

Section '4' - Applications recommended for REFUSAL or DISAPPROVAL OF DETAILS

Application No : 12/03423/OUT

Ward:
Darwin

Address : Land West Of Layhams Road Keston

OS Grid Ref: E: 539794 N: 162862

Applicant : KPWG International

Objections : YES

Description of Development:

Change of use of agricultural land to cemetery, single storey reception building, maintenance building, 55 car parking spaces, access drive and formation of vehicular access to Layhams Road

Key designations:

Article 4 Direction
Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
Green Belt
London City Airport Safeguarding
Local Distributor Roads

Proposal

Outline consent is sought for a new burial ground with all matters reserved except access. The proposal includes the following:

- new vehicular access from Layhams Road
- receiving building providing a 100 capacity non-denominational chapel, robing room, small office and toilets (up to 180m² floor space) and adjoining maintenance and service buildings (28m²) to store a mini-digger and trailer- indicative drawings have been submitted indicating a traditional pitched roofed design or an alternative flat, green roofed design
- car parking, for 55 cars within a landscaped setting and ancillary drop-off facilities for 3 funeral service vehicles
- overflow grass-crete car parking for a further 23 cars
- site will accommodate approx. 7,579 graves over a 100 year period - a limit of 90 burials per year is set by the Environment Agency and a limit of 4 burials per day will be set by the operator
- site will be divided into 5 zones as follows:
- informal burial (1.13 ha) - 1130 burials (100 burials per hectare)

- natural denominational burial (3.149 ha) - 3149 burials (1000 burials per hectare)
- natural burials (1.491 ha) - 1491 burials (1000 burials per hectare)
- 2nd field natural burials (1.809 ha) - 1809 burials (1000 burials per hectare)
- ashes (2.862 ha)
- total: 10.44 ha (7579 burials)
- natural burials will be indicated by small grave markers and there will be no formal headstones
- burial ground will operate 10am to 5pm Monday to Friday and will open at weekends and bank holidays for visitors only from 10am to 3pm
- new entrance will be provided to maintain separate access to the adjacent fields for the farmer
- a structural landscaping scheme will be implemented prior to the commencement of the use and will include the following:
 - three 3m high earth berms in north-west corner
 - new hedgerow on the southern boundary including group planting dominated by certain native species
 - woodland barrier planting zone on southern boundary of the site with trees planted at high density to shield the cemetery - this area will be used to scatter ashes
 - retention and management of existing trees and hedgerows
 - an amenity landscaping scheme will be implemented over a 30 year period and will include the following:
 - phased general landscaping
 - woodland paths (2 metre width) constructed from permeable wood chip substrate, as and when needed in denominational and natural burial areas
 - communal memorials / seating areas, as and when needed
 - wild flower and grassland planting
 - ongoing ecology maintenance and management.

The application is accompanied by a Planning, Design and Access Statement which includes the following points:

Site Ownership

- freehold ownership of this site is fragmented but there are agreements in place between the applicant/majority landowner (KPWG International) and the remaining owners to sell the land to KPWG once planning permission has been granted
- it is likely that KPWG and these other owners will remain freehold owners of the site and grant a long lease to a specialist operator
- KPWG have an extensive network of friends and relatives in the UK and in the South London area in particular - many of the current investors have expressed a desire for family burial plots on the site

Operator arrangements

- Christian and Muslim burials will be provided for on the site - there is a synergy between Muslim and green burial as the Muslim faith requires

bodies to not be embalmed, buried within 48 hours with no coffins and in clean graves - the graves are indicated with a small marker with a name and date of birth and death and these burials have little long term impact

- Shari'ah law makes the following provisions for burial:
 - bodies should not be moved from the countries they passed away in - some scholars give permission for bodies to be moved between 2-48 miles
 - placing of flowers or memorials on graves has no basis in Shari'ah - it is considered to be an unnecessary waste of money of no benefit to the deceased - mourners should spend money on behalf of the deceased and pray to Allah Ta'ala to send the reward to them
 - burial plots should be orientated towards Saudi Arabia (the right shoulder must face Mecca)

