
Appeal Decision

Site visit made on 26 January 2015

by Peter Rose BA MRTPI DMS MCM

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

Decision date: 16 February 2015

Appeal Ref: APP/G5180/A/14/2216675

Valley Tree Surgeons, 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/13/03699/FULL2, dated 4 November 2013, was refused by notice dated 3 March 2014.
 - The development proposed is change of use and external alterations to existing building to create proposed mausoleum, with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development set out in the application form refers to a single building. It is clear from the submitted drawings and accompanying evidence that the use involves two buildings and I consider the appeal on that basis.

Main Issues

3. The main issues are:

(a) whether the proposed development would constitute inappropriate development in the Green Belt with regard to national planning policy and the development plan;

(b) if inappropriate development, whether the development would be harmful to the openness of the Green Belt;

(c) whether the development would be harmful to the character and appearance of the appeal site and surrounding area;

(d) whether the development would be harmful to the living conditions of nearby residents, with particular regard to noise, odours and contamination;

(e) whether the development would create potentially unsafe conditions on the adjacent highway;

(f) if inappropriate development, whether any harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the scheme.

Reasons

Whether inappropriate development, and associated matters of openness

4. Old Hill Farm is an extensive site located in relatively open countryside. Access is towards the top of Old Hill which comprises a relatively steep and fairly narrow country lane also serving dwellings and other sporadic uses at various points along the hill. High Elms Country Park lies close to the appeal site on the opposite side of the road. The appeal site comprises a mixture of open land, buildings and incidental hard surfaces and is currently occupied by a property horticultural maintenance company. The Council advises that adjacent woodland is within a Site of Importance for Nature Conservation, and I note the woodland is also covered by a Tree Preservation Order. The appeal site slopes away from its Old Hill frontage and is enclosed on other sides by the woodland.
5. The appeal site lies within the Green Belt. Policy G1 of the London Borough of Bromley Unitary Development Plan July 2006 (the UDP) states that permission will not be given for inappropriate development within the Green Belt unless it can be demonstrated that very special circumstances exist to outweigh the harm otherwise arising. It further states that material changes of use will be inappropriate unless they maintain the openness of the Green Belt and do not conflict with the purposes for including land in the Green Belt. It also sets out further detailed criteria for re-use of a building, including that a building is of a permanent construction and capable of re-use without extensive re-construction.
6. I find these policies broadly consistent with the subsequent National Planning Policy Framework (the Framework). This identifies a number of purposes for the Green Belt, and seeks to safeguard the countryside from encroachment by inappropriate development. The Framework defines development which is not inappropriate in paragraphs 89 and 90. Exceptions to inappropriate development include re-use of buildings provided that the buildings are of a permanent and substantial construction, and provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the designation.
7. The proposed development would involve a sensitive refurbishment of two existing permanent buildings using timber and stone re-cladding. The scheme would also involve other incidental works to the site, including provision of parking for up to 40 vehicles, and a range of environmental improvements. These include removal of existing areas of storage and other facilities, and converting areas of hardstanding to soft planting. The scheme proposes retention of existing trees and further planting, including native woodland and other shrub planting. A water feature would be provided, and green sedum roofs introduced to the buildings. There would be some new hard surfaces, including parking areas, but these would be of gravel and grasscrete construction, and the main paving areas would be set away from the site's public frontage and be generally adjacent to the existing buildings.
8. The Framework defines one of the essential characteristics of the Green Belt to be its openness. There is no definition of openness in the Framework but, in the context of the Green Belt, it is generally held to refer to freedom from development, or the absence of development. The scheme would not add bulk and form, and I find that the openness of the site would not be undermined by

the extent and arrangement of parking as proposed or by the proposed frequency of its use. Significantly, the main parking area would replace an existing unsightly area of open storage. In overall terms, I am satisfied that the openness of the Green Belt would not be reduced or otherwise be materially harmed by the scheme.

9. I therefore conclude that the proposed development would involve re-use of permanent and substantial buildings whilst preserving the openness of the Green Belt and not conflicting with the purposes of including the site within such designation. On this basis, the scheme would not be inappropriate development in the Green Belt with regard to both the development plan and national planning policy. Accordingly, it is not necessary to consider, in line with the expectations of the Framework, whether any harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the scheme.

