

Appeal Decision

Site visit made on 21 September 2016

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 1st November 2016

Appeal Ref: APP/N5090/W/16/3153134

New Southgate Cemetery and Crematorium, Brunswick Park Road, New Southgate, London N11 1JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Patrick O'Mara of the National Spiritual Assembly of the Baha'is of the United Kingdom against the Council of the London Borough of Barnet.
 - The application Ref 16/0582/FUL, is dated 28 January 2016.
 - The development proposed is the removal of existing building and erection of new single storey custodian's office for the Baha'i Cemetery and new entrance gates.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of existing building and erection of new single storey custodian's office for the Baha'i Cemetery and new entrance gates at New Southgate Cemetery and Crematorium, Brunswick Park Road, New Southgate, London N11 1JJ in accordance with the terms of the application, Ref: 16/0582/FUL, dated 28 January 2016, subject to the conditions in the attached schedule.

Procedural matter

2. The planning application form described the proposed development as 'Removal of existing building and erection of new single storey custodian's office for the Baha'i Cemetery'. The appeal form added new entrance gates to this description and these are shown on the submitted drawings. I have used this description as it more accurately sets out the proposed development.
 3. Although this appeal is against the failure of the Council to give notice of its decision on the application within the prescribed period, I received as part of the Council's submissions a Statement of Case which sets out that had the Council been in a position to determine the application it would have refused planning permission on the grounds that the proposed development due to its size scale, siting and volume would detract from the open character of the designated Metropolitan Open Land.
 4. During the course of the Council's consideration of the planning application amended drawings were submitted by the appellant. Whilst both the original and the amended drawings were submitted with the appeal, the appellant has stated that he wishes the appeal to be considered on the original drawings. I have therefore determined the appeal on this basis
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Main Issue

5. The main issues in this appeal are:

- Whether the proposed development is inappropriate development on Metropolitan Open Land; and
- The effect of the development on the openness of the Metropolitan Open Land.

Reasons

6. The appeal site is located within New Southgate Cemetery and Crematorium which is designated as Metropolitan Open Land. Policy 7.17 of the London Plan 2015 states that the strongest protection should be given to London's Metropolitan Open Land (MOL) and inappropriate development refused, except in very special circumstances, giving the same level of protection as in the Green Belt. Essential ancillary facilities for uses that are not inappropriate will only be acceptable where they maintain the openness of the MOL. The supporting text of Policy 7.17 advises that development should be limited to small scale structures to support outdoor open space uses and minimise any adverse impact on the openness of the MOL.
7. Policy CS7 of the Barnet Core Strategy 2012 (Core Strategy) and Policy DM15 of the Barnet Development Management Policies Development Plan Document 2012 (DMP) taken together seek to protect MOL from inappropriate development and ensure that new development does not have an adverse impact on the openness of the MOL. Core Strategy Policy CS5 and DMP Policy DM01 seek a high standard of design in new development which is appropriate to its context and provide vibrant, attractive and accessible public spaces.

Whether the proposed development is inappropriate development

8. Paragraph 89 of the National Planning Policy Framework (the Framework) states that the construction of new buildings in the Green Belt is inappropriate except in certain circumstances. London Plan Policy 7.17 applies these exceptions to MOL. Paragraph 89 states that development is not inappropriate if it is for the provision of appropriate facilities for outdoor sport, outdoor recreation or for cemeteries, as long as it preserves the openness of MOL.
9. The Council do not dispute that the proposed development is in connection with the management of the cemetery and, consequently, it falls within the list of exceptions in Paragraph 89 of the Framework. The question of whether the proposed development preserves the openness of the MOL is the principal matter in dispute between the parties and my findings on the next issue will determine whether the proposal is inappropriate development.

The effect of the development on the openness of the Metropolitan Open Land

10. New Southgate Cemetery is an extensive, multi-faith cemetery with a crematorium and funeral chapel centrally located within it. Internal roads radiate from the central chapel and join a circular route around the cemetery. The older sections of the cemetery, to the west, south, and south east have heavy tree cover creating a woodland setting. Large, mature trees are present in the north and east sections of the cemetery but these are more widely spaced and this section of the cemetery is more open in character.

