
Appeal Decision

Inquiry held on 19 - 20 April 2017

Site visit made on 19 April 2017

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 19 May 2017

Appeal Ref: APP/L3625/W/16/3160612

Land adjacent to 16 Croydon Lane, Banstead, Surrey SM7 3BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Anisha Amin against the decision of Reigate & Banstead Borough Council.
 - The application Ref 16/00973/F, dated 21 April 2016, was refused by notice dated 28 July 2016.
 - The development proposed is a burial site which will include woodland, natural and traditional burial option; and service building and wildflower meadows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's name and site address are taken from the appeal form as they are more detailed than those given on the application form. The use of these fuller details was agreed with the parties at the Inquiry.
3. The appellant made an application for costs in advance of the Inquiry. However, verbally at the Inquiry, and subsequently in writing, the appellant confirmed that this was no longer being pursued.
4. In advance of the Inquiry, I requested the re-printing and submission of Appendices 4; 7; 9; and 19 of the appellants Proof of Evidence. These were received prior to the start of the Inquiry.

Main Issue

5. In light of all the submissions before me, the main issue in this appeal is whether the harm to the Green Belt by reason of inappropriateness including loss of openness and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal

Reasons

Background

6. The appeal site comprises a substantial parcel of land of about 10.4 ha located on the southern side of Croydon Lane which leads to and from the north-east of Banstead. A Public Right of Way (PRoW) runs across the southern part of the
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site. The site is split into two by an overgrown hedgerow within which there are many mature trees. Mature hedgerows also form parts of the site's boundaries. For the most part, the site is generally flat but towards its southern end, the land falls away to meet the PRow before levelling out again. Because of this topography, the southern part of the site cannot be readily seen from Croydon Lane.

7. The proposal would introduce a chapel building and separate service building along with road and footpath infrastructure onto the site. The central hedgerow would be retained, albeit gaps would be cut into it to allow for the construction of the vehicular and pedestrian routes. There would be a landscape scheme incorporating both formal and informal planting including the creation of wildflower meadows and a woodland area.
8. There is agreement between the parties that the proposal would be inappropriate development in the Green Belt but dispute remains regarding the magnitude of effects from loss of openness, countryside encroachment and the weight to be given to other considerations.
9. The National Planning Policy Framework (the Framework) says that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. In order for the proposal to overcome the definitional harm to the Green Belt, which attracts substantial weight, it must be justified by other considerations that clearly outweigh this harm and constitute Very Special Circumstances.

Openness and encroachment

10. The appellant argues that the effect on openness will be minimal as the proposed chapel building would be located on the lower part of the site and because of the topography, I agree that it would not be readily seen from Croydon Lane and would be screened to a large extent from the PRow by the existing hedgerow that runs along it.
11. However, the location of the service building in the south-western corner of the site would be next to the PRow and would be readily seen on the approaches from both directions along this route. It would be about 12m in length, 7m wide and have a height of about 4m to the roof's ridge. It would therefore be a prominent building that would stand out against the open character of the site and against the backdrop of the existing vegetation.
12. However, I accept that the footprint of the chapel and service buildings would account for only a very modest proportion of the overall site area and that given the limited availability of public views, the Chapel building would not have a significant effect on the visual appreciation of the site's currently open character.
13. Nevertheless, the chapel building would still be a substantial structure, having a footprint of about 243 sq m. In addition to this and the service building, there would be provision for 55 cars to be parked, which although not in themselves permanent features, would be present for periods when funerals were taking place and, to a lesser extent on follow-up visits by family and friends. Therefore, whilst visibility of the buildings would be somewhat limited, the

combined effect of the proposal would cause harm to the open characteristic of the site, thus undermining the essential purpose of the Green Belt.

