

## **STATEMENT OF CASE ON BEHALF OF MR BILL HEASMAN**

**Proposal - Change of use of existing building to mausoleum with associated landscaping, elevational alterations, hardstanding and parking for 25 cars.**

**Site: Old Hill Farm, Old Hill, Orpington. BR6 6BN**

### **1.0 INTRODUCTION**

1.1 This statement sets out the appellant's case against the decision of London Borough of Bromley Council to refuse planning application: Ref: DC/13/03699/FULL2 - *Change of use of existing building to mausoleum with associated landscaping, elevational alterations, hardstanding and parking for 25 cars.* ("the application")

### **2.0 REFUSAL REASON**

2.1 The application was submitted on the 6th November 2013 and was carefully considered and recommended for approval by professional planning officers, but subsequently refused by the Planning Committee, contrary to officer recommendation. The decision notice is dated 3<sup>rd</sup> March 2014. The refusal reasons are:

***1. The proposal, in the absence of any suitably justified information to demonstrate otherwise, would give rise to potentially unsafe conditions in the public highway and harm to the openness and character of the Green Belt by reason of uncontrolled and potentially indiscriminate parking within the site and on the local highway network, contrary to Policies G1 and T18 of the Bromley Unitary Development Plan and the National Planning Policy Framework 2012.***

***2 In the absence of any detailed information submitted with the application to demonstrate otherwise, the proposal would give rise to significant adverse impact on the amenity of the surrounding properties by reason of noise, odours and contamination contrary to Unitary Development Plan Policies BE1 (v) and EMP6 and the National Planning Policy Framework 2012.***

### **3.0 APPLICATION SITE AND SURROUNDING AREA**

3.1 The application site comprises land and premises known as Old Hill Farm, which is located off Old Hill, Orpington, BR6 6BN. The site is irregular in shape and has an overall area of approximately 0.97 hectares.

- 3.2 Access to the site is via a private gated drive off the eastern side of Old Hill. Adjacent to the entrance and to the right of the access is a hard surfaced area, which is used as a recycling compound in connection with the present use of the site; the sinuous access road then leads to a larger area of hard standing towards the north of the site, which contains two large commercial / industrial style buildings; the remainder of the extensive hard standing is used for parking of cars, commercial vehicles, external storage and the siting of temporary structures (large storage containers and skips) for storage.
- 3.3 The two existing buildings on the application site are Unit 1 and Unit 2. Unit 1 is approximately 360 sq. m and is currently occupied by Westland Estates, a property horticultural maintenance company. The business entails residential and commercial garden maintenance. There are also tree surgeons that are based at the site. Wood is brought back to site for storage, processing, and recycling. Unit 1 includes storage space for gardening machinery, a workshop for repairs, offices, a reception area, and other staff facilities. Unit 2 is used as a horticultural storage area and is approximately 180 square metres.
- 3.4 The existing buildings comprise pitched roof commercial / industrial style buildings with grey sheet roofing and light green cladding. Each building is accessed by large double doors, which allow access for commercial vehicles. The buildings also have pedestrian access doors.
- 3.5 Over a third of the site comprises hard standing the remaining less than two thirds of the site is made up of relatively flat grassed area, which is separated from the access road and hard standing areas by tall hedges.
- 3.6 With the exception of the Site access the Site is almost entirely enclosed by a woodland area known as 'Ranus Wood' which acts as a complete and substantial buffer between the application site and nearest residential development. The nearest dwellings are located to the north of the site along Beechwood Avenue, which is a small housing estate located off Shire Lane and existing dwellings located along Old Hill to the South of the site.
- 3.7 There are also a number of public footpaths in the vicinity of the application site that provide pedestrian access to the site. One of the footpaths runs between the application site and Green Street Green High Street bus stops

#### **4.0 APPEAL PROPOSAL**

- 4.1 The planning application is for the proposed change of use of the existing buildings into a mausoleum, with external alterations and associated soft / hard landscaping works and parking areas. Details of the proposal are set out in the statements and drawings submitted with the application, copies of which have been forwarded to the Planning Inspectorate.

## 5.0 RELEVANT PLANNING POLICY

5.1 Section 38 of the Planning and Compulsory Purchase Act 2004, states any the determination must be made in accordance with the plan unless material considerations indicate otherwise.

