

LOCATION: Barnet Cemetery & Memorial Gardens, Milesplit Hill, London, NW7 2RR
REFERENCE: H/01134/14 **Received:** 07 March 2014
WARD(S): Mill Hill **Accepted:** 19 March 2014
Expiry: 18 June 2014

Final Revisions:

APPLICANT: Monument Properties Investment

PROPOSAL: Erection of a multi-faith community mausoleum, columbaria and maintenance shed. Formation of access road, car parking and emergency access. Associated hard and soft landscaping.

RECOMMENDATION:

RECOMMENDATION I:

That the application be referred to the Greater London Authority (Under Article 5 of the Town and Country Planning (Mayor of London) Order 2008).

and

RECOMMENDATION II:

That after the formal close of the consultation period and subject to no new representations being received that raise new material planning considerations and no direction being received that the application is called in for determination by the Mayor of London, the Assistant Director of Development Management and Building Control is granted delegated authority to determine the planning application reference: H/01134/14.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The 'National Planning Policy Framework' (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that "good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people". The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would "significantly and demonstrably" outweigh the benefits.

The Mayor's London Plan July 2011:

Policies 7.4, 7.6, 7.23

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Relevant Local Plan (2012) Policies

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Both DPDs were adopted on 11 September 2012.

Relevant Core Strategy DPD (2012): Policies CS NPPF, CS1, CS5, CS7

Relevant Development Management DPD (2012): Policies DM01, DM06, DM15, DM16, DM17.

Supplementary Planning Documents and Guidance

The Council adopted a Supplementary Planning Document (SPD) "Sustainable Design and Construction" (2013), following public consultation. This SPD provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

Community Infrastructure Levy

The Mayor for London has introduced a Community Infrastructure levy. This applied from 1 April 2012 to most developments in London where the application is determined by the Local Planning Authority. Within Barnet the charge is set at £36.04 per sq m of net additional floorspace.

The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £135 per sq m on residential and retail development in its area of authority.

Mayor of London *An audit of London Burial Provision*. GLA 2011

Mill Hill Conservation Area Character Appraisal.

Relevant Planning History:

Site history for current landparcel :

136991 - Barnet Cemetery & Memorial Gardens, Miles Pit Hill, London, NW7 2RR
Case Reference: **H/01134/14**

The site has a substantial planning history and the following applications are of particular relevance:

W01487 - Home for 12-15 Children, Gardeners Cottages - Refused - 07/03/1968

W01487A - Headquarters for uniformed youth groups and area for outdoor activities
- Refused - 16/02/1972

W01487B - Residential Development - Refused - 04/01/1989

W01487C & D - Residential Development - Refused 15/03/1989 - Dismissed at
Appeal

W00636Q - Fencing - Refused - 16/11/1995

W00636AE/02 - Use as a cemetery - Withdrawn - 09/05/2002

H/03608/13 - Use as a cemetery - Lawful Development Certificate - Lawful -
21.10.13.

Consultations and Views Expressed:

Neighbours Consulted: 462 Replies: 67 and 1 petition -600
signatures

Neighbours Wishing To Speak 3

Site Notice dated: 17.4.14

The formal consultation period expires on 8th May.

The objections raised to date may be summarised as follows:

Nature:

Impact on wildlife.

Loss of habitat.

Trees will be cutdown which have a TPO.

Land hasn't been disturbed since the war.

Open space is going to be ill used.

Flora and fauna will disappear.

Green Belt:

Inappropriate to Green belt.

Threat to Green belt.

Traffic and parking:

Additional traffic.

Road isn't wide enough now with cars parking on one side.

Pedestrians are at risk from cars passing and particularly from van wing mirrors.

Cars pulling out will not be able to turn around parked cars without using the
pavement.

Car park will bring new development opportunities.

Right of Way through existing Cemetery could not cope with heavy construction
vehicles.

Particularly bad traffic during school run.

Noise and disturbance

Appearance of new buildings.

Size and scale will be detrimental to the character of the area.

Concrete jungle.

Not in keeping with Mill Hill.

Overdevelopment.

Set on rising ground it would be visible a long way off.

Modernist building is not in keeping.

This type of building requires lighting and heating for visitors.