14. The parties accepted that a condition could be used to prevent the erection of standing gravestones. I agree that this would prevent them from exacerbating the loss of openness and that only a relatively short section of the PRow passes the site. Nonetheless, I consider that the effects of the buildings and parked cars, in combination with the extent of the road and footpath infrastructure would still have a marked and adverse effect on openness.
15. Turning to encroachment, part of the site and other nearby land is given over to horse grazing. Apart from one modest timber shed in the neighbouring field, it does not contain structures or the compartmentalisation that often accompanies such a use. Moreover, from the PRow, the site is experienced against the distant but notable backdrop of the large urban areas to the north and east albeit there is an absence in the available views of any significant nearby built form notwithstanding that there are telecommunications masts clearly visible on neighbouring land. In combination with the existing trees and hedgerows on and surrounding the site, the overall sense is of land that it is free of significant development and that forms part of the open countryside.
16. I recognise that there would be a significant amount of new woodland planting and the creation of wildflower meadows, which would generally accord with the surrounding rural character. However, this would be overwritten by the overall formality of the scheme design, the semi-ornamental planting in the area around the chapel building and by the roads and pathways spread across the site. These features would have little regard for the character of the existing site or its rural surroundings.
17. Having regard to all of this, the development would be at odds with the fundamental aim of keeping Green Belt land permanently open and would result in harm to the Green Belt purpose relevant to this appeal by appearing as an urban encroachment into the open countryside.

Other matter – character and appearance

18. In addition to the arguments put forward by the Council, I have also had regard to the evidence from the Campaign to Protect Rural England (CPRE), the Banstead Village Residents Association (BVRA) and other interested parties. It was put to me that the proposal would harm the character and appearance of the area. This matter did not form a reason for refusal of the application; nor was it included specifically in the Council's evidence beyond the issue of countryside encroachment. Nevertheless, I heard evidence on this point at the Inquiry and the appellant had the opportunity to respond to the concerns raised.
19. The proposal would fundamentally alter the site's appearance and despite the creation of new woodland and wildflower meadows, the other elements of the scheme would appear as urbanising and thus alien features. Further, in order to create the new access, some loss of the hedgerow fronting Croydon Lane would be necessary. Although this could be replanted along the new alignment, the access would still be much wider than it currently is which in combination with its urban appearance, would result in further harm to the character and appearance of the site and the immediate area. That said,

overall, the proposal would not in my view result in more than localised harm. However, I still find that it would conflict with Policy CS3.

20. Bringing all of this together, I find that the proposal would harm the openness of the Green Belt, result in countryside encroachment and harm the area's character and appearance.

Other considerations

21. The appellant asserts that the site would address the shortage of burial space in the north of the Borough, which is described as "particularly problematic" in the Council's Infrastructure Delivery Plan document (2012) (IDP). The IDP identifies the provision of a new cemetery in the north of the Borough as "desirable" based on the calculation that there is only 9-11 years of remaining burial space within the Borough as a whole – at Redstone Cemetery, Redhill. This document provides part of the Local Development Framework evidence base and relates to the plan period to 2027.
22. Moreover, the IDP Addendum (2015) recognises that infrastructure needs will evolve over the plan period and elevates the criticality factor of the need for burial space from 'desirable' to 'important'. I accept that the 2012 IDP and its 2015 Addendum provide important evidence of an acute shortage of burial space in the north of the Borough given that they have been part of the formal Local Plan examination process.
23. However, the calculation of burial space availability appears, by its nature to be variable because of the relative unpredictability of inflow and outflow of use to and from the Borough in addition to population trends, demographics, grave reclamation and existing grave depth/capacity. I cannot therefore ignore the up-to-date evidence from the Council's Cemetery Officer that states the capacity at Redstone Cemetery to be about 11-15 years based on unused and potentially available plots¹. The appellant has not produced any substantive evidence to challenge this stated capacity other than relying on the 2012 IDP figure.
24. The Cemetery Officer's view is reflected in the Council's Development Management Plan (Regulation 18 stage) Cemetery and Crematorium Needs document (June 2016) (DMPCCN) which says that there is no overriding need for new cemetery or crematorium provision within the Borough because there is existing capacity within and outside it to meet the burial needs of residents. I therefore balance the appellant's arguments of need and supply against this up-to-date evidence which has been informed by discussions internally and externally including with neighbouring authorities, local churches and funeral directors. On the evidence put to me, I am not convinced that there is an urgent need for new burial space and give this matter limited weight.
25. It is clear, because of the general lack of availability within the Borough's churchyards that Redstone Cemetery remains the realistic option for burials within the Borough. The Council asserts that this will meet half of the Borough's on-going burial need and that the other half will be met at sites elsewhere even though this requires the payment of higher fees. At the Inquiry, it was put to me that Epsom Cemetery will run out of space in 2018. That is only a short time away and once full, burial options at this facility are

¹ Email correspondence from Alan Bixby to Mr Clements dated 21 March 2017 (Mr Clements' Proof Appendix BC16)

likely to be limited to further burials in existing family graves. However, Sutton Cemetery will provide viable quantitative burial provision in combination with the Redstone facility. Whilst Sutton Cemetery lies within a neighbouring authority's area, it has burial capacity for 40 years.

