



Appeal Decision

Site visit made on 22 December 2019

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2019

Appeal Ref: APP/M3645/W/19/3224258

Greenlawn Memorial Park, 10 Chelsham Road, Chelsham CR6 9EQ

- 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 London Borough of Croydon against the decision of Tandridge District Council.
 - The application Ref TA/2017/2202, dated 23 October 2017, was refused by notice dated 10 September 2018.
 - The development proposed is an extension to the existing memorial park for burials.
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Decision

1. The appeal is allowed and planning permission is granted for an extension to the existing memorial park for burials at 10 Greenlawn Memorial Park, Chelsham Road, Chelsham CR6 9EQ, in accordance with the terms of the application Ref TA/2017/2202, dated 23 October 2017, subject to the conditions set out in the attached schedule.

Background and Procedural Matters

2. An identical proposal was considered at appeal on 13 January 2015¹ (the 2015 Appeal). The appeal was dismissed, but at this time the national planning policy position was different to the position that exists now. Indeed, taking into account the National Planning Policy Framework 2012, the proposal was found to constitute inappropriate development in the Green Belt.
3. However, the National Planning Policy Framework was revised in February 2019 (the Framework) and in particular paragraph 146 states that certain other forms of development are also not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it, including '*material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)*'. This changed position in Green Belt terms is a material planning consideration and I note that there is no dispute between the parties that the referenced Green Belt policies in the adopted development plan are out of date as they are not consistent with the wording in the Framework.
4. It is common ground between the main parties that whilst the proposal would include some low ground level structures, occasional parked cars, vases and flowers etc, the appeal site would nonetheless remain fundamentally open. I do not disagree with such a view and hence the proposal would not conflict with the purposes of including land within the Green Belt and would preserve

¹ Appeal Ref No APP/M3645/A/14/2224101

its openness. Consequently, the proposal would not amount to inappropriate development in the Green Belt.

5. In refusing planning permission, the Council has referred to Policies CSP18 and CSP21 of the Tandridge Core Strategy 2008 (CS). Policy CSP21 (Landscape and Countryside) of the CS states that the '*character and distinctiveness of the District's landscapes and countryside will be protected for their own sake, new development will be required to conserve and enhance the landscape character*'. I afford this policy only limited weight as part of the determination of this appeal as, taking into account paragraph 213 of the Framework, it is not consistent with less restrictive paragraph 170 b) of the Framework which states that decisions should contribute to and enhance the natural and local environment by '*recognising the intrinsic character and beauty of the countryside*'. The above view is not disputed by the main parties.
6. Given the above, I consider that when the most important basket of development plan policies for determining the planning application are considered as a whole, they are out of date. Consequently, paragraph 11d of the Framework is engaged.

Main Issue

7. In the context of the above, the main issue is the effect of the proposal on the character and appearance of the area, which is within an Area of Great Landscape Value (AGLV), taking into account local and national planning policies, and if any harm is caused to the character and appearance of the area, whether any such harm would significantly and demonstrably be outweighed by any identified benefits, when assessed against the policies in the Framework taken as a whole.

Reasons

8. The appeal site comprises about 4 hectares of pasture located on the eastern fringe of Warlingham. The site is in Green Belt, is within an Area of Great Landscape Value and within a Ground Water Protection Zone. The appeal site is accessed from Rogers Lane which is an unmade track and bridleway that connects to Limpsfield Road to the south. The existing cemetery is immediately to the west and on the other side of Rogers Lane. To the south of the appeal site is Chelsham Place Livery Stables and Knights Garden Centre.
9. The proposal is for 3,216 individual burial plots for Christian and non-conformist burials and an additional 261 burial plots for Muslim burials. There would be internal access roads forming an overall grid pattern and provision would be made for a natural burial area and for low memorials containing cremated remains. There would also be a small number of shelter/seating areas. Land is shown on the submitted plans as a '*future extension area*', but this does not fall within the red edged planning application site and so does not fall to be considered as part of this appeal.
10. As was the case for the 2015 Appeal, the main parties do not disagree that the proposal would not conflict with Policy CSP20 of the CS which establishes that the AGLV will be retained for its own sake; as a buffer to the Surrey Hills Area of Outstanding Natural Beauty (AONB) and to protect views from and into such a designated area. The Council states that the appeal site does not play a role

as a buffer and there are no views to and from the AONB. I have no reason to disagree with such a view.