Unsightly, ugly and unwelcome.

Eyesore.

Additional burial grounds are not required.

Barnet Council should plan for the next 20 years this is shortsighted as already a lot of development in the area.

Mill Hill CAAC: Object to the proposals on the grounds of impact on the Green Belt, size of the building, lack of need for such a building.

Internal /Other Consultations:

- Natural England - Any comments received will be reported to the meeting.
- London Wildlife Trust Barnet Group - Objection
- Greater London Authority - Any comments received will be reported to the meeting.
- Environmental Health - No objections
- Environment Agency - Object to the proposal
- Traffic & Development - Any comments received will be reported to the meeting.
- Green Spaces (inc Allotments) - Any comments received will be reported to the meeting.
- Trees and Landscape - Insufficient information submitted.

Date of Site Notice: 17 April 2014

2. PLANNING APPRAISAL

Site Description and Surroundings:

The application site is located adjacent to the existing Westminster Cemetery

The application site is located within the designated Greenbelt, Mill Hill Conservation Area, Site of Importance for Nature Conservation and is covered by an Area TPO - 1995.

The site is currently unused and has been for a number of years. Although the site has a lawful use as a Cemetery no burials have been undertaken. At the time of the Certificate of Lawfulness application it was noted that the cemetery use was first granted in 1931 and although applications were made to change the use of the Land these were either refused or of a temporary nature and therefore the Land reverted to its use as a cemetery once the permissions expired.

The site is accessed through the existing Westminster Cemetery which has a main entrance off Milesplit Hill. An emergency access will be opened up further up Milesplit Hill adjacent to Cedartree House and the Mount School. This already serves an electrical substation.

Proposal:

The application relates to the erection of a multi-faith community mausoleum, columbaria and maintenance shed. Formation of access road, car parking and emergency access. Associated hard and soft landscaping.

Planning Considerations:

The main issues are considered to be:

- Whether the proposals would be an appropriate development within the green belt, and if not, whether there are any very special circumstances, or any other material considerations that would justify the development in Green Belt terms.
- Whether the proposals would have an acceptable impact on the character and appearance of the Conservation Area.
- Whether the proposals would have an acceptable impact on highway and pedestrian safety
- Whether the proposals would have an acceptable impact in biodiversity terms
- Whether the proposals would have an acceptable impact on the amenities of neighbouring occupiers
- Whether the proposal would have an acceptable impact on the Area TPO
- Whether the proposal would have an acceptable impact on local flood risk

Whether the proposals would be an appropriate development within the Green Belt, and if not, whether there are any very special circumstances, or any other material considerations that would justify the development in Green Belt terms.

The impact on the visual amenities of the green belt and the openness of the area is considered to be a key consideration. The way the Green Belt functions is also a consideration in assessing whether the proposal is appropriate within designated Green Belt land.

The use of land for cemetery purposes need not, necessarily, comprise inappropriate development. Cemetery uses are potentially an appropriate use within the green belt.

However, any memorial stones, slabs, plinths or structures may potentially harm the openness of the Green Belt.

The National Planning Policy Framework section 9 sets out the Government's approach to protecting Green Belt land. The Framework advises that local planning authorities should regard the construction of new buildings as inappropriate except in particular circumstances.

Whilst the use of the land as a cemetery has been established as lawful under reference H/03608/13, this did not incorporate any building on the land.

A mausoleum and columbarium is now proposed which will occupy a central position within the site. The background to policy DM15 states that potentially acceptable Green Belt development such as golf courses and cemeteries can have a considerable impact on the local character, appearance, accessibility and nature conservation value of the countryside. In line with Policy DM01: Protecting Barnet's Character and Amenity and Policy DM15: Green Belt and Open Spaces they should demonstrate their harmony with the surrounding countryside and impact on biodiversity.

An assessment of the impact on the openness of the Green Belt is not assessed only in relation to the quantum floor space but also to the scale and bulk of the proposal. The proposal will have a floor area of 1270m² and a diameter of approximately 70.3m taking into account the outer columbaria walls, associated pool and footpath. The proposal will have a maximum height of 10m at the centre point.

