

Location Camden Sports And Social Club Edgwarebury Lane Edgware HA8 8QP

Reference: 15/07732/S73 Received: 17th December 2015
Accepted: 23rd December 2015

Ward: Edgware Expiry 23rd March 2016

Applicant: Mr please see agent

Proposal: Variation of condition 1 (Plans) and condition 19 (Gravemarkers) pursuant to planning permission H/04748/12 dated 05/07/2016 for "A hybrid planning permission is submitted for the development of a multi-faith cemetery. Full planning permission is sought for Phase 1 of development comprising associated landscaping, parking, storage and access, and ancillary single storey memorial hall of 294sqm (GIA). Outline planning permission is sought for Phases 2 and 3 of development for use as a cemetery and means of access and landscaping with all other matters reserved". Variation include changes to landscaping proposals to level the previously proposed mound. Variation to the size of the headstones to allow for a height of 1.5m and grave markers to a width of 1.76m. (Amended Description)

Recommendation: Refuse

- 1 The proposal would result in harm to the openness and visual amenity of the designated Green Belt. The proposal is considered to be inappropriate development in the Green Belt and there are no very special circumstances which would justify this inappropriate development. The proposal would therefore be contrary to Policies CS5 of the Local Plan Core Strategy (adopted September 2012), Policies DM01 and DM15 of the Development Management Policies DPD (adopted September 2012).

Informative(s):

- 1 The plans accompanying this application are: Site plan; 1314/010 RevA; 131/009 RevD; 131/009 RevB; L002A.

Officer's Assessment

The application has been in to committee at the request of Councillor Melvin Cohen.

1. Site Description

The site forms two fields sited on land adjacent to Edgwarebury Cemetery. The site is located on the east side of Edgwarebury Lane.

The site has been previously used as sports pitches but appears not have been used for some time. There was a previous pavilion building and caretakers house that have been demolished for some time.

The site is designated as green belt and a site of archaeological importance. It is also located close to a site of local nature importance.

The site forms an area of approximately 4.2 hectares.

2. Site History

Site Address:Camden Sports & Social Club Edgwarebury Lane EDGWARE Middx

Application Number: W01541E

Application Type: Full Application

Decision: Approve with conditions

Decision Date: 19/12/1989

Appeal Decision: No Appeal Decision Applies

Appeal Decision Date: No Appeal Decision Date exists

Proposal: Use of clubhouse for a nursery school/playgroup for 25 children between the hours of 9.00a.m. and 3.30 p.m. Monday - Friday.

Case Officer:

Site Address:Land Adjoining Edgware Cemetery Ground Part Edgwarebury Sports Ground, Edgwarebury Lane Edgware Middlesex HA8 8QP

Application Number: W01541F/03

Application Type: Full Application

Decision: Withdrawn

Decision Date: 18/02/2004

Appeal Decision: No Appeal Decision Applies

Appeal Decision Date: No Appeal Decision Date exists

Proposal: Demolition of existing pavillion and associated buildings and erection of single storey building to be used as a temporary doctors surgery.

Case Officer:

Site Address:Field 2368 Edgwarebury Lane Edgware

Application Number: W01541

Application Type: Full Application

Decision: Approve with conditions

Decision Date: 07/06/1968

Appeal Decision: No Appeal Decision Applies

Appeal Decision Date: No Appeal Decision Date exists

Proposal: use as sports ground and erection of pavilion and groundsman's house

Case Officer:

Site Address:Camden Sports Ground Edgwarebury Lane Edgware Middlesex
Application Number: W01541D
Application Type: Full Application
Decision: Approve with conditions
Decision Date: 13/06/1979
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: Retention and continued use of pavilion without compliance with Condition 5 of Permission W1541A/HQ284 dated 22nd October, 1969.
Case Officer:

Site Address:Field 2368 and part of Field 2800 Edgwarebury Lane Edgware
Application Number: W01541A
Application Type: Full Application
Decision: Approve with conditions
Decision Date: 22/10/1969
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: Sports Ground to include cricket pitch, football and hockey pitch, tennis courts, pavilion and groundsman's dwelling.
Case Officer:

Site Address:east of, south west of Edgware Lane; Clay Lane Edgware
Application Number: W/01429
Application Type: Full Application
Decision: Refuse
Decision Date: 02/10/1968
Appeal Decision: Allow
Appeal Decision Date: 02/10/1968
Proposal: use as a burial ground with ancillary chapel & mortuary buildings.
Case Officer:

Site Address: Edgwarebury Cemetery, Edgwarebury Lane, Edgware, Middx, HA8 8QP
Application Number: H/02136/11
Application Type: Material Minor Amendment/Vary Condition
Decision: Not yet decided
Decision Date: Not yet decided
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: Variation of conditions 2 (Approved Plans), 16 (Details of drainage & surfacing of parking spaces) pursuant to Appeal Decision APP/N5090/A/10/2122850 (of planning application H//04617/08) granted12/08/10. Amendments to include removal of new car parking spaces.
Case Officer: Deirdre Jackman

Site Address:Edgwarebury Cemetery, Edgwarebury Lane, Edgware, Middx, HA8 8QP
Application Number: H/00896/12
Application Type: Full Application
Decision: Refuse
Decision Date: 08/10/2012
Appeal Decision: No Appeal Decision Applies

Appeal Decision Date: No Appeal Decision Date exists
Proposal: Installation of portable cabins on site for staff use.
Case Officer: Cathy Munonyedi

Site Address: Land Adjacent Edgwarebury Cemetery, Edgwarebury Lane, Edgware, Middx, HA8 8QP

Application Number: H/04748/12

Application Type: Full Application

Decision: ES Not Required

Decision Date: 07/12/2012

Appeal Decision: No Appeal Decision Applies

Appeal Decision Date: No Appeal Decision Date exists

Proposal: A hybrid planning permission is submitted for the development of a multi-faith cemetery. Full planning permission is sought for Phase 1 of development comprising associated landscaping, parking, storage and access, and ancillary single storey memorial hall of 294sqm (GIA). Outline planning permission is sought for Phases 2 and 3 of development for use as a cemetery and means of access and landscaping with all other matters reserved.

Case Officer: Graham Robinson

Site Address: Edgwarebury Cemetery, Edgwarebury Lane, Edgware, Middx, HA8 8QP

Application Number: H/04617/08

Application Type: Full Application

Decision: Refuse

Decision Date: 8/12/2010

Appeal Decision: Allow subject to conditions

Appeal Decision Date: 8/12/2010

Proposal: The change of use from agricultural land to a cemetery to allow an extension of the existing Edgwarebury Cemetery. Creation of one access point across Clay Lane. Associated landscaping, boundary treatments, internal access arrangements and the re-configuration of the existing car park to provide a further 18 spaces, plus 8 new staff car parking spaces.

Case Officer: Deirdre Jackman

3. Proposal

Variation of condition 1 (Plans) and condition 19 (Gravemarkers) pursuant to planning permission H/04748/12 dated 05/07/2016 for "A hybrid planning permission is submitted for the development of a multi-faith cemetery. Full planning permission is sought for Phase 1 of development comprising associated landscaping, parking, storage and access, and ancillary single storey memorial hall of 294sqm - GIA. Outline planning permission is sought for Phases 2 and 3 of development for use as a cemetery and means of access and landscaping with all other matters reserved". Variation include changes to landscaping proposals to level the previously proposed mound. Variation to the size of the headstones to allow for a height of 1.5m and grave markers to a width of 1.76m.

4. Public Consultation

Consultation letters were sent to 185 neighbouring properties.

15 responses have been received, comprising 7 letters of objection, 3 letters of support and 5 letters of comment.

The objections received can be summarised as follows:

Proposed parking is inadequate.

Increased traffic and congestion.

Increased risk of accident.

Increased noise and disturbance.

Gravestones, memorials, mausoleums and the like is not in line with original proposal and does not fit in with the surrounding residential area.

New gravestones and headstones will have a much greater visual impact on local residents.

The other Federations cemetery in Rainham has lines upon lines of gravestones and headstones.

Planting is required to obscure view of cemetery.

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

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 2015

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 2050. 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.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.

- Relevant Development Management Policies: DM01, DM02, DM15.

The Council's approach to development as set out in Policy DM01 is to minimise the impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for

adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted April 2013)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents.

5.3 Assessment of proposals

Planning permission has previously been sought and approved at the site for a multi-faith cemetery, the application was conditioned to restrict the size of the gravemarkers to a size of 20 x 30 which would sit parallel to the ground. The original permission noted that *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 applicant has submitted a landscaping scheme in support of the development.

