
Appeal Decision

Site visit made on 26 March 2025

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 May 2025

Appeal Ref: APP/J1535/W/24/3349056

Land to the South of Chigwell Rise, IG7 6BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr F Cheroomi against the decision of Epping Forest District Council.
 - The application Ref is EPF/1919/23.
 - The development proposed is described as 'permission for use of site as a natural burial ground with associated landscaping, access improvements and parking'.
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Decision

1. The appeal is allowed and planning permission is granted for the use of site as a natural burial ground with associated landscaping, access improvements and parking at land to the South of Chigwell Rise, IG7 6BN in accordance with the terms of the application, Ref EPF/1919/23, subject to the conditions in the attached schedule.

Applications for costs

2. An application for an award of costs has been made against Epping Forest District Council. This is the subject of a separate decision.

Preliminary Matters

3. On 12 December 2024, the Government published a revised National Planning Policy Framework (the Framework). Having reviewed the changes, I am satisfied that they do not affect the substantive matters of the appeal and that proceeding without further consultation with the main parties would not be prejudicial to their respective cases.
4. An amended landscaping plan has been submitted with the appeal (PR12417110D). This removes a maintenance building that was shown in the top northwest corner of the site and replaces it with an attenuation tank. Given that the amendment is minor, and the drawing was received when the appeal was submitted, the Council and interested parties have had the opportunity to comment on it. I have paid regard to this plan in consideration of the appeal and having regard to Holborn Studios judgement¹ which follows on from Wheatcroft² I am satisfied that no interested parties have been prejudiced by my approach.

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

² Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

5. The Council refers to the Epping Forest District Council Landscape Character Assessment (LCA)³, the Council's Habitats Regulations Assessment (HRA)⁴ and the Epping Forest Interim Air Pollution Mitigation Strategy⁵ (IAPMS). Copies were not provided; I have therefore reviewed the online version of the LCA and copies of the HRA and IAPMS were requested and subsequently received.

Main Issues

6. The main issues are:
- whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the Framework; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Whether the proposal is inappropriate development in the Green Belt

7. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework sets out exceptions whereby development is not inappropriate in the Green Belt. One of these, is the material change in the use of land for cemeteries and burial grounds provided the use preserves openness and does not conflict with the purposes of including land within the Green Belt. Policy DM4 of the Epping Forest District Adopted Local Plan 2011-2033 Part One⁶ (EFDLP) aligns with the Framework and details that new buildings and the provision of appropriate facilities for cemeteries are not inappropriate development, providing they preserve the openness of the Green Belt and do not conflict with the purpose of including land within it.
8. Openness is identified in the Framework as one of the Green Belt's essential characteristics. It has both spatial and visual aspects. The proposed alterations to the land would be limited to a slightly widened vehicular access and modest parking area. In spatial terms these alterations would retain the sites open appearance. This is because the altered access would be similar in appearance to the current access and the proposed grassed area for parking would be retained and reinforced, and its use for parking would be transient in nature.
9. In visual terms, the proposal would retain the sites natural appearance when viewed from outside the site. This is because burial plaques would be small and low profile, paths would be mown, and the proposed planting would be in keeping with the natural appearance of the site. Whilst the car park area would be visible from Chigwell Rise, given its modest size, natural base and transient nature it would preserve the openness of the Green Belt. In addition, it would be less harmful than the current use of the land for car boot sales which albeit temporary in nature, occupies a larger area of the site compared to the proposed parking area adjacent to the road.

³ Chris Blandford Associates published January 2010

⁴ Published January 2019

⁵ Published December 2020

⁶ Adopted in March 2023

10. The appeal site is part of the swathe of Green Belt Land that separates Chigwell and Buckhurst. The proposal would not negatively alter this role given it does not include built form, and it would retain its natural appearance. As a result, the proposal would align with the identified purposes of the Green Belt i.e. to check the unrestricted sprawl of large built-up areas, prevent neighbouring towns from merging into one another and to assist in safeguarding the countryside from encroachment.
11. Reference is made to the previous appeal decision⁷ in respect of openness of the Green Belt and encroachment into the countryside. The harm identified in this decision related to the cumulative result of the proposed two buildings, 30 car parking spaces, access road, headstones and driveways. This is materially different to the scheme before me and in any event, I must assess the appeal on its own merits.
12. For the reasons above, the proposal would not be inappropriate development in the Green Belt and accords with the Framework and Policy DM4 of the EFDLP.