11. Brunswick Park adjoins the cemetery to the north and New Southgate Recreation Ground is to the South East on the opposite side of Brunswick Park Road. Together these form a large tract of green space. Residential development bounds the remainder of the cemetery. A small modern development at Marshalls Close and Darwin Close impinges on the south west corner of the cemetery. The houses at Darwin Close immediately adjoin the appeal site and are separated from those in Marshalls Close by a heavily wooded area accessed by public footpaths.
12. The appeal site is situated at the transition point between the heavily wooded older sections of the cemetery and the more open eastern section. The upper floors and roofs of the dwellings in Darwin Close and Marshalls Close are visible over the boundary fence of the cemetery at this point. The appeal site is a long, narrow, parcel of land which runs south east from the circular road. It is currently unused and contains the remains of a road surface. A high timber fence separates it from the woodland area between Darwin Close and Marshall Close to the east, and to the west a hedgerow and mature trees form the boundary between the site and an area of older interments in a wooded setting. At the south end of the appeal site the dwellings in Darwin Close are visible above the boundary fence.
13. The appeal proposal would see the erection of a flat roofed, timber clad building, approximately 12.3m long by 5.0m wide by 2.85m high, and the construction of a block paved area on the site. This would take up approximately half of the site area and the remaining area would be landscaped and trees would be planted. The proposal also includes the erection of two pairs of metal gates approximately 1.1m high between stone capped brick piers approximately 1.35m high on the circular internal road to demarcate the Baha'i section of the cemetery. Part of the internal road is currently surfaced in block paving and it is proposed to resurface the remaining section between the two sets of gates to match this.
14. The proposal would inevitably have some impact on the openness of the area resulting from the construction of a building where there is currently none. Nevertheless, due to the location of the appeal site, tucked away on the margins on the very margins of the cemetery and adjacent to an existing high fence and established trees, the effect on the openness of the area would be minimal. In addition the proposal would result in the removal of the two existing buildings used in connection with the maintenance and operation of this section of the cemetery. I note the Council's point that the new building is larger than the combined volume of the two buildings which it would replace, however, these are located on a grass verge adjacent to the circular internal road and in this location are prominent and, despite being closer to the cemetery, have a greater impact on openness than the proposed replacement building would.
15. The location of the building is such that it would be viewed end on from the main routes through the cemetery, and would be seen in the context of the much larger houses in Darwin Close. In the context of the extensive area of open space, the siting of the building on its periphery, in proximity to other built features, would in addition to the minimal effect on openness have no significant effect on the character and appearance of the open space.

16. The proposed gates and gate piers at approximately 1.35m high would be of a similar height to the many headstones and funeral monuments, which are the defining characteristic of the cemetery, and would be approximately 0.5m square. Within this context it is difficult to see these as a substantial built intervention or having a material effect on the openness of the area due to the very modest size.
17. I also note the Council's point that parking is being provided. This would be located alongside the new building and away from the main paths. I saw on my site visit that vehicles were parked on the access roads near the site and in other parts of the cemetery and the proposed arrangements would, in my view, be less intrusive.
18. The Council suggest that the proposal will result in encroachment and increasing urbanisation, however, due to the location of the appeal site, the effect would not be significantly greater than that which currently exists, particularly as the appeal site contains the remnants of a road rather than being previously undeveloped land. Whilst visitors may come to the building, I saw on my site visit that this occurs at present and there is no evidence to suggest that the level of visitors to the cemetery or pilgrims to the shrine would increase as a result of the proposal.
19. I therefore conclude the proposed development would not cause harm to the openness of the Metropolitan Open Land and is therefore not inappropriate development. It would comply with Core Strategy CS7 and DMP Policy DM15 which seek to protect MOL from inappropriate development and ensure that new development does not have an adverse impact on the openness of the MOL.

Other considerations

20. Read together, Core Strategy Policy CS5 and DMP Policy DM01 seek to ensure that new development is of a high standard of design that responds to its context. Other than the size and siting of the proposed building, which I have considered above, the Council have not raised any specific objections to the detailed design of the proposal. The building would be a timber clad, lightweight, structure, which would sit comfortably in the surroundings alongside the high timber boundary fence to the cemetery. The design of the building is not, of itself inherently objectionable. The proposal would also remove an area of deteriorating road surface and introduce a new landscaped area which would improve the appearance of the appeal site.
21. I therefore find that the proposal would be of a high standard of design and would not cause harm to the character and appearance of the area. It would comply with the relevant requirements of Core Strategy Policy CS5 and DMO1 and would also be consistent with the requirements of the Framework which seeks a high standard of design in all new developments.

Conditions

22. I have had regard to the list of conditions that have been suggested by the Council. In order to provide certainty as to what has been granted planning permission, I have attached a condition specifying the approved drawings. As the planning application is not specific with regard to the precise details of the materials to be used for the proposed building and hard surfaces, in order to

ensure that the development is in keeping with the surrounding area it is necessary to attach a condition requiring samples of these to be submitted for approval. In order to ensure that the existing buildings are removed following the completion of the new building in order to maintain the openness of the area, it is necessary to attach a condition requiring that the development be carried out in accordance with the phasing set out in the application.

23. Whilst some details of landscaping have been provided, these are not sufficient to enable the landscaping to be implemented or to identify any trees or hedgerows that are to be retained or protected. As trees to be retained and protected need to be identified at the out-set before any ground works take place, the landscaping and tree protection conditions must necessarily be pre-commencement.
24. Due to the presence of established trees adjacent to the site boundary and the need to grub up the existing road surface within the appeal site, it is necessary to require details of the finished site levels and measures for the protection of the existing trees during the course of development. As this needs to be established and the protection measures put in place for the duration of the whole development, it is necessary for these to be pre-commencement conditions.

Conclusion

25. For the above reasons, and having regard to all other relevant matters, I conclude that the appeal should be allowed and planning permission granted subject to the conditions discussed above.

John Dowsett

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; P.01; P.02; P.03; P.04; P.05; P.06; P.07 RevA.
3. No development shall take place until details of the levels of the building, roadway and parking area in relation to the adjoining land and access roads, and any other changes proposed in the levels of the site have been submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.
4. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include details of both hard and soft landscape works; and indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
7. No development, other than works of demolition, shall take place above ground level until samples of all external facing materials have been submitted to, and approved in writing by, the local planning authority. The relevant works shall thereafter be carried out in accordance with the approved sample details.
8. The development shall be carried out in accordance with the scheme of phasing as per email from agent (Alex Afnan) dated 11/05/2016. The buildings to be demolished shall be removed within 3 months following the date of the occupation of the new building and the land made good within the prescribed timeframe.