The applicant has indicated that headstones would not form part of the first phase and that memorials would take the form of slabs parallel to the ground. It is considered that provided grave markers are very small and that the detailed landscaping scheme is implemented, the development would not adversely affect the open character of the green belt. It is considered that headstones or large grave markers could be inappropriate, and for this reason a condition is attached to ensure that these do not form part of the proposed memorials. The applicant has stated that phase 1 would be used for woodland burial which is considered appropriate within the green belt.

A material change of use is now proposed to vary this condition to allow for larger memorials gravemarkers at the site, the applicant has justified this being a cultural practice of the orthodox Ashkenazi community. As such an assessment as to whether the proposal to vary condition 19 relating to the size of the gravemarkers on the openness of the Greenbelt needs to be made and will consider whether this would constitute inappropriate development.

Matters concerning the principle of the use of the site as a cemetery have previously been considered under application H/04748/12, the assessment of the use of the site included consideration of the loss of the sports pitches, highway and pedestrian safety, biodiversity, archaeology and impact of a cemetery on the neighbouring occupiers have all been previously considered and accepted in terms of the use of the site as a cemetery.

The main consideration in this case is whether or not the variation to the condition restricting the size of gravemarkers and the associated changes to the landscaping will result in inappropriate development within the Greenbelt including its visual amenity and

whether there are any very special circumstances or other material considerations would justify the variation of this condition to allow for headstones and gravemarkers to a maximum height of 1.5m and width of 1.76m in green belt terms.

Permission is now sought to allow for larger memorials, plinths and headstones to accord with the cultural practices of the Orthodox Ashkenazi community who are seeking to implement the permission for their sole use.

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.

Relevant in this case is a previous appeal at the neighbouring site Edgwarebury Cemetery for the change of use from agricultural land to a cemetery to allow extension of existing Edgwarebury Lane Cemetery.

This application was allowed at appeal, the appeal decision would hold some material weight in regards to the current case. In addressing the impact of the use of the land as a cemetery the inspector noted that *the use of the land as a cemetery by the Jewish communities that currently use the existing facility, would involve closely placed plinths, stones and slabs with narrow strips of grass in between. From what I saw of the existing cemetery, I am in no doubt that this element of the proposal would materially reduce the openness of this part of the Green Belt.*

The inspector went on to note that *For similar reasons, I find that the development would encroach into the countryside, contrary to one of the stated purposes of including land in the Green Belt. Notwithstanding, the position of both the Council and the appellant on this matter, I am of the view, having regard to the guidance on PPG2 and the relevant development plan policies with their supporting commentary, that the proposal comprises inappropriate development in the Green Belt in policy terms.*

Although the appeal was eventually allowed the inspector was clear that the proposal would be inappropriate within the Green Belt.

This reinforces the case that the current variation application would have to demonstrate very special circumstances to justify the proposal given the acknowledged harm such development can have on the Green Belt.

The submission to allow for larger gravemarkers, is based on the community's desire to be able to have flexibility in the size of the headstones/markers. The applicant has indicated that this is based on a cultural practice rather than based in Jewish law that requires headstones of any particular size.

The need for burial space

Part of the applicant's case for very special circumstances is the need for burial space within close proximity to the orthodox community in north west London.

The applicant has indicated that between 160-170 burials per year are conducted by The Federation which are largely undertaken at Edmonton and Rainham cemeteries. It is

anticipated that if Edmonton Cemetery was solely used, it is anticipated that there would be no available plots within circa one year. Although, there remains extensive capacity at Rainham Cemetery, due to its highly inaccessible location approximately 30 miles or 1 hour by private car from Edgware or Golders Green relative to the Federation's membership, its continued use in the short and long-term is highly undesirable.

The need for cemetery provision within close proximity to members homes is particularly acute within the Jewish community due to customs and laws in relation to burial. Within Orthodox Jewish law, it is a requirement to bury the deceased as quickly as possible after death. A burial may not be delayed unnecessarily and it is encouraged to ensure that a deceased is prepared for burial and buried before dusk on the same day as death. This can be particularly challenging during the winter months when dusk can be as early as approximately 4.30pm.