26. Although an extension to Epsom Cemetery has been put forward by the respective Council, it does not yet have planning permission and based on the correspondence from the Environment Agency², discussions are at a very early stage and it is not yet clear what constraints the site may have, particularly in terms of groundwater. It is also in the Green Belt. Therefore, no certainty exists at this stage that the extension will go ahead.
27. However, given the existing capacity at Redstone and the available facilities in neighbouring authority areas, I am not persuaded that there is a clear deficiency in the supply of burial space such that the needs of the Borough's residents are not being met. Furthermore, I find that there is sufficient capacity to meet the Borough's burial requirements up to 2027 and accordingly, the proposal is not justified by a quantitative need.
28. I do, however recognise that it would provide further choice and also acknowledge the higher burial costs for the use of cemeteries outside the Borough. For some, Redstone Cemetery may be further away than they wish to travel and if they opt for elsewhere then higher fees are likely to be incurred. Given the situation at Epsom Cemetery, the only evident alternatives for those living in the northern part of the Borough would be the Sutton facility and the privately run Randalls Park site. I have not been provided with details of the costs of burials at the latter. However, those who live in the Borough of Reigate and Banstead who opt for burials at Sutton will be subject to fees that are roughly double the cost of those for residents in the neighbouring local authority area.
29. Nevertheless, peoples' preferences may be influenced by a wish to be buried in the same graves as family members and they may opt for burials at the out-of-Borough facilities. No substantive evidence has been put forward to show that travel times to Redstone Cemetery are a barrier to all living in the north of the Borough. Indeed, the 'north of the Borough' is not defined. Moreover, the travel times put forward by the appellant are based on isochrones measured from the site and there may therefore be areas within the northern part of the Borough that are closer to Redstone cemetery than is suggested.
30. Having said that, I note the appellant's view that the two alternatives of having to travel for more than 30 minutes or paying higher, out-of-Borough fees could present an unsatisfactory financial and emotional burden for some people at a time of distress. However, although this view is supported to some extent by the evidence of local funeral directors, I do not find it to be sufficiently compelling to demonstrate that this is a widespread problem. Accordingly, this argument carries limited weight.
31. The appellant has also put forward a further number of other considerations in support of the proposal and I deal with these in turn.
32. I accept that there will be some overall biodiversity gains from the planting of new woodland and the creation of wildflower meadows. However, the layout of

² Inquiry document AP02

the scheme shows that a number of gaps would be cut into the existing central hedgerow to allow for the road and path infrastructure. This would fragment the hedgerow and reduce its value as a wildlife corridor. Furthermore, the submitted Tree Constraints Plan does not show all of the trees within the hedgerow. It is therefore unclear what effect the laying of the roads and pathways would have on their long term retention prospects. However, from the number of trees I observed at my site visit, I consider it very likely that a number of them would be affected. Nevertheless, I have nothing substantive to question the overall conclusions of the appellant's ecology evidence, which shows that there would be an overall gain to the site's biodiversity interest.

33. In terms of economic benefits, the appellant states that the proposal would generate one to two jobs that would be based on site. However, under cross examination it was accepted that this could be one rather than two. There would also be some short term economic benefits from construction jobs. However they would be of a temporary nature and weighing all this up, the overall economic benefits of the proposal would, in my view be limited.
34. The appellant argues that the absence of an alternative site for a new cemetery lends weight in support of the proposal going ahead on the appeal site. However, having already found that there is no urgent current need for the burial provision associated with the scheme over the current Local Plan period this argument carries little weight, regardless of who bears responsibility for identifying other potential locations.
35. The appellant also cites the increased access to the Green Belt that the proposal would provide. Whilst this would be a benefit of the scheme, given that there is already some level of access provided by the existing PRoW, I give this moderate weight.
36. I have had regard to the other appeal decisions³ referred to by the appellant. These relate to different types of schemes in different circumstances and I am not convinced that any meaningful comparisons can be drawn from the Inspector's conclusions in those cases and the one before me. In any case, I have determined the appeal on its individual merits and apportion limited weight to these other decisions.
37. When all of the above is taken into account, I consider that the proposal runs counter to LP Policy Co1, CS Policy CS3 and the Green Belt policies contained in the Framework. Given this development plan conflict, it also runs counter to CS Policy CS1.