The overall size, scale, height and bulk of the building is considered to be excessive and would disrupt the openness of the Green Belt and the way it functions as open space. The NPPF states that new buildings may be appropriate for the provision of appropriate facilities for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. It is considered that the scale of the development does not satisfy this policy requirement.

The applicant has submitted a burial space provision and needs in North London assessment as part of the application to demonstrate special circumstances to allow development that would otherwise be considered as inappropriate.

The information contained within the report is derived from An Audit of London Burial Provision. A Report for the Greater London Authority and Planning for Burial Space in London, London Planning Advisory Committee (1997).

The GLA report reveals that the London Borough of Barnet needs to provide an estimated 12,553 new burial spaces in the period 2010/1-2030/1. The new Barnet Cemetery and Memorial gardens will help meet this predicted demand for new graves.

The construction of the columbaria and mausoleum will provide increased capacity for burials and cremated remains more so than traditional burials within the ground. It is however considered that the proposal does not demonstrate the very special circumstances that would justify inappropriate development in the Green Belt. As previously noted the land has a lawful use as a cemetery and it is not considered that the need for additional burial space could not be addressed by traditional burials with modest headstones/slabs that would not result in harm to the Green Belt.

It should also be noted that a hybrid planning permission for the development of a multi-faith cemetery on land adjacent to the Edgwarebury Cemetery, was approved in May 2013. This will help provide additional burial space within the Borough.

Whether the proposals would have an acceptable impact on the character and appearance of the Conservation Area and Green Belt.

The background to policy DM15 states that potentially acceptable Green Belt development such as golf courses and cemeteries can have a considerable impact

on the local character, appearance, accessibility and nature conservation value of the countryside. In line with Policy DM01: Protecting Barnet's Character and Amenity and Policy DM15: Green Belt and Open Spaces they should demonstrate their harmony with the surrounding countryside and impact on biodiversity.

An assessment of the impact on the openness of the Green Belt is not assessed only in relation to the quantum floor space but also to the scale and bulk of the proposal.

Policy DM01 of the Development Management Policies (Adopted) 2012 states that all development should represent high quality design.

Policy DM06 of the Development Management Policies (Adopted) 2012 states that development proposals must preserve or enhance the character and appearance of 16 Conservation Areas in Barnet.

The proposed structure is not considered to preserve or enhance the character of the Mill Hill Conservation Area, the proposal will appear as a visually obtrusive feature at odds with the general locality. The site and wider locality are largely open and this aspect is an important contributory factor in the appearance and character of this part of the Conservation Area.

The scale of the development appears out of context with other buildings within the wider surrounding area, including the locally listed Chapel within the adjacent cemetery, which is of a significantly smaller scale.

Whether the proposals would have an acceptable impact on the amenities of neighbouring occupiers

The proposed structure is sited centrally within the site and as such is a sufficient distance from any residential properties to ensure that there is no loss of amenity in terms of loss of light, privacy or overlooking. The structure is set at a sufficient distance to ensure that the outlook from surrounding properties is not prejudiced.

Whether the proposals would have an acceptable impact in highways terms

The site will be accessed from the existing cemetery with a new car park proposed to accommodate 43 cars. The car park is proposed to be located on the west side of the site, some distance from the building. The reason for this is unclear. The comments of the highways officer will be reported at the meeting.

Whether the proposals would have an acceptable impact in biodiversity terms

The site is located close to a site of significant importance for nature conservation (SINC).

A phase one study has been undertaken of the site, however, the survey was done in December and as such may not be a true reflection of the species that may inhabit the site.

The London Wildlife Trust have been consulted and oppose the application.

An objection from the Badger Group has also been received due to the close proximity of the development to identified badger setts.

It is considered that there has been insufficient information submitted with the application to determine that the proposal will not result in harm to the ecology of the site. Given its designation as a SINC further information would be required to determine whether the proposal would provide adequate mitigation measures to ensure the ecology of the site is not harmfully disturbed.

Whether the proposal would have an acceptable impact on the Area TPO

The site is covered by an Area TPO- 1995.

Insufficient information has been provided to fully assess the impact of the proposal on the trees on site. Whilst an impact assessment has been submitted the information detailed in this appears to be more of a tree survey. The application does not provide details on the proposed landscaping and how trees will be retained or how the trees relate to the proposed building. The car park area is shown to be located in the area covered by the TPO.