Option analysis

- proposal is considered the most appropriate for the site because:
- there is a lack of green burial space and separate denominational space within the Borough and a 10 mile catchment area
- less infrastructure is required - paths can be constructed of soft landscaping materials for example
- 90 burials per year would be commercially viable for this model and appropriate for this location
- southern part of the site and water protection area can still be used for the scattering of ashes in a naturally designed memorial gardens
- separate denominations can be accommodated within the green burial design

Burial Need

- burial needs of the Borough are documented in 'An Audit of London Burial Provision, Cemetery Research Group, York University, 2011' and Planning for Burial Space in London, LPAC, 1997 - these are both London wide research papers and fail to provide sufficient information on burial trends, denominational issues and facilities within the cemeteries themselves - KPWG therefore commissioned an up to date and denominational burial needs assessment for the application site in 2011
- assessment confirms the following trends:
 - there is a lack of choice, in terms of types of cemeteries within Bromley
 - there is no natural or green burial areas in existing cemeteries within Borough or a 10 mile radius
 - at current death rates there is 5.7 years of burial capacity within existing cemeteries in the Borough
 - people must be travelling long distances out of the Borough to attend the graves of close family and relatives as the Borough's death rates are far higher than the burial / internment rate within the Borough's cemeteries

- whilst there is capacity in some nearby cemeteries these are formal burial grounds where there is no distinction between denominations, formal and informal burial areas
- there is an increased demand for memorial gardens where ashes can be scattered, especially, as this is now prohibited in many public parks and gardens
- nationally there is shift away from cremations in favour of burial
- people want greater choice whilst being buried close to where relatives can visit
- the Council's Parks and Greenspaces Division advise that there is a need for burial space within the Borough

Appeal Decisions

The applicant has submitted appeal decisions where the Inspectors considered the cemetery and facilities to be appropriate development in the Green Belt as follows:

- cemetery in Brentwood with an emphasis on green burial but also accommodating formal burial with a 100 seat chapel (internal floor area 182 m²), 24 car parking spaces
- natural burial ground in Wimborne with 84m² reception building accommodating toilets, catering facilities, caretakers room and a burial service recreation area for approx. 20 people at an existing
- cemetery and car park in Bournemouth with 144m² prayer hall

The applicant suggests that the following can be concluded from these appeal decisions:

- all types of Cemeteries are appropriate Green Belt development
- essential facilities that are genuinely required for the Cemetery operation are appropriate green belt development - unless there is any harm arising it is not necessary to consider whether there are special circumstances
- a chapel / receiving building capable of accommodating 100 people, including a robing room and office is considered appropriate Green Belt development
- a chapel / prayer hall of between 144m² and 182m² is appropriate Green Belt development
- operational needs, site maintenance and facilities for visitors, including car parking are necessary and appropriate

Impact on Agricultural Land

Development Plan policy seeks to protect the best and most versatile agricultural land and this is addressed within the Planning, Design and Access Statement as follows:

- soil analysis confirms the topsoil comprises sandy loam underlain by sandy clayey loam with stones

- Natural England Agricultural Land Classification (2010) map for London South East confirms that the agricultural land quality of these fields are '3-Good to Moderate'
- sandy loam soil is a mixture which is generally well balanced but has sand as its dominant component - sand particles increase the soils capacity to let water and nutrients flow through it and this type of soil requires regular improvement if used for agricultural purposes
- sandy loam soil can also be more affected by drought more than clayey soils which retain water more easily - crops which are generally grown on this soil type are animal feed, cereal and sugar beet - hay has been grown on the site over the past 5 or so years, before which the land was fallow and very overgrown for a number of years
- proposal will result in the loss of agricultural land but it is not the best or most versatile land and is therefore not protected by UDP and NPPF policy
- land would be capable of re-use as a nature reserve after burials have ceased and the cemetery closes - this is likely to be in excess of 100 years when the lease on individual burial plots expires and remains have decomposed sufficiently - management of the site would continue the work of improving the biodiversity, woodlands and grasslands within the woodland burial proposal