Character and Appearance

13. The appeal site is an agricultural field that is separated from the main Green Belt land between Chigwell and Buckhurst by the M11 motorway. The site is bound by the M11 motorway to the west and Chigwell Rise to the north. The rear gardens of Chester Road adjoin the eastern boundary. The field is currently used for car boot sales and has an access track that runs adjacent to Chigwell Rise from the access to the eastern section of the site.
14. The site falls within the Wooded Ridges and Valleys -G3 Chigwell area as detailed in the LCA. This area is characterised by arable fields delineated by hedgerows with small pockets of deciduous woodland. The area is considered to have a low to moderate sensitivity to change and the LCA advises that new development within this setting should be small scale responding to landscape setting and maintaining views across the area.
15. Whilst the proposal would introduce a new use, it would not involve significant changes to the land. The proposed use would retain the natural appearance of the site. No buildings are proposed, pathways would either be mown or reinforced, the car park area is modest and would have a natural appearance and the proposed planting would all help to retain the sites integrity as a buffer between Chigwell and Buckhurst Hill. In addition, grave markers would be flush to the ground thereby limiting any impact on the character and appearance of the site.
16. For the reasons above, the proposal would have an acceptable impact on the character and appearance of the area. It would therefore be compliant with policies DM3, DM5 and DM9 (F) of the EFDLP. These policies amongst other things require development to avoid significant harm to landscape character, retain and enhance green infrastructure assets and demonstrate how landscaping and planting has been integrated into the development.

⁷ APP/J1535/W/22/3298615

Other Matters

17. The effects of the proposal on the Epping Forest Special Area of Conservation (EFSAC) must be considered in combination with other plans and projects in the area. The Habitats Regulations Assessment⁸ (HRA) concludes that there are two identified pathways of impact whereby development within the district is likely to result in significant effects on the EFSAC. Only one is relevant to the scheme before me, atmospheric pollution as a result of any increase in traffic through the EFSAC. In this case, it is impossible to rule out the likely significant effects arising from this pathway as users of the site would travel to the site using roads through the EFSAC. Appropriate Assessment is therefore required under The Conservation of Habitats and Species Regulations 2017.
18. The Council, through the development of an Interim Air Pollution Mitigation Strategy⁹ (IAPMS) has a district wide strategic approach to mitigating atmospheric pollution through the EFSAC, using planning conditions and financial contributions towards strategic mitigation measures and monitoring activities. The IAPMS identifies that site specific measures would be appropriate in this instance to mitigate the potential impact. In this case, these measures would include conditions to restrict the number of burials per year, the number of parking spaces and a requirement to provide EV charging facilities to reduce the predicted impact of vehicle movements on the EFSAC. Subject to the imposition of these conditions the proposal would not adversely affect the integrity of the EFSAC.
19. Interested parties have concerns that the proposal would unacceptably increase traffic in the area. Given that the number of burials would be limited to 150 a year, the instances whereby those attending burials would be arriving /leaving at the same time would be limited. In addition, as services would take place at a separate location, it is possible that some guests would choose not to attend the burial, thereby reducing the number of those who come to the site.
20. Concerns have been raised in respect of there being no need for the use, it failing to function effectively and the proposed use opening the gates for further development in the Green Belt. There is no requirement in the development (or at national level) to demonstrate the need or details of operation and any proposed future development would be subject to planning control in the usual way. With regards to matters related to the impact on property values, the courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property could not be a material consideration. I have not therefore taken this into account when making my decision.
21. Interested parties have raised that the proposal is too close to residential properties and would be a security risk, it is alleged that the use would attract antisocial behaviour, and that there would be a negative impact on families, local businesses and tourism. However, native tree and shrub planting between the proposed burial ground and rear garden boundary of properties along Chester Road would provide a natural screen and greater feeling of security compared to the current open nature of this boundary. The active use of the site rather than its current sporadic use would likely reduce anti-social behaviour, and those using the site could support local businesses by accessing goods and services in the area.

⁸ Published in January 2019

⁹ Published in December 2020

22. Reference has been made to the proposed use negatively affecting drainage and increasing flood risk. Neither the Environment Agency nor Council's Environment Protection and Drainage Team have objected to the proposal.

Conditions

23. I have considered the suggested conditions in light of the Framework and the Planning Practice Guidance. In the interests of precision, clarity and brevity I have undertaken some rationalisation and rewording of the conditions suggested. Some of those conditions are pre-commencement conditions. I have sought and obtained the written consent of the appellant for the pre-commencement conditions which I have imposed.
24. In addition to the standard time condition, it is necessary for a condition to list the approved plans and documents in the interest of certainty.
25. Conditions are required to control surface water drainage, prevent discharge onto the Highway, ensure access and maintenance of the National Highways drainage chambers and ensure appropriate maintenance arrangements are put in place to mitigate against flood risk. These controls are required in the interest of the safe and efficient operation of the strategic road network, to protect the integrity of the trunk road and ensure the satisfactory provision and disposal of surface water in the interests of land drainage.
26. Given that the site is an archaeological site where any remains are irreplaceable and highly vulnerable to damage or destruction, a condition is required to record and protect remains of interest.
27. Conditions are required to secure and maintain appropriate hard and soft landscaping to preserve the natural appearance of the site, to provide a boundary between the burial ground and properties on Chester Road and to maintain or improve the biodiversity. A condition has also been imposed requiring details of the proposed memorial plaques / burial markers to maintain openness and protect the natural appearance of the site.
28. To ensure highway safety, conditions are required to remove unnecessary points of traffic conflict, avoid displacement of loose material onto the highway and ensure gates open inwards. In addition, a condition is required to ensure safe and appropriate access, parking and turning is provided.
29. Given that the proposed use has been identified as being particularly vulnerable if land contamination is present, a condition is required to ensure appropriate investigation and remediation is carried out if necessary.
30. To protect the integrity of the EFSAC by mitigating potential atmospheric pollution, conditions are required to control the number of burials per year, restrict the number of parking spaces, require EV charging facilities and cycle storage. These conditions will also assist to encourage sustainable travel and control traffic and parking arising from the proposal.
31. Conditions restricting the opening hours of the site and preventing external lighting are required to minimise disturbance to local residents.
32. A condition requiring details of the proposed levels of all ground floor slabs of buildings, roadways, accessways and landscaped areas was suggested. Neither