Details of level changes on site are not shown in relation to retained trees and as such at this stage it can not be determined as to whether the level changes on site will result in harm to the protected trees.

The impact on local flood risk

The Environment Agency have been consulted on the application and have the following comments:

The applicant has not demonstrated that the storage volume required to attenuate surface water run-off from the critical 1 in 100 chance in any year storm event, with an appropriate allowance for climate change, can be provided on site. The applicant has also not justified why only the maintenance shed would be connected to sustainable drainage systems (SuDS). The mausoleum should also need to be connected to the proposed SuDS scheme unless it is shown that this is unfeasible. Infiltration tests also need to be submitted in order to show that this drainage technique is a viable option at this site. This is in line with Local Plan policy DM04 (part g).

The applicant must demonstrate through their surface water strategy that the proposed development will not create an increased risk of flooding from surface water. The surface water strategy should be carried out in accordance with the National Planning Policy Framework and Planning Practice Guidance, giving preference to infiltration over discharge to a watercourse, which in turn is preferable to discharge to surface water sewer. The surface water strategy should clearly show that surface water for up to the 1 in 100 chance in any year storm event, including an allowance for climate change, can be safely contained on site. It is acceptable to partially flood the site during this event, ensuring that buildings are not affected by flooding and the site can be safely navigated by users. Where this flooding will be within roads or pathways, the applicants must ensure that safe access and egress is still available.

3. COMMENTS ON GROUNDS OF OBJECTIONS

All planning related matters are considered to be covered in the above appraisal.

4. EQUALITIES AND DIVERSITY ISSUES

Under section 149 of the equalities act 2010, the Council has a duty to ensure that it behaves as follows:

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.

(b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

(c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic:

(b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.

(c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

(a) Tackle prejudice

(b) Promote understanding

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) The relevant protected characteristics are:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

(8) A reference to conduct that is prohibited by or under this Act includes a reference to:

- (a) a breach of an equality clause or rule;
- (b) a breach of a non-discrimination rule.

(9) schedule 18 (exceptions) has effect.”

In considering the application, the Council needs to pay due regard to protected characteristics under the Equalities Act.

The application proposal is for a multi-faith community mausoleum and columbaria. As such it is considered that the benefits of such a facility could serve all sections of the community and that there is no conflict for the Council in consideration of its equality responsibilities.

5. CONCLUSION

Having considered the planning matters relevant to this application, officers consider that the development fails to comply with the NPPF and Barnet’s planning policies as set out below:

- 1 The construction of a mausoleum and columbarium is inappropriate development within the Green Belt, as it fails to preserve the openness of the Green Belt. No very special circumstances have been demonstrated that would justify the development. The development would therefore have an unacceptable impact on the aims and purposes of the Green Belt as set out in Policy DM15 of Barnet's Local Plan Development Management Policies (Adopted 2012), and paragraphs 89 and 90 of the National Planning Policy Framework (Published 2012).
- 2 Insufficient information has been submitted to demonstrate that the proposal would not impact adversely on health of the trees within the Area TPO and insufficient information has been submitted in relation to the ecology of the site to identify the potential harm to protected species and habitats and any suitable appropriate mitigation. The proposal would therefore fail to comply with Policies DM01 and DM16 of the council's Development Management Policies DPD 2012.

- 3 In the absence of an acceptable flood risk assessment (FRA) the proposal fails to demonstrate that the storage volume required to attenuate surface water run-off from the critical 1 in 100 chance in any year storm event, with an appropriate allowance for climate change, can be provided on site . This is contrary to the NPPF, Policy CS13 of the Core Strategy (2012) and Policy DM04 of the Development Management Policies DPD (2012).

- 4 The development, by reason of the size, siting, scale and design of the building, would fail to preserve or enhance the character of this part of the Mill Hill Conservation Area, contrary to Policies DM01 and DM06 of the Development Management Policies DPD (2012).

SITE LOCATION PLAN:
Hill, London, NW7 2RR

Barnet Cemetery & Memorial Gardens, Milesplit

REFERENCE:

H/01134/14



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