Impact on the Green Belt

- character of the site will change from an open field to natural grassland and woodland with some small memorials enabling its open and undeveloped character to be maintained
- buildings have been sited in the north-west corner of the site where the land drops away - they will be single storey and will be located behind earth berms and landscaping buffers and should not be visible from Layhams Road and the wider area
- roads and paths can be made up of natural and/or permeable materials such as wood chip paths, bound gravel and grass-crete for overflow parking areas
- roundabout doubles as a planted earth berm and the receiving building could include a green roof
- entrance will involve removal of a 42m section of a 260m hedgerow resulting in a change to the character of this part of the Layhams Road frontage - this section of hedgerow is sparsely planted with no trees and it will be relocated / replanted behind the visibility splay resulting in a 10 metre gap in the hedgerow with the entrance road partially visible when close up - any change in the character of the hedgerow and site boundary will not materially harm the openness of the Green Belt and can justified on the grounds of community benefits
- no existing trees will be removed as a result of the proposals
- the openness and character of the site will not be harmed when viewed from the wider area
- cemetery will not be visible from views of the site from the north, east and west

- southern boundary of the application site runs across an open field with no hedgerow - the site is clearly visible from the farm gate opposite the Layhams Farm Shop and Plant Nursery and from the public footpath to the north of Layhams House - here the visual character of the site will be improved with a more natural and green appearance than the current featureless, open agricultural field
- a heavy band of planting will be introduced along the southern boundary of the site, including a new hedgerow planted with native species and a woodland barrier beyond
- applicant is prepared to accept a condition preventing headstones being introduced
- indicative masterplan has been prepared in consultation with potential operators and demonstrates that a commercially viable cemetery can be successfully integrated into the site without harming the site's open Green Belt character

Design

- low burial density in the natural and denominational areas enables more planting to be incorporated providing a more natural landscape setting for the cemetery appropriate to the Green Belt
- scale of the proposed buildings have been minimized to what is absolutely essential in order to accommodate the operational needs - appeal decisions confirm that they can be considered essential facilities which will preserve the openness of the Green Belt and will not conflict with the purposes of including land in it
- layout responds to views into the site and various topographical features and screening provided by existing and proposed trees and hedgerows
- views into the site will be enhanced as the site will be transformed from a fairly featureless field to a green, wooded site with natural planting features such as wild grasslands and flowers
- whilst detailed design matters are not the subjects of detailed consideration at this stage the indicative master plan demonstrates that the cemetery can be accommodated on this site in a sensitive and sympathetic manner whilst improving the appearance of this site.

The application is accompanied by a Business Plan which includes the following points:

- existing site is owned by a large number of parties who purchased small plots from another company - the owners purchased the plots as a long term investment opportunity with returns anticipated within 20-30 years - an investor fund is being managed by the applicant
- investor fund is used to manage the site, promote it through the planning application process and ensure that a financial return can be provided to the owners in the anticipated time frame
- funds will be made available to install the necessary infrastructure and amenities needed and facilitate the operations of a green burial site by a local burial services company

- Year 0-1 works will include habitat enhancement, entry and road access, parking, erection of ancillary buildings and comprehensive landscaping plans
- site will be leased to the funeral operator, initially for a 25 year period
- plot owners will benefit from the steady and regular income
- burial plots will be sold on a 25 year lease at a market price to be determined at a later stage
- site has capacity for 7,579 plots that will be sold over a 100 year period - it is anticipated that the business plan will generate a good profit.

The application is also accompanied by the following:

Phase 1 Habitat Survey and Protected Species Assessment
 Dormouse, Reptile and Badger Survey Report
 Transport Statement (TS)
 Flood Risk Assessment
 Archaeological Desk Based Assessment
 Burial Needs Assessment
 Environmental Audit
 Tree Survey
 Draft Landscape and Ecology Management Plan.

Location

- 12.52 ha site comprises two undeveloped fields
- site has been divided into 489 plots which are owned by a large number of individuals based in various locations including Malaysia, Kuala Lumpur and Hong Kong
- field has been used to grow silage crops over the past year or so and was derelict for some years prior to this
- there are long established hedgerows and mature trees running from south to north in the centre of the site
- a mature hedgerow runs from east to west at the northern end of the site and there is a smaller and newer hedgerow with 4 small trees adjoining Layhams Road
- there are isolated buildings around the site - Layhams House lies to the south, Layhams Farms Shop and various cottages and farm buildings lie to the south-east whilst the Metropolitan Police Dog Training College is located immediately to the north
- New Addington is located across the fields to the west
- open countryside largely surrounds the site to the south and east.