5.2 Development Plan for the Borough comprises the 'saved' policies of the Bromley Borough Council Unitary Development Plan, which pre-dates the National Planning Framework.

## 5.3 **Bromley Borough Council Unitary Development Plan**

Although the appellants 'Planning Statement' considered the development in light of the saved policies of the Bromley Borough Council Development Plan; the following policies are referenced in the reasons for refusal:

### ***Policy BE1- Design of new development***

*All development proposals, including extensions to existing buildings, will be expected to be of a high standard of design and layout. To those ends, proposals will be expected to meet all of the following criteria:*

*(i) development should be imaginative and attractive to look at, should complement the scale, form, layout and materials of adjacent buildings and areas;*

*(ii) development should not detract from the existing street scene and/or landscape and should respect important views, skylines, landmarks or landscape features;*

*(iii) space about buildings should provide opportunities to create attractive settings with hard or soft landscaping;*

*(iv) relationship with existing buildings should allow for adequate daylight and sunlight to penetrate in and between buildings;*

*(v) the development should respect the amenity of occupiers of neighbouring buildings and those of future occupants and ensure their environments are not harmed by noise and disturbance or by inadequate daylight, sunlight or privacy or by overshadowing;*

*(vi) the development should include measures that achieve sustainable design and construction methods including, where appropriate, energy generated by on-site renewable development; (vii) suitable access should be provided for people with impaired mobility. Where necessary and relevant to the development, contributions may be sought to improve accessibility around the development; (viii) security and crime prevention measures should be included in the design and layout of building and public areas; and (ix) applications should be accompanied by a written statement setting out design*

*principles and illustrative material showing relationship of the development to the wider context.*

**Policy EMP6 – Development Outside Business Areas – non conforming uses**

*Outside designated Business Areas the Council will only permit non-conforming business uses where there would be no significant adverse impact on the amenity of the surrounding properties.*

*When considering proposals to refurbish or extend business activities, or those involving a change of use, on sites outside designated Business Areas, the Council will encourage the inclusion of environmental improvements such as:*

- (i) removal, replacement or refurbishment of dilapidated and unsightly buildings or plant;*
- (ii) improved landscaping which makes appropriate provision for biodiversity;*
- (iii) improved facilities for access on foot, cycle or public transport and/or improved facilities for off-street parking, deliveries and servicing; and*
- (iv) remedial measures to reduce levels of noise transmitted to adjoining residential buildings and the surrounding area.*

**Policy T18- Road Safety**

*In determining planning applications, the Council will consider as appropriate the potential impact on road safety and will seek to ensure road safety is not adversely affected.*

**Policy G1- Green Belt**

*Within the Green Belt, as defined on the Proposals Map, permission will not be given for inappropriate development unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm. The construction of new buildings or extensions to buildings on land falling within the Green Belt will be inappropriate, unless it is for the following purposes:.....*

*The re-use of a building in the Green Belt will be inappropriate unless it meets all of the following criteria:*

- (v) it will not have a materially greater impact than the present use on the open character of the land;*
- (vi) use of the land surrounding the building and boundary treatments will not harm the openness of the land or conflict with the purposes of including land in the Green Belt;*

*(vii) the building is of permanent construction and capable of conversion or re-use without extensive or complete reconstruction; (viii) the form, bulk and design of the building are in keeping with its surroundings; (ix) the proposed use does not entail external storage of materials, plant or machinery; and (x) the proposed use has no adverse effect on the recreational enjoyment or appearance of the countryside.*

*The openness and visual amenity of the Green Belt shall not be injured by any proposals for development within or conspicuous from the Green Belt which might be visually detrimental by reasons of scale, siting, materials or design.*

## **6.0 OTHER MATERIAL CONSIDERATIONS**

### **6.1 National Planning Policy Framework**

The NPPF was published on 27th March 2012. This streamlines national planning policy guidance from a raft of PPGs and PPSs into a single shorter document.

6.2 Paragraph 7 states that there are three dimensions to sustainable development; an economic role; a social role and an environmental role.

6.3 Paragraph 17 sets out the 12 core planning principles which include that planning should:

- *proactively drive and support sustainable economic development. It also includes the need for planning to promote developments in urban and rural locations and making the most effective use of previously developed land.*
- *always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;*
- *contribute to conserving and enhancing the natural environment and reducing pollution;*
- *actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable;*
- *take account of and support local strategies to improve health, social and*
- *cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.*

6.4 Paragraph 19 states that planning should operate to encourage and not act as an impediment to sustainable growth. Paragraph 21 states that investment in business should not be over-burdened by the combined requirements of planning policy expectations.