11. The point of contention between the main parties relates to the effect of the development on the character and appearance of the more immediate area. The appeal site comprises grassland pasture and is enclosed by mature landscape boundary features with little inter-visibility with the wider landscape context. Boundary hedgerows and trees surrounding the site and would be retained as part of the proposal. There would also be some new planting.
12. I have considered the appellant's landscape character assessment prepared by Environmental Design Partnership in March 2019. I agree that the proposal would inevitably change the currently undeveloped and rural character of the appeal site. In this regard, I do not disagree with the 2015 Appeal Inspector who stated that the development would introduce '*a more suburban look*'. However, given the enclosed nature of the appeal site, I do not consider that the development would cause any significant harm to the character and appearance of the wider area. The adverse effects would be localised in extent, albeit that limited glimpses of the development would be possible from the adjacent public bridleway.
13. For the above reasons, I find that the proposal would not conflict with the AGLV requirements of Policy CSP20 of the CS. Whilst the proposal would change the character and appearance of the site, it would not have a significantly adverse impact on the character and appearance of the wider area. As the identified adverse effects of the proposal would be essentially localised, I conclude that moderate harm would be caused to the character and appearance of the area. To this extent, the proposal would conflict with the countryside protection aims of Policies CSP18 and CSP21 of the CS and paragraph 170b of the Framework.

Other Considerations

14. The Council has drawn to my attention to the fact that since the planning application was determined, an extension to the cemetery in Outwood has been approved. Whilst specific details have not been provided by the Council, it says that this would accommodate 150 years of burials for that parish. Whilst this may be the case, the Council does say that this would serve only 'local needs' whereas the appeal proposal would not be so restrictive. Indeed, the Council specifically comment that '*it is acknowledged that whilst this would satisfy demand for the Parish of Outwood for a considerable period, it would not alleviate the need for burial spaces within the District as a whole or that of the London Borough of Croydon*'.
15. Whilst the aforementioned planning permission would relieve some pressure within the District as a whole, the evidence before me does indicate that there is a significant need for additional burial plots in this area. Furthermore, I have no reason to doubt that the existing cemetery at Greenlawn Memorial Park is almost at capacity. Indeed, the appellant has recently confirmed that "*only 22 graves remain which equates to approximately 5 months' supply. Moving into winter demand for burial space is likely to increase, meaning that supply could reduce quicker than currently estimated*".
16. In addition, I note the appellant's estimated and increasing population and death rate statistics from the 2016 baseline position. I note that alternative sites have been explored, as detailed in the Council's Planning Committee

report, but that unlike the appeal site such sites would not be suitable for the provision of burial plots given Environment Agency concerns: there is no evidence before me to suggest that this position has changed.

17. I am cognisant of the comments made by the Council's Strategic Policy Team at planning application consultation stage. In particular, it states that *'in terms of cemetery space, this authority is in the worst position in the country'* and *'it is assessed that 191 new graves are required per annum to meet the existing demand across the district'*. This proposal would provide new burial plots for the residents of both Tandridge and Croydon in both the short and long term. The undisputed claim that *'the current situation at Greenlawn is that the cemetery is removing benches and using pathways to bury into as well as reclaiming graves that have expired exclusive rights'* leads me to conclude that there is a pressing need to expand burial provision at this cemetery.
18. I note the Council's comment that alternative sites might be identified as part of the emerging development plan for the area. However, I cannot be certain that any preferable sites would in fact be identified and, if so, whether any such sites would be capable of fulfilling the undisputed need across two Council areas. In this case, and taking into account paragraph 49 of the Framework, I do not consider that there is any reasonable evidence to suggest that the proposal is so substantial or its cumulative effect would be so significant, that to grant planning permission now would undermine the plan-making process by pre-determining decisions about the scale, location or phasing of new developments that are central to an emerging plan. There is a need for additional burial plots in the area, both in the long and short term, and the local planning authority has not indicated clearly how granting permission for the appeal development would prejudice the outcome of the plan-making process.
19. In reaching the above view, and whilst affording the emerging development plan for the area (i.e. Tandridge 'Our Local Plan' 2033) much less weight than the adopted development plan, I do nonetheless note that emerging Policy TLP 40 states that *'the Council will support the provision of at least 1.82ha of new burial space over the Plan period. Space could be delivered via new or extended cemeteries.* Whilst the Council says that this policy is now *'out of date'*, given the changes to Green Belt policy in the Framework, it does seem to suggest that in terms of the Council's emerging burial space strategy for the area, there is unlikely to be a quantitative restriction on the amount of burial space that could be provided in the emerging development plan period.
20. For the collective reasons outlined above, and on the evidence that is before me, I conclude that the contribution that the proposed cemetery extension would make towards meeting the short and long term need for burial space for both Croydon and Tandridge residents is a community benefit to which I afford significant weight in the overall planning balance. Furthermore, some positive biodiversity weight can be given to the proposal in terms of enhanced planting and the creation of woodland and wetland areas in providing habitats for fauna.