The applicant has provided details of the GLA audit of 2011 which indicated that Boroughs with a larger proportion of Jewish people and Muslims are likely to face increased pressure for burial space. Generally speaking, these faiths in addition to requiring burial tend to seek just one interment in each grave, and certainly would not favour any measure to re-use grave space, or reclaimed unused space in an existing grave. Paragraph 2.7

The applicant has also provided details within the submitted planning statement of two other cemeteries within the North West London, Hertsmere area which serve the Jewish community. Neither of these cemeteries are considered to meet the specific needs of the applicants (The Federation) for religious, cultural reasons and concerns of land remediation and access.

It is accepted that for religious reasons a cemetery to cater for a particular orthodox group within close proximity to the community population would be favourable. However, in this particular case, officers consider that the resultant gravemarkers and headstones would be inappropriate development in the Green Belt.

The extension to the neighbouring site at Edgwarebury cemetery was allowed on the basis of very special circumstances being demonstrated that there was an acute need for additional burial space for the three Jewish communities that used the existing cemetery.

Whilst it is acknowledged that in terms of proximity and in accordance with Jewish practice the site would meet a known demand, it should also be considered that the previous permission was also heavily justified by the need for non-denominational woodland burial space. The general demand for burial space was accepted in the previous application and this together with the nature of the previous landscape proposals were considered to represent very special circumstances.

In this current case, the landscape proposals, given the requested amended condition to allow larger gravemarkers and headstones, it is considered to result in harm to the openness of the Green Belt, in a manner that the previous proposals did not.

Visual amenity

The previous permission consisted of burial plots with gravemarkers laid flat to the ground measuring 20 x 20 cms which would help minimise the visual manifestation of the burial plots and would ensure an open aspect across the Green Belt. The actual burial plots were to be covered with wild flowers to give a natural setting with grass path leading to each plot.

The current application now seeks the inclusion of headstones which will sit vertically on each burial plot and the addition of stone gravemarkers the length of the burial plot which will run across the site, some burial plots will be up to 1.76m wide (double plots) and as such will have a significant level of stone work laid on the ground. The proposed changes to the landscaping and level of stone work will reduce the amount of landscaping previously proposed and would result in a greater level of development which would result in harm to the visual amenity of the Green Belt. As previously noted the appeal for the neighbouring site acknowledged that memorials, plinths and stone work can be considered as inappropriate within the Green Belt. In this instance it is considered that the visual impact of such development would not be acceptable.

5.4 Response to Public Consultation

Issues of parking have previously been assessed and considered as acceptable for a cemetery use at the site. The principle of the land use has been established as acceptable and this considered traffic and parking issues.

Concerns are raised in relation to the visual impact of the gravemarkers and headstones on the openness of the Green Belt. The Local Planning Authority have recommended refusal on the basis of the impact on the designated Green Belt.

6. Equality 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.

The likely equalities impacts of the development are as follows:

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

Officers have in considering this application and preparing this report had regard to the requirements of this section and have concluded that a decision to refuse planning permission for this proposed development will comply with the Council's statutory duty under this important legislation.

The impacts on any one group with a protected characteristic, in this case based on religion and belief by not approving a variation to the condition to allow for larger headstones memorials is not considered to outweigh the harm to the designated Greenbelt.

The benefits of providing a cemetery for the Ashkanazi Jewish community by providing a burial facility to meet the need of the community in a location in close proximity to the majority of this population is considered to be of a benefit to the community and meet the requirements of the equality act, however, it is not considered that the positive benefit on these religious grounds would outweigh the harm to the designated Greenbelt. As raised in the above report very special circumstances would need to be provided to demonstrate that the proposal which would otherwise be considered inappropriate within the Greenbelt is acceptable given the mitigating circumstances.

Furthermore, it is considered that whilst permission is sought to vary condition 19 to allow for larger gravemarkers, it is not considered that this would preclude any person with a protected characteristic from utilising the previously agreed burial space. It is not considered that the need for larger headstones is part of the written scripts of Jewish Law but would be a more personal cultural choice.

In addition, it should also be noted that the previous approval was for a non-denominational multi-faith cemetery as such the however, given the information presented

to the LPA for consideration the harm to this protected group based on religion and belief has not been addressed by the applicant.

The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

7. Conclusion

The proposal is considered to fail to accord with the requirements of the Development Plan and is therefore recommended for refusal. Given the clearly identified harm to the openness of the Green Belt, it is not considered that there are very special circumstances that would outweigh the harm to the designated Green Belt. Officers consider that the desire of this community burial space in closer proximity to where they live does not outweigh the harm to the openness identified in the above report.

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