### **6.5 Supporting a prosperous rural economy**

Paragraph. 28. *Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:*

- *support the sustainable growth and expansion of all types of business and*

*enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;*

6.6 Promoting Sustainable Transport

*Paragraph 32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:*

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- safe and suitable access to the site can be achieved for all people;*

6.7 *Paragraph. 34. Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas.*

6.8 Protecting Green Belt land Paragraph.

*Paragraph 90. Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are:*

- the re-use of buildings provided that the buildings are of permanent and substantial construction;*

6.9 Requiring good design

*Paragraph 56. The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.*

6.10 Conserving and enhancing the natural environment

*Paragraph 109. The planning system should contribute to and enhance the natural and local environment by:*

- protecting and enhancing valued landscapes, geological conservation interests and soils;*
- recognising the wider benefits of ecosystem services;*
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- 7 - preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and*
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

6.11 *Paragraph 123. Planning policies and decisions should aim to:*

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*

*- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*

6.12 In terms of decision making, NPPF paragraph 186 states *that local authorities should approach decision making in a positive way to foster the delivery of sustainable development. Paragraph 187 confirms that local authorities should look for solutions rather than problems.*

#### 6.13 Planning for Growth – Ministerial Statement

On 23rd March 2011, the Right Honourable Greg Clarke MP, Minister for Decentralisation and Cities (now Minister for Planning) issued the Statement titled, “Planning for Growth”. The purpose of the Statement was to set out the Government’s expectations of local planning authorities with immediate effect ahead of the emerging reforms to the planning system and the issue of new planning advice in order to promote economic growth and re-build Britain’s economy.

6.14 The Statement states that the Government’s top priority in reforming the planning system is to promote sustainable growth and jobs, and its expectation is that the answer to development and growth that wherever possible, should be yes. It states that local planning authorities will be expected to plan positively for new development and to deal promptly and favourably with applications that comply with up-to-date plans and national planning polices and wherever possible, to approve applications where plans are absent, out of date, silent or indeterminate.

6.15 It goes on to state that every effort should be made to identify and meet the housing, business and other development needs of their areas, and respond positively to wider opportunities for growth taking full account of relevant economic signals such as land prices.

6.16 Further to this it confirms that when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. It states, that where relevant, they should therefore, amongst other things, consider the range of likely economic, environmental and social benefits of the proposals, including long-term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies.

## 7.0 **GROUNDS OF APPEAL**

7.1 The appellant has considered both reasons for refusal as set out below:

7.2 Reason 1

*The proposal, in the absence of any suitably justified information to demonstrate otherwise, would give rise to potentially unsafe conditions in the*

*public highway and harm to the openness and character of the Green Belt by reason of uncontrolled and potentially indiscriminate parking within the site and on the local highway network, contrary to Policies G1 and T18 of the Bromley Unitary Development Plan and the National Planning Policy Framework 2012.*

- 7.3 This reason for refusal raises a number of separate issues, which are considered in detail below:
- 7.4 Highway safety and uncontrolled and indiscriminate parking  
The appellant commissioned qualified and experienced transport consultants Woods, Ferrer Limited to deal with access, parking and highways matters arising from the proposal.
- 7.5 Prior to submitting the application The Local Highway Authority (LHA) was contacted by Woods, Ferrer Limited to determine the required scope of the Transport Assessment (TA). It was agreed that the TA should provide a description of how the proposed mausoleum would operate. It was also agreed that details of the vehicular traffic likely to be generated should be provided. In addition, it was agreed that traffic accumulation likely to occur on site should be considered to ensure that sufficient car parking is provided.
- 7.6 The TA concludes that the proposed development will not generate any significant traffic to impact on the local highway network, the existing access is acceptable and the proposed parking is sufficient to meet the needs of the development.
- 7.7 Furthermore, the LHA were also consulted as part of the planning application process and raised no objections to the proposal.
- 7.8 For the above reasons it is submitted that there are no highway safety issues arising from the proposal and that sufficient parking is being proposed to meet the needs of the development so as not to result in any indiscriminate parking. Therefore, the proposal accords with Local Plan Policy T18 - Road Safety and the NPPF.
- 7.9 Impact on the openness and character of the Green Belt.
- 7.10 The application site comprises commercial premises, which in turn comprise large industrial buildings, large expanses of hard standing used for parking and storage. Also, on site there are various temporary containers used for storage. Therefore, the existing uses and its appearance are commercial / industrial in nature with high levels of relatively uncontrolled parking and storage arrangements.
- 7.11 In contrast to the above; from the outset the proposed scheme has been designed to improve the openness and character of the Green Belt. As a consequence of the proposal:
- a) Only existing areas which are already used for parking and external