Character and appearance

10. For the reasons described above, I consider the scheme would represent an overall improvement to the existing character and appearance of the site and find that the distinctiveness of the site's open countryside setting would not be harmed. Accordingly, the scheme would not be contrary to Policy BE1 of the UDP which requires all proposals to be of a high standard of design and layout and to be in-keeping with its surroundings.

Living conditions of nearby occupiers

11. The proposed use would involve up to one interment per day between the hours of 10.00 and 14.00. The development would not include a chapel, and only tomb-side prayers would be available. The premises would be generally open to visitors between 9.30 and 16.30 hours Monday to Friday, and between 10.00 and 16.00 hours on Saturday, Sunday and Bank Holidays.
12. The scale, character and intensity of the proposed operation give me little reason to find there would be any significant harm to living conditions of neighbouring residents by reason of noise or similar disturbance. Dwellings in Beechwood Avenue are set some distance away from the main buildings and car park, and would be separated by the existing woodland.
13. Although concerns are raised regarding possible odours and detailed operational aspects of the interment processes, including possible health implications, I note that the Council's Environmental Health Officer raised no objection to the scheme and recommended that matters relating to vault sealing, ventilation and drainage be addressed by way of a planning condition. I have no national guidance to suggest that the principle of the scheme would be unacceptable on those grounds and agree that any residual concerns could be addressed, as appropriate, as matters of detail through planning conditions should the development be otherwise acceptable. Little evidence is also before me to suggest the scheme would be harmful in respect of contamination.
14. I therefore conclude that the development would not be harmful to the living conditions of nearby residents, with particular regard to noise, odours and contamination. Accordingly, the development would not be contrary to Policies BE1(v) and EMP6 of the UDP. These seek, amongst other matters, to ensure

that development should respect the amenity of occupiers of neighbouring buildings and that their environments are not harmed by noise and disturbance. Similarly, business uses outside designated Business Areas will only be permitted where there would be no significant adverse impact on the amenity of surrounding properties. The scheme would also be consistent with a core principle of the Framework which seeks to ensure a good standard of amenity for existing and future occupants of land and buildings.

Highway conditions

15. The Framework seeks to promote sustainable transport and advises that all developments which generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. In this regard, the application is accompanied by significant evidence relating to local traffic conditions, to traffic forecasts and proposed arrangements, and to comparative data drawn from other uses elsewhere.
16. The appellant refers to a relatively sustainable location, but my assessment is that opportunities for sustainable transport appear limited. Although the scheme does include facilities for cycle parking, the site is not directly served by buses and is not reasonably close to a railway station. The nearest bus links would require a significant walk either up and/or down Old Hill which is poorly served by public footpaths, or up and/or down a right of way through the adjacent woodland, and then across the busy A21 and on to Green Street Green High Street. Given the absence of formal footpaths along much of Old Hill, allied to its topography and significant volumes of traffic, I do not find that Old Hill represents a particularly safe or attractive environment for pedestrians. I consider that such circumstances are instead likely to generally encourage car-based travel.
17. The appellant's evidence indicates that Old Hill accommodates relatively light, but nonetheless significant, levels of traffic during off-peak periods, and that the site would provide adequate visibility for exiting vehicles through some limited cutting back of planting along the site's frontage. I also note accident data which records no accidents within a 50 metre radius over a 5-year period.
18. Nevertheless, access to the site is relatively concealed in its approach by hedgerows and lies close to the brow of a fairly narrow and winding hill and at a point where there is only one-way vehicular movement and a 40mph speed limit. The immediate vicinity of the appeal site also lacks any dedicated public footpath and there is little safe opportunity for formal parking on-street. These factors provide a relevant context to significant concerns and associated first-hand evidence from local residents in relation to traffic conditions on Old Hill, and particularly with regard to the possible implications of the proposal for highway safety and congestion.
19. I note the absence of data from comparable mausoleum uses, and I appreciate its limited availability. The appellant instead draws comparison with traffic generated at two particular cemeteries which have only one or two interments on any given day and other similarities with the appeal scheme in terms of an absence of crematoria or chapels.
20. Whilst these case studies offer some relevance, it would remain to be seen whether the actual usage and extent of traffic generated by the mausoleum would prove to be comparable. Notwithstanding underlying similarities to the