Other Interested Party Comments

21. I have taken into account comments made by other interested parties. Some of the comments raised have already been dealt with in this decision. I accept that the proposal would lead to increased traffic movements and numbers in the area. However, there is no evidence before me to indicate that the

proposal would lead to any unacceptable highway safety impacts or that the proposal would lead to any severe traffic congestion or on-street car parking conditions in the locality.

22. I acknowledge that the 2015 Inspector commented that the site is not easily accessible by public transport with only a limited bus service. However, and unlike the 2015 appeal development, this appeal proposal would accommodate burials for both Tandridge and Croydon residents (so in this case serving in part a very local community) and would include a level playing field from a fees point of view. Whilst the site may not be highly accessible, particularly for those residents from Croydon, this has to be weighed against the very significant benefits that would arise, in both the short and long term, from the provision of much needed burial space across the two Council areas. I also agree with the Council that it is also not uncommon for cemeteries to be located away from more central locations given the amount of land needed for such development. Accessibility concerns raised by other interested parties do not therefore alter or outweigh my overall conclusion below.
23. I note that the appeal site is relatively close to the Grade II listed Chelsham Place Farm. I do not disagree with the comments made by Surrey County Council Heritage Conservation Team that owing to the existence of outbuildings and the nature of the development to the south west of the appeal site, the setting of the heritage asset would be preserved. Furthermore, I am satisfied that the proposal would not cause harm to any matter of archaeological importance. These are essentially neutral matters to weigh in the overall planning balance.
24. I am aware of concerns raised about the effect of the development on the use of the bridleway by walkers and horse riders. Subject to the imposition of a planning condition, as detailed below, I am satisfied that the proposal would not lead to any unacceptable conflicts or pose a danger to users of the bridleway.
25. Reference has been made by an interested party to the recent opening of Bluebell Cemetery in Halstead, Kent. However, this cemetery is located outside the catchment area for the proposal and well beyond the 30-minute drive time analysis isochrone for the appeal site.
26. None of the other matters raised alter or outweigh my overall conclusion in respect of this appeal.

Conditions and Planning Obligation

Planning obligation

27. As part of the appeal, the appellant has submitted a completed unilateral undertaking (UU), dated 20 November 2019 and received by the Planning Inspectorate on 27 November 2019. Unlike an earlier unacceptable UU, this agreement now refers to the correct planning application reference number. Given the undisputed need for burial space in both Croydon and Tandridge, in both the short and long term, I am satisfied that the planning obligation does provide a necessary level playing field from a fees point of view for both Croydon and Tandridge residents, and that it ensures that burial space is available for residents of both areas when there is a need in both areas.

28. Unlike some of the other cemeteries that have been referred to by the main parties, the planning obligation would ensure that for the appeal cemetery there would be less restrictions or impediments in place in terms of who could use the extended cemetery. Indeed, the proposal would seek to address need in an equitable manner across two Council areas and this would help to ensure that the identified positive community benefits would be realised for a larger catchment area.
29. I am satisfied that the planning obligation is necessary and that it meets all of the tests as laid out in paragraph 56 of the Framework and Regulation 122 of the CIL Regulations 2010 (as amended).