storage would be utilised for the proposed car parking areas;

b) Unlike the present use where vehicles are stored on-site overnight and for long durations; in the case of the proposed use the car parking would be temporary for a few hours at a time;

c) Overall, there would be a net reduction in hardstanding areas on site. Some existing hardstanding areas would be broken up, removed and grass seeded over then landscaped;

d) All temporary storage containers would be removed;

e) The existing external storage would be removed and no new external storage is proposed;

f) Parking of large commercial vehicles on site would also cease on site;

g) The LPA would have better control over proposed parking through the approved layout and appropriate planning condition.

h) The proposal would retain existing trees and propose further tree planting and landscaping;

7.12 The above factors would improve the openness of the site; and create a more verdant site. Furthermore, based on the appellants Transport Assessment and the level of parking proposed and the intermittent nature of parking associated with the proposed use would have no greater material impact than the existing on-site parking and storage. Therefore, the proposal accords with Policy G1 and the NPPF.

7.13 Reason 2

*In the absence of any detailed information submitted with the application to demonstrate otherwise, the proposal would give rise to significant adverse impact on the amenity of the surrounding properties by reason of noise, odours and contamination contrary to Unitary Development Plan Policies BE1 (v) and EMP6 and the National Planning Policy Framework 2012.*

7.14 This refusal reason raises concern over the impact of the proposed development on the amenity of nearby residents.

7.15 The nearest properties to the northern building are located to the southern end of Beechwood Avenue at a distance of some 55m to 60m, with the remaining properties to that road being set further north. A substantial, mature and protected wood is set between the two areas - Ramus Wood - and this encloses the site.

7.16 Along Old Hill to the south the nearest property to the site, No.44, is some 210m from the southern building with the southern area of Ramus Wood between the two boundaries. In addition there is a large grassed area to the south of the site that is within the applicant's control. The remainder of the dwellings are set due south of this property with the furthest at some 400m away. Consequently, all existing dwellings are a significant distance and buffered / screened by woodland from the application site.

7.17 Noise – The existing uses on the site are commercial, which include the use of large commercial vehicles; the cutting of trees and shredding of branches,

all of which result in a relatively noisy environment. Notwithstanding this there is no material impact on the amenity of nearby residents.

- 7.18 Mausoleums in terms of the noise they generate is similar to cemeteries, which are generally very tranquil and peaceful environments. Furthermore, in this instance, given the fact that the facility would generally operate during daytime hours with internments being limited to one a day and the substantial distance between the application site and nearest neighbours and intervening boundary treatments there would be no material impact on the amenity of nearby residents by way of noise.
- 7.19 Odours & contamination - Firstly, it should be noted that mausoleums have existed for centuries across the world and modern mausoleums continue to operate abroad and in the UK. In the UK the nearest modern mausoleums are in Milton Keynes and Loughborough.
- 7.20 The basic principle of a mausoleum is to entomb a body above ground. The bodies are placed in caskets, which are then stored in vaults above ground. The only potential concern that arises with this type of burial is potential for leakage of fluid or odour and ground contamination. To ensure that neither odour or ground contamination occurs the applicant is considering either of the following two methods for sealing caskets, as set out below:
- 7.21 Option 1 Sealed  
In this instance the caskets would be bespoke and made from oak. Most importantly the casket would be fully zinc lined with welded seam lapped joints. The casket lid would then be gas sealed and screwed down. This ensures that there is no leakage. The casket is then placed in a vault, which is also fully odour and leakage sealed this can be achieved with individual compartments made from GRP bolted together with double seals to the vault door the body is therefore in a double sealed environment where the leakage of fluid during decomposition which can cause the remains to explode would not affect the surrounding structure.
- 7.22 Option 2 Ventilated  
This option enables the use of traditional timber caskets standard lining and no air seal. The vault is lined with a acrylonitrile butadiene styrene plastic which forms a unit in which the casket is entombed. The units have a one-way pressure release valve in the rear that allows gases to escape into the mausoleum ventilation system without allowing insects to get in or out,
- 7.23 The ventilation system would be in the form of a vent stack system similar to the foul vent stack system in all buildings, which have drainage. Each Vault would be vented individually via a 50mm UPVC pipe run connected to each vault similar to a traditional drainage system and then vented at the roof via a vent stack terminated with an air admittance valve. The benefit of a vented system is that the self-contained units allow air molecules to pass in and out and allows for natural aerobic decomposition that results in much less noxious odour and clean skeletonization.

