS/13/01/01E.
- 3) Notwithstanding Condition 2) no development shall take place until a layout showing a minimum of 40 permanent parking spaces and including details of hard surfacing and size of spaces has been submitted to and approved in writing by the local planning authority. The spaces shall be provided as approved prior to the commencement of the use hereby permitted and shall thereafter be retained.
- 4) No development shall take place until details of a temporary overspill parking area including location and surfacing have been submitted to and approved in writing by the local planning authority.
- 5) No development shall take place until the visibility splay of 2.4m by 51m has been provided in accordance with drawing no HDS/13/01/ 01E. Thereafter no obstruction to vision above 0.6m in height shall be placed within the splay area.
- 6) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. This shall include details of the hours of working and measures to ensure the safe movement of construction traffic along Old Hill and into and out of the site entrance. The approved Construction Management Plan shall be adhered to throughout the construction period.
- 7) No development shall take place until a Travel Plan has been submitted to and approved in writing by the local planning authority. This shall include measures to reduce reliance on use of the private car including the provision of a visitor mini bus service and a programme for implementation. Thereafter the permitted use shall be carried out in accordance with the approved Travel Plan.
- 8) Notwithstanding Condition 2) no development shall take place until a landscaping scheme has been submitted to and approved in writing by the local planning authority. This shall include details of all existing trees and hedgerows on the land and identify those to be retained, together with measures for their protection in the course of development.
- 9) The measures approved for the protection of retained trees in Condition 8) shall be undertaken before any equipment, machinery or materials are brought on to the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with Condition 8) and the ground levels within those areas shall not be altered, no excavations made for trenches, pipelines or drains and no fires lit.
- 10) The approved landscaping shall be carried out in the first planting season following the first use of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become

seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

- 11) Details of any external lighting shall be submitted to and approved in writing by the local planning authority prior to installation. The works shall be carried out in accordance with the approved details.
- 12) Details of any means of boundary enclosure shall be submitted to and approved in writing by the local planning authority prior to its erection. This shall include details of any pedestrian gates and the design and location of the vehicular gates at the site entrance. The works shall be carried out in accordance with the approved details.
- 13) No development shall take place until a Site Management Plan has been submitted to and approved in writing by the local planning authority. This shall include details of the operation of an appointment system for all visitors to the mausoleum, measures to control the number of vehicles attending interments and the keeping of a register of all those visiting the site and the means by which it will be available to the local planning authority for inspection. Thereafter the permitted use shall be operated in accordance with the approved Site Management Plan.
- 14) No visitors shall access the site except between 0930 to 1600 hours from Mondays to Fridays and between 1000 and 1500 hours on Saturdays and Sundays.
- 15) No more than one interment shall take place on any day.
- 16) No more than 690 crypts shall be provided within the mausoleum buildings.
- 17) No development shall take place until details of vault sealing, ventilation system (to discharge above eaves level) and vault drainage have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the commencement of the use hereby permitted and shall thereafter be retained.
- 18) No development shall take place until details of the implementation, maintenance and management of a sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. This shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout the lifetime of the development. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT:

Mr M Aqbal	Planning consultant
Mr S Woods BSc(Hons) MA FCILT MIHT MRTPI	Woods Traffic Consultants
Mr B Heaseman	
Mr G Acton	Cadman Design

FOR THE LONDON BOROUGH OF BROMLEY:

Mr D Bord BA(Hons) PGDip MRTPI	Principal Planner
Mr M Hammond MSc MCILT	Highway Development Engineer

LOCAL RESIDENTS OR OTHER INTERESTED PERSONS IN ATTENDANCE (many of whom made contributions or asked questions):

Mr T Burnell
Mrs C Burnell
Ms A Anderson
Mr D Hyland
Mrs H Humberstone
Mr D Hewitt
A Bhargava
Ms M Rohan
Ms T Jones
Ms B Powell
Mr B Waine
Mr J Taylor
Mr M Parson

Mr D Filby

Mr W Wood

Mr G Parson