Conditions

30. The conditions set out in the accompanying schedule are based on those suggested by the Council. All pre-commencement conditions are justified and necessary and have been agreed by the appellant. Where necessary, I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.
31. Planning permission is granted subject to the standard three-year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.
32. In the interests of the safe and convenient use of the bridleway, and in order to address all of the comments raised by the Council's Public Rights of Way Officer, it is necessary to impose a planning condition requiring a detailed scheme of traffic calming/signage and surface treatment to be submitted to the Council for approval.
33. In the interests of controlling the potential effect of the development on archaeological heritage assets, a condition is necessary requiring the implementation of a programme of archaeological works.
34. In respect of highway safety and an orderly free flow of traffic, it is necessary to impose planning conditions that ensure that the access to the site is via the existing main entrance from Chelsham Road and that on-site vehicular circulation routes are as per the submitted plans. For the same reasons, and taking into account the character and appearance of the area, a construction transport management condition is also necessary.
35. In the interests of the character and appearance of the area, it is necessary to include planning conditions relating to the provision of external lighting and landscaping. I agree with the appellant that a planning condition is not necessary relating to details of the proposed children's burial area. Landscaping details are shown on the approved plans for this area and I do not consider that it is necessary to specifically control over ground sanctums on this part of the site.
36. In order to protect the living conditions of the occupiers of nearby properties, and to maintain a relatively peaceful rural environment for all visitors to the area, it is necessary to include a condition which requires the opening hours of the proposed extended cemetery to match those of the existing cemetery.

37. Finally, in the interests of protecting habitats and biodiversity enhancement, planning conditions are necessary which require any scrub clearance to be supervised by a qualified ecologist and outside of the hibernation season, and that the landscape maintenance and ecology enhancements are carried out in accordance with the provisions of the letter received on 30 October 2017 from Sedgehill Ecology Services.

Planning Balance and Conclusion

38. I have found that moderate localised harm would be caused to the character and appearance of the area. However, this has to be weighed against the significant contribution that the proposed cemetery extension would make towards meeting the short and long term community need for burial space for both Croydon and Tandridge residents. In addition, there would be some positive benefit arising out of some additional biodiversity enhancements.
39. On balance, and taking into account all other matters raised, I conclude that the moderate harm caused to the character and appearance of the area would significantly and demonstrably be outweighed by the aforementioned benefits when assessed against the policies in the Framework taken as a whole. Consequently, the appeal should be allowed.

D Hartley

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: drawings numbered CD_GLN_GLN_01/Rev 01, CD_GLN_GLN_02/Rev 02; CD_GLN_GLN_03/Rev 01; CD_GLN_GLN_04/Rev 02; CD_GLN_GLN_05/Rev 01; CD_GLN_GLN_06/Rev 01; GLN_GLN_07/Rev 01; CDS_CRO_GRE_17/ Rev 00 and CDS_CRO_GRE_09/ Rev 00.
3. Prior to first use of the development hereby approved, details of a proposed system of management to control traffic crossing the public bridleway, including details of associated hard and soft landscaping works and signage, shall be submitted to and approved in writing by the Local Planning Authority. The scheme and any associated works detailed therein shall be carried out in accordance with the approved details prior to first use of the cemetery and permanently maintained thereafter.
4. No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written Scheme of Investigation which has been submitted by the applicant and approved by the Planning Authority.
5. The means of access to the site shall be via the existing main entrance from Chelsham Road only. There shall be no access by construction vehicles or any other vehicles from Rogers Lane.
6. No development shall commence until a Construction Transport Management report to include details of a) Parking for vehicles of site personnel, operatives and visitors b) loading and unloading of plant and materials c) storage of plant and materials d) programme of works including measures for traffic management e) HGV deliveries and hours of operation f) vehicle routing g) measures to prevent the deposit of materials on the highway has been submitted to and approved in writing by the Local Planning authority. Only the approved details shall be implemented during the construction period.
7. Scrub clearance adjacent to tree/hedgerow boundaries shall be carried out under the supervision and direction of a suitably qualified ecologist outside the hibernation season (October to April inclusive). Should any evidence of dormice be found works shall stop and further surveys will be required to inform the mitigation strategy.
8. The landscape maintenance and ecology enhancements shall be carried out in accordance with the provisions of the letter received on 30 October 2017 from Sedgehill Ecology Services.
9. Vehicular access into the site and around the site shall be provided in accordance with the approved plans prior to the first use of the use hereby approved and shall be permanently maintained thereafter.
10. The hours of opening for the development hereby approved shall be restricted to the following:
 - April to September – 09.00 to 19.00 hrs
 - October to March – 09.00 to 17.00 hrs

11. Details of any external lighting required shall be submitted to and be approved in writing by the Local Planning Authority prior to the installation of such lighting and the scheme shall be carried out in accordance with the approved details.
12. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following first use of the site as a cemetery 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.