Comments from Consultees

Thames Water - no objections.

Drainage - no objections.

Highways - no objections, subject to conditions.

Thames Water - no objections.

Environmental Health - no objections.

There are no objections in terms of ecology, subject to conditions to allow badgers to access and egress the site and to prevent them disturbing burials and to protect skylark habitats within the site.

The Environment Agency has no objections subject to conditions securing a surface water drainage strategy and a 250m burial exclusion zone around the well at Layhams Farm.

English Heritage has commented that a second stage archaeological investigation should be completed prior to the determination of the application in order that the archaeological implications of the proposal can be properly considered.

The Metropolitan Police Crime Prevention Design Adviser has commented as follows:

- boundary of Metropolitan Police Dog Training Establishment (DTE) with the application site would be both expensive and difficult to secure and patrol
- application site is currently agricultural land and therefore only agricultural workers have a legitimate reason to be on the land and any persons loitering near the boundary of the DTE can be identified as suspicious - proposal to locate a car park and new buildings adjacent to the boundary with the DTE creates a legitimate reason for any persons with criminal intent to be there
- materials and articles restricted by acts of parliament are stored on the police site for use in the training of police dogs and the security of these items is of paramount importance.

Comments from Local Residents

Nearby residents were notified of the application and representations were received which can be summarised as follows:

- out of character / harm to visual amenities of area / access will alter character of Layhams Road
- erosion of the Green Belt / harm to open character of the site / area is enjoyed for countryside recreation / 'creeping' development in Green Belt / proposal is inappropriate development in the Green Belt by reason of harm to openness
- Inspector considering Downe Road appeal concluded that cemetery was inappropriate development in the Green Belt / scheme has parallels with recent Downe Road proposal and should be refused on similar grounds
- Inspector considering application at Vulcan Way (para. 4.6 of Planning, Design and Access Statement) noted that remodelling of the land was inappropriate development in the Green Belt because it involved eliminating natural landforms - application proposal involves remodelling and is inappropriate

- increased traffic / Layhams Road and surrounding highway network (including Nash Lane, Gates Green Road, North Pole Lane and Fox Lane) are single lane in parts / local highway network is unsuitable for funeral traffic which will include vehicle convoys / HGVs regularly get stuck on the road / funeral corteges meeting large vehicles will cause chaos and distress / increased traffic through Keston Village will block the roundabout at the junction of Heathfield Road and Fox Lane / significant incidence of accidents and fatalities on Layhams Road / Nash Lane is narrow and used by agricultural traffic, horse boxes, horse riders and walkers and is used by traffic when Layhams Road is closed due to accidents, causing chaos / farm vehicles and horse riders use Layhams Road during off-peak times / no white lines, pavements or street lighting on Layhams Road / inadequate visibility for vehicles egressing site / no public transport serving site
- inaccuracies and omissions in TS / TS indicates that road is over capacity for its width therefore capacity should not be increased further / peak time highway capacity should not be used as benchmark in TS due to problems that occur
- demand for car parking may exceed capacity resulting in cars parking on banks and verges causing damage
- impact on walkers, horse riders and cyclists who use the lanes and the surrounding area for recreational purposes
- increased commercialisation and industrialisation of southern end of Layhams Road
- application indicates that the cemetery would be limited to 90 burials per year - how could this be policed? / 90 burials a year cannot be managed if plots are sold in advance / 90 burials a year will not be viable / it is not clear whether reference to burials includes interment and scattering of ashes as this could increase traffic, activity and disturbance
- application for crematorium may follow
- site has around 480 owners - what happens if the holding company ceases to trade and the site becomes derelict or a burden on the Council / fragmented ownership structure could lead to management problems / normally the Council might seek a long term bond to secure the long term management of the site but it may be impossible to enter into a legal agreement with such a large number of registered owners of the site / Council must understand long term management arrangements if planning permission is to be granted
- land has already been 'mis-sold' to foreign residents
- irregular nature of site suggests that individuals have refused to sell some plots - further applications could follow resulting in a larger cemetery
- application emphasises benefits of burial close to the home of the deceased and family members but plots are owned by individuals resident in the Far East and Australia and not Bromley
- applicants admit that they do not have management in place for the scheme should planning permission be granted
- Borough already has adequate burial capacity, particularly given recently opened cemetery at Kemnal Manor / Burial Needs Assessment contains inconsistencies and makes hypothetical assumptions to reach an erroneous conclusion