7.24 The council's Environmental Protection team have no objections to the proposal and the appellant is amenable to details of final odour and contamination management being submitted to the LPA, via a planning condition, for approval. Notwithstanding the above, given the scale of the separation between the application site and the residents of Beechwood Avenue and Old Hill, with the highway itself and the wood present between them, it is considered that there would be no impact from the development upon the amenities of those residents.

7.25 It is also worth noting that as a business operation and having regard to the success of the proposed use it is in the appellant's interest to ensure that the development is undertaken to very high standards of odour and contamination management.

7.26 The LPA has stated that the proposal conflicts with Policy EMP6, which is a criterion based policy which considers impact on the amenity of the surrounding properties by reason of noise, odours and contamination. However, as set out below the proposal complies with this policy.

*(i) removal, replacement or refurbishment of dilapidated and unsightly buildings or plant;*

The proposal would result in the refurbishment of existing buildings to provide significantly improved buildings in terms of appearance. Also existing plant storage structures would be removed from the site.

*(ii) improved landscaping which makes appropriate provision for biodiversity;*

The proposal would result in a net increase in landscaping thus improving biodiversity

*(iii) improved facilities for access on foot, cycle or public transport and/or improved facilities for off-street parking, deliveries and servicing; and*

The site is already accessible by public transport and an existing path network. As a consequence of this proposal the existing vehicular access would be improved

*(i) (iv) remedial measures to reduce levels of noise transmitted to adjoining residential buildings and the surrounding area.*

The proposal would not result in any significant noise impact on the amenity of neighbours and would be a much quieter use than the existing uses on site.

7.27 For the above reasons the proposal accords with EMP6. With regards to Policy BE1(v) the proposed development would respect the amenity of occupiers of neighbouring buildings and ensure their environments are not harmed by noise and disturbance or by inadequate daylight, sunlight or

privacy or by overshadowing.

7.28 In addition to the fact that the proposal is consistent with local and national policy there are other factors which weigh in favour of the proposed development, as set out below:

- The mausoleum would provide a useful facility and an alternative form of burial, which is particularly important given the general shortage of land in and around London and the South East.

- The proposal would result in the creation of jobs and economic regeneration;

- The proposal would facilitate the removal of non-conforming commercial use from the Green Belt into an appropriate urban location;

- Improve the appearance and openness of the Green Belt.

## **8.0 Conclusion**

8.1 In principle, the change of use of buildings in the Green Belt is appropriate development, which is supported by the local Development Plan and the NPPF. More importantly, in this instance the proposal would result in the removal of large areas of open storage and storage structures, which would make a positive contribution to the openness of the Green Belt. Also, the proposed development would result in the improvement of the visual appearance of the existing buildings, wider site and the openness of the Green Belt.

8.2 Less parking is proposed than what could be allowed under the extant uses and in any case the proposed parking would be intermittent and therefore would have no significant impact on the openness of the Green belt.

8.3 The site would utilise the existing access and would have sufficient parking to meet the needs of the proposed development. As such, the proposal raises no concerns in respect of access, parking or highway safety.

8.4 Based on the nature of the proposed use and substantial distance from nearby dwellings, which are also buffered and screened from the application site by intervening woodland; the proposed use would have no material impact on the amenity of any nearby residents by way of noise impact, odours or contamination, subject to conditions.

8.5 Most importantly the proposal meets three dimensions to sustainable development, as set out in the NPPF, in that it would result in economic development and job creation (an economic role). Creates additional much needed burial space (a social role) and results in a significant environmental improvement in terms of the environmental role.

8.6 For the reasons set out in this statement the proposal accords with national and local policy and therefore it is respectfully requested that the appeal is upheld without any unnecessary delay.