this nor the suggested condition requiring a Construction Method Statement would be reasonable given that the operational development would be limited to a widened vehicular access and modest parking area.

Conclusion

33. For the reasons given above the appeal is allowed.

V Goldberg

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 shall be carried out in accordance with the following approved plans and documents: 01/01, 01/02, PR124171 10D and PR124171 13.
- 3) Prior to the commencement of development, the applicant shall provide evidence of the condition of the drainage pipes from Chigwell Rise connecting to the National Highways drainage chambers where relevant within the development site. Full details of drainage pipes, their location and condition shall be submitted to and approved in writing to the Local Planning Authority.
- 4) Prior to the commencement of development, a drainage construction and maintenance plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in strict accordance with the approved drainage maintenance plan and retained in accordance with the agreed specifications.
- 5) Prior to preliminary ground works taking place, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and shall be provided on site prior to the first use and shall be retained for the lifetime of the development.
- 6) No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to first use.
- 7) No development or preliminary groundworks shall commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority. Following this:
 - i) A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the planning authority prior to any work on site.
 - ii) No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been signed off by the local planning authority.
 - iii) A post-excavation assessment shall be submitted to the planning authority within six months of the completion of fieldwork unless otherwise agreed).

This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum and submission of a publication report.

- 8) Prior to any above ground works, full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule PR124171 13) shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of the site. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place.
- 9) If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.
- 10) Prior to the first use of the development hereby approved a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided. The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.
- 11) Prior to the first use of the development hereby approved the existing vehicular access to the east of the site shall be permanently closed off including full reinstatement of the verge, footway construction and full height kerbing.
- 12) Prior to the first use of the development hereby approved the access arrangements, vehicle parking and turning areas, as indicated on the approved plans, shall be provided and retained as such for the life of the development.
- 13) Prior to first use of the burial ground hereby approved documentary and photographic details of the proposed memorial plaques / burial markers to be offered across the site shall be submitted to and approved by the Local Planning Authority. The development shall be implemented in accordance with such approved details.
- 14) Prior to the first use of the development hereby approved, details and the location of the parking spaces equipped with active and/or passive Electric Vehicle Charging Points shall have been submitted to and approved in writing with the Local Planning Authority (LPA). For the avoidance of any doubt 20% of the spaces shall have active charging. The installation of EVCP

- shall be completed in accordance with the approved details and made operational prior to first use of the site.
- 15) The applicant or any successor in title must maintain yearly logs of maintenance of the SUDs which should be carried out in accordance with any approved maintenance plan. These must be available for inspection upon request by the Local Planning Authority.
 - 16) There shall be no more than 30 vehicle parking spaces on site.
 - 17) Prior to first use of the development hereby approved, a scheme to enhance the ecological value of the site shall be submitted to and agreed in writing by the Local Planning Authority. The ecological value shall be quantified using the Biodiversity Impact Assessment Calculator (BIAC) where appropriate. The scheme shall be implemented in full prior to the occupation of the development hereby approved.
 - 18) Prior to first use of the development hereby approved, documentary and photographic details of the proposed cycle store should be submitted to and approved by the Local Planning Authority, in writing. The development shall be implemented in accordance with such approved details.
 - 19) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary and any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.
 - 20) There shall be no discharge of surface water onto the Highway.
 - 21) Should any discoloured or odorous soils be encountered during development works or any hazardous materials or non-soil forming materials be found, then all development works should be stopped and an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced) shall be undertaken. If any contamination is found then the site shall be remediated. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.
 - 22) The number of burials permitted per year shall not exceed 150. A log shall be kept ensuring that the burial numbers do not exceed this amount.
 - 23) The use hereby permitted shall not be open to visitors/members of the public outside the following times:
0900-1800 between 1st April to 30th September
0900-1600 between 1st October to 31st March
 - 24) No lighting shall be installed within the burial ground.