purposes of a cemetery, I am not satisfied that the pattern of vehicle generation would necessarily be directly comparable. Customers will have selected a mausoleum in preference to a cemetery for particular reasons, and that may well have implications as to the frequency with which tombs are visited and for how the site is used. In addition to interments, there would be visitors to other tombs throughout the day, and some vehicle generation in connection with up to ten staff.

21. The appellant suggests that demand for off-street parking could be monitored and adjusted according to experience and a mechanism put in place by way of a planning condition. I am concerned that such a planning condition would be imprecise and, moreover, would accept the principle of the development, irrespective of future traffic implications. Whilst the site may have the physical capacity to provide additional parking, and I do not consider the currently proposed provision to be harmful to its character and appearance on the basis of only one interment per day, there would come a point where the extent of parking would be harmful and the openness of the site undermined. Further, the Framework seeks to promote sustainable transport and gives encouragement to solutions which reduce greenhouse gas emissions and congestion as an alternative to car-based travel.
22. I have also had regard to the current occupation of the site, and acknowledge the existing use as a fallback position should this scheme not proceed. I note that the pattern of existing vehicle generation is materially different to that proposed but would still represent a significant use of Old Hill and by a variety of vehicles.
23. In summary, I find that the scheme would involve a significant concentration of vehicle movement at the times of interment, plus unrelated visitors to up to 1000 burial crypts, the volume of which is likely to increase over time as crypts become occupied. This significant concentration of vehicle movement would occur around a somewhat concealed site entrance close to the brow of a fairly narrow and winding hill in a relatively unsustainable location where pedestrian access is not well-served. The possible scale of vehicle generation is uncertain and would not be significantly offset by the attractions of public transport or of walking. I find, in all these circumstances, that the scheme would be harmful to the free and safe movement of vehicles and pedestrians in that vicinity.
24. I therefore conclude that the proposed development would create potentially unsafe conditions on the adjacent highway. Accordingly, the scheme would be contrary to Policy T18 of the UDP which seeks to have regard to the potential impact of a development upon road safety, and to ensure that road safety is not adversely affected. I find this policy broadly consistent with the Framework which seeks to ensure that safe and suitable access to a development site can be achieved for all people, and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Other Matters

25. The Framework is committed to securing economic growth in order to create jobs and prosperity. A core principle is for planning to proactively drive and support sustainable economic development. I note in this regard that the proposal would involve re-use of existing buildings and employ 8-10 staff.

26. I have considered all other matters raised, including concerns relating to future financial stability of the operation, and issues relating to the long-term future of the site. These are not raised as objections by the Council, and I have little reason to conclude otherwise.
27. I have also had regard to representations regarding implications for local nature conservation. Whilst the Council raises no specific objection on that basis, I consider that questions around the detailed implications of the scheme for nature conservation, including issues around planting details and works to existing planting around the frontage, would remain to be addressed.
28. I have noted references made to other planning decisions and appeals. Even so, the particular circumstances of each scheme will be different and I have considered this scheme with regard to the specific individual merits before me.
29. None of the other matters raised are of such significance, either individually or collectively, that they would outweigh the considerations that have led to my conclusions on the main issues.

Conclusion

30. I accept the proposal would introduce a beneficial use of the site, would provide employment, and would include significant environmental improvements. Nonetheless, it would only do so at the expense of local traffic conditions and by militating against the general need, as the development plan and Framework encourage, to safeguard road safety and to promote sustainable transport.
31. At the heart of the Framework is a presumption in favour of sustainable development. For decision-making, this means approving proposals that accord with the development plan without delay, and I find that the scheme, in the context of the up-to-date expectations of the Framework, would not meet those terms.
32. For the above reasons, I conclude the appeal should be dismissed.

Peter Rose

INSPECTOR