- Council should be identifying burial sites adequately served by the highways network and public transport through the development plan process
- pollution of soil and water table / application for ski slope on Layhams Road raised concerns regarding soil and water table contamination
- Environmental Audit suggests that proposal will result in moderate risk of ground pollution - this would appear inappropriate and unacceptable / in the event of ground contamination the enforcement powers of the Environment Agency may be limited given that the applicant is a foreign registered company - this may be particularly so when the cemetery approaches capacity and income reduces / difficulties in ensuring that recommended contamination attenuation product is added to graves / contamination attenuation product may not be suitable for all faiths or efficient over the long term
- loss of agricultural land
- loss of habitat for badgers, dormice, foxes, deer, birds of prey, skylarks and endangered birds / wildlife survey contains omissions
- loss of hedgerows
- noise from Metropolitan Police Dog Training Establishment will conflict with proposed use
- burial of Muslims alongside non-Muslims is meant to be unacceptable - mixed denomination burials will be impossible / Muslims should be buried within 24 hours of death - pressure for 365 days a year opening will follow
- area around the cemetery has significant archaeological interest and archaeological implications of proposal have not been properly addressed
- application contains inaccuracies, mistruths and exaggeration
- lack of consultation
- site access falls outside of site ownership
- development adjacent to Mickleham Way in LB Croydon required specialist investigation for unexploded wartime munitions - site could be at similar risk
- proposal will affect the setting of Layham's House.

The Mayor's Office for Policing and Crime (MOPAC) own the adjacent site on which the Metropolitan Police Service (MPS) operate the Keston Dog Training Establishment (DTE). They have submitted an objection which includes a number of comments detailed above and the following comments specifically regarding the compatibility of the proposal with the dog training use:

- site is long established for dog training and is ideally suited for these purposes due to its quiet surroundings and lack of public intrusion which prevents dogs from distraction, whilst the absence of nearby noise sensitive uses ensures that there is no disturbance to neighbouring occupiers from dogs barking
- delivery of public safety and ability of the MPS to effectively carry out its functions is supported at all levels of planning policy
- dogs bark constantly throughout the day and other noisy training exercises are held regularly which includes gunshots, sirens and helicopters - funerals and burials are sombre occasions generally carried out in tranquil and peaceful surroundings to allow for grieving and remembrance - dog training activities are not conducive to such an atmosphere and are likely to cause

distress to those grievors whilst funeral and burial activity will be likely to disturb the dogs resulting in more barking

- MPS would be likely to receive considerable complaints about training activity noise and this would be further compounded by location of the proposed Receiving Building, maintenance building and car parking
- MPS has experienced an analogous situation with a Public Order Training Facility in Hounslow where complaints about noise disturbance resulted in its closure - the MPS is keen to avoid a similar situation
- police dogs are trained in a variety of roles which includes searching out human corpses and the MPS is concerned that the proximity of the proposed cemetery would interfere with training of this task
- there is potential for dogs to dig up bones buried close to the boundary with the training facility - although unlikely this would have dramatic consequences - an appropriate condition could address this issue
- Environmental Audit indicates that movement of pathogenic organisms may occur due to the nature of the soil and geomorphology - this is inappropriate given the proximity to residential accommodation and the dog training centre - police dogs could be taken out of operation due to infection
- should outline permission be granted the following is suggested:
- consideration of revised siting of the receiving building, maintenance building and car park at detailed stage
- a condition precluding burials within 50m of the boundary with Keston Dog Training Establishment
- a condition securing a Construction Management Plan to minimise disturbance
- a condition requiring a Land Contamination Assessment which specifically addresses impacts of the Keston Dog Training Establishment
- a condition restricting burial to those resident in the Borough for 10 years prior to death
- an annual restriction on the number of burials
- a bond for the long term management of the site secured through a Section 106 agreement.