Other matter

38. At the Inquiry, interested parties raised the matter of highway safety. However, there is no robust evidence that the proposal would have adverse effects. I note the anecdotal evidence put to me and the volume of traffic that seems relatively constant on Croydon Lane. I am also mindful of the interested parties' views on the perceived shortcomings of the highway authority response to the application. However, without clear evidence to the contrary, I am unable to conclude that there would be any severe effects on highway safety.

Overall Balance and Conclusion

³ Refs APP/G2245/A/14/2217055 and APP/M3645/A/14/2224101

39. Substantial weight must be given to the potential harm to the Green Belt by reason of inappropriateness. Substantial weight must also be given to the loss of openness and I have found that the proposal would harm the Green Belt purpose of safeguarding the countryside from encroachment, which again, attracts substantial weight. In addition, the proposal would cause localised harm to the character and appearance of the area to which I apportion moderate weight. In favour of the proposal is the limited weight attracted by the further choice provided by the additional burial space in the Borough. Also weighing in favour of the scheme are the biodiversity gains and limited qualitative and economic benefits. However, even in their totality, the benefits arising from those other considerations are insufficient to clearly outweigh the identified Green Belt and other harms. The very special circumstances necessary to justify the proposal do not exist.
40. For the above reasons and having had regard to all other matters raised, the appeal does not succeed.

Hayden Baugh-Jones

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Stephen Whale, of Counsel

Landmark Chambers
Instructed by Guy Mandry, Reigate
And Banstead Borough Council

He called:

Principal Planning Officer

Mr Billy Clements
BSc (Hons) MA MRTPI

FOR THE APPELLANT:

Mr Ian Ponter, of Counsel

Kings Chambers
Instructed by Sherwood Wheatley
Solicitors

He called:

Cemetery Development Services
Limited

Mr Justin Smith
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INTERESTED PERSONS:

Mrs Gillian Hein

Campaign to Protect Rural
England

Mrs Catalina Vasallo-Bonner

Banstead Village Residents
Association

Professor Ben Martin

Local resident

Councillor Sam Walsh

Banstead Village Ward

DOCUMENTS SUBMITTED AT THE INQUIRY

Numbered compendium of copies of the following Core Documents (provided jointly):

- CD1 Planning Committee Report dated 27 July 2016
- CD2 Decision Notice in relation to planning application dated 28 July 2016
- CD3 Extracts from Borough Local Plan 2005
- CD4 Borough Local Plan Proposals Map
- CD5 Extracts from Core Strategy 2014
- CD6 National Planning Policy Framework
- CD7 Infrastructure Delivery Plan September 2012
- CD8 Infrastructure Delivery Plan Addendum March 2015
- CD9 Development Management Plan (Regulation 18 Stage) Cemetery and Crematorium Needs June 2016
- CD10 Development Management Plan Regulation 18 Consultation August 2016
- CD11 Quality of Life in Reigate and Banstead Borough Profile February 2014

Documents submitted by the appellant

- AP01 Sutton Cemetery Burial Fees Current 2017
- AP02 Letter from Environment Agency containing details of advice given to Epsom and Ewell Council dated 13 April 2017
- AP03 Map showing travel time isochrones in relation to other cemeteries
- AP04 Appellant's Opening Submissions
- AP05 Appellant's List of Appearances
- AP06 Written confirmation of withdrawal of application for costs
- AP07 Appellant's Closing Submissions

Documents submitted by interested parties

- IP01 Updated statement from the CPRE
- IP02 Updated statement from the BVRA

Other documents

- ID01 Agreed list of conditions (provided jointly)