Officers requested further information following receipt of this objection and the following additional comments have been made:

- Hounslow facility was selected for its isolated location later residential development on adjoining land resulted in complaints about noise and the use became untenable - alternative premises were located in Gravesend but these are less convenient for course attendance and impact upon the cost of training delivery
- non-MPS facilities are often unsuitable in terms of size, type or availability and use of Armed Forces sites has reduced due to Ministry of Defence site disposals - when a suitable site exists the MPS needs to protect its investment and longer term use given the challenge and cost of finding suitable alternatives, at public expense
- training exercises need to be undertaken on isolated sites away from public observation and earshot for security and other reasons

- DTE is open 0600 to 2300 daily and attracts comings and goings which can increase the noise level unpredictably and uncontrollably - DTE is regularly visited by operational dog handlers and other operational police units who can depart on calls using sirens
- MPS conducts training exercises from 0700 to 2000, Monday to Friday where firearms may be discharged, sirens may be sounded and, less frequently, helicopters will fly over and occasionally land
- periodic public order training generates a lot of barking, shouting and high levels of noise within the area field adjacent to the proposed receiving building
- noisiest hours are generally 0800 to 1600 but the exercises do not take place at fixed times and are not necessarily continuous during those hours - for example, a training class is being exposed to firearms will involve shots fired for about an hour but at irregular intervals and levels of intensity
- DTE is occasionally active at weekends - for example, dog trials were recently held involving shouting, barking and gunshots all day - it is vital the DTE Officers retain the ability to conduct such exercises as and when need dictates
- the above is all in addition to the noise of dogs barking which takes place almost constantly
- in the event of a major policing / security operation in London the site may be used as a deployment base for other non-police units - for example, it was a potential site for the military emergency response during the Olympics
- financial pressures are resulting in increased collaborative working and co-location across police forces is likely - the British Transport Police (BTP) presently use around 20 kennel spaces and join the MPS in some training exercises - discussions are underway regarding an integrated dog training programme for the two forces at the DTE to save public money and improve training - this is likely to lead to a more intensive use of the site and increased noise.

Responses to MPS objection

The applicant has made the following comments in response to the MPS objection:

- schematic masterplan indicates that the receiving building will be located 60 metres away from the site boundary and the dog kennels are a further 15 metres or more beyond this
- applicant is willing to accept a condition requiring sound attenuation measures to be installed on the site boundary (e.g. a green wall) and the proposed receiving building could also be insulated against any potential noise disturbance
- cemetery use is not considered to be noise sensitive to noise like a residential use is and the noise from the DTE does not occur on a repetitive or regular basis
- green burial ground will be used far less frequently than a conventional cemetery as the number of burials allowed in a year will be restricted
- no noise measurements have been taken to fully assess the impact

- Council has no records of complaints ever being received concerning noise from the facility.

The Council's Environmental Health Officer has made the following comments in response to the objection received from the MPS:

- where a noise complaint is received there is a legal duty to investigate and consider whether a statutory nuisance exists - this involves consideration of a number of relevant factors including severity of noise, duration, character of noise, times of operation, extent of interference with use of property, character of the area, etc.
- a complaint can only be made by a person with a legal interest in the land (i.e. an occupier, tenant, lessee or land owner) so complaints would not be considered directly from members of the public visiting a cemetery
- the danger to the MPS site would be if the cemetery owners received significant complaints from visitors / customers about MPS activities during burials or visits by bereaved persons - the cemetery owners could make a complaint of nuisance and allege that the noise interferes with their lawful use of the land
- Environmental Health Officers would have to take such a complaint seriously and investigate whether nuisance exists - if a nuisance were found to exist there would have a statutory duty to serve a notice and take action to ensure the nuisance is abated - there is no legal discretion on this point
- requirements of a nuisance notice could conceivably have a significant effect on the ability of the MPS site to operate as it does currently
- the fact that the adjacent MPS site has existed long before the proposed use is unlikely to provide a significant defence to them in the event of a complaint of nuisance and there is long-established case law that confirms this point - there is no legal defence for a site operator that the complainant 'came to the nuisance' and the law applies equally irrespective of which operation existed first.

Planning Considerations

The application falls to be determined primarily in accordance with the following policies:

Unitary Development Plan

- T1 Transport Demand
- T2 Assessment of Transport Effects
- T3 Parking
- T5 Access for People with Restricted Mobility
- T11 New Accesses
- T18 Road Safety
- BE1 Design of New Development
- BE3 Buildings in Rural Areas
- NE2 Development and Nature Conservation Sites
- NE7 Development and Trees
- NE12 Landscape Quality and Character

- G1 The Green Belt
- G9 Future re-use of agricultural land
- C1 Community Facilities
- C2 Community Facilities and Development

London Plan

- 6.3 Assessing effects of development on transport capacity
- 7.3 Designing out crime
- 7.4 Local character
- 7.16 Green Belt
- 7.19 Biodiversity and access to nature
- 7.21 Trees and woodland
- 7.23 Burial spaces.

The National Planning Policy Framework states at Paragraph 89 that the construction of new buildings within the Green Belt will be inappropriate unless they provide essential facilities for uses, including cemeteries, which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it. The NPPF states that Cemeteries are 'appropriate' green belt development if they preserve the openness of the green belt and do not conflict with the purposes of including land within it.

The purposes of including land in the Green Belt are set out at Paragraph 80 as follows:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Policy G1 of the Unitary Development Plan states that:

'The construction of new buildings or extensions to buildings on land falling within the Green Belt will be inappropriate, unless it is for the following purposes:

- (ii) essential facilities for outdoor sport and outdoor recreation and open air facilities and other uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it;

The material change of use of land, engineering and other operations within the Green Belt will be inappropriate unless they maintain the openness and do not conflict with the purposes of including land in the Green Belt.

In 2009 the Ministry of Justice published a document entitled 'Natural Burial Grounds - Guidance for Operators'. In the Financial Legislation section on page 8 it states that:

'Operators should have a defined plan for allowances for future financial commitments. The simplest format is to create a sinking fund into which is directed a proportion of plot sale income. Circumstances may vary but, as a guideline, the Association of Natural Burial Grounds have negotiated an agreement with the Valuation Office Agency which suggests 20 percent of plot sales income being treated in this way, dropping to 15 percent when the site has been open for eleven years.'

Prior to the application process the applicant requested a Screening Opinion as to whether an Environmental Impact Assessment was required. The proposal constitutes Schedule 2 development within the meaning of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. After taking into account the selection criteria in Schedule 3 of the Regulations and the terms of the European Directive, it was considered that the proposed development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size and location. This opinion was expressed taking into account all relevant factors including the information submitted with the application, advice from technical consultees, the scale/characteristics of the existing and proposed development on the site.

The proposal is considered acceptable in terms of its impact on trees.

Conclusions

The main issues to be considered in this case are as follows:

- impact of the proposal on the character and appearance of the area
- whether the change of use of the land, engineering and other operations preserve the openness of the Green Belt and do not conflict with the purposes of including land in it, and therefore whether they are appropriate in the Green Belt
- whether the buildings provide essential facilities for the proposed cemetery use, preserve the openness of the Green Belt and do not conflict with the purposes of including land in it, and therefore whether they are appropriate development in the Green Belt
- arrangements for long term management and maintenance of the site
- compatibility of the proposed use with the neighbouring police dog training use
- impact on the residential amenities of the occupants of nearby dwellings
- highways implications.

The application is for outline planning permission with all matters reserved except means of access. If outline consent is granted then further detailed application(s) will follow, however the indicative plans submitted indicate the currently anticipated format of the cemetery. The proposal involves two woodland natural burial areas featuring unmarked graves and denominational and informal burial areas with

small grave markers. There will be extensive landscaping with native species including significant tree planting along with a network of paths making use of natural materials. A substantial part of the site is indicated as unsuitable for burials due to a nearby well (which requires a 250m exclusion zone) and is proposed for the scattering of ashes. The scheme will have few of the features of a traditional cemetery such as grave stones and memorials. It can be acknowledged that the scheme has been designed to be sensitive to its context and the site's Green Belt designation and it can be considered that, subject to securing an appropriate landscaping scheme at the detailed planning stage, the scheme has the potential to improve the visual appearance of much of the site.

The proposed receiving building will provide a 100 capacity non-denominational chapel, robbing room, small office and toilets within a maximum of 180m² floorspace. The adjoining maintenance and service building (28m² floorspace) will provide storage for a mini-digger and trailer. The applicant asserts that the buildings will accommodate only essential facilities to support the cemetery use and has submitted appeal decisions where similar sized buildings have been considered appropriate. It can be reasonably concluded that the facilities proposed within the reception and storage buildings are essential to support the cemetery use.

The proposed buildings are relatively modest and, along with the car parking and access road, will be located in the northwest corner of the site where the land drops away from Layhams Road to minimise the visual impact. Earth berms are proposed to screen the buildings from views from the south and east. There is a public footpath along the western and southern boundaries of the site from where the access road, car parking and buildings will be screened by trees. In view of the siting and design of the components of the scheme it can be considered that the change of use of the site, engineering operations and buildings will preserve the openness of the Green Belt and will not conflict with the purposes of including the land within it. The development can therefore be considered appropriate development in the Green Belt.

The proposal involves the sale of 7,579 burial plots and Members will note the Ministry of Justice advice detailed above recommending a sinking fund into which a proportion of plot sales income is directed. No satisfactory mechanism or monies have been proposed to ensure the long term management or maintenance of the site should, for example, the management company fall into receivership. The implications of a lack of long term management and maintenance are that vegetation and grass will become overgrown, weeds will cultivate and the ancillary buildings may fall into disrepair. It is considered that this will not result in harm in Green Belt terms as it will not impact on openness. However, there will be harm to the quality and character of the local landscape, contrary to Policy NE12 of the UDP.

The site is divided into around 489 plots which are owned by a large number of individuals based in various locations including Malaysia, Kuala Lumpur and Hong Kong. This ownership structure of the site presents significant concerns in terms of attaching conditions to a planning permission. In the event of a breach of condition it would be prohibitively difficult to attempt to prosecute the site owners in order to

enforce the requirements of the condition. Similarly, there are concerns in relation to either accepting a Section 106 unilateral undertaking or entering into a Section 106 agreement, which must be with all of the people who have an interest in the land. It would be possible for all of the owners to sign a legal agreement. However, in the event that obligations within a Section 106 agreement were not being met, an application to the High Court for an injunction order would be likely to present significant difficulties.

An objection has been received from the adjacent MPS Keston DTE regarding the compatibility of the proposed use with the existing dog training operation. The dog training use involves noise from firearms and police sirens and occasionally helicopters as well as dogs barking. Police dog training is the lawful use of the site and the MPS would be at liberty to intensify this use, as they have indicated is currently a possibility. The proposed frequency of burial services (90 a year) is such that burial services may be infrequently affected by a noisy police dog training exercise, but when this does occur it is likely to be particularly distressing for mourners. Mourners will be likely to visit graves on a more regular basis and it is therefore likely that this activity will be more frequently affected. The Council's Environmental Health Officer has advised that a complaint from the site owner which resulted in the identification of a statutory nuisance could result in the MPS dog training use being curtailed. It is not inconceivable that this could happen during the anticipated 100 year life span of the cemetery. The DTE is a long established use and performs an important strategic function. It is considered that the proposed cemetery use would have the potential to significantly affect the ability of the MPS site to operate as it does currently and is therefore incompatible with the neighbouring use.

A noise survey has not been submitted so a technical assessment of the noise impact cannot be considered.

English Heritage have raised concerns that inadequate information has been submitted to properly assess the archaeological implications of the proposal and it would be premature to grant planning permission in the absence of sufficient information.

Security concerns have been expressed by the Metropolitan Police Crime Prevention Design Adviser. It is considered that, if permission were to be granted, these could be adequately addressed through a management plan which could be secured through a condition.

Background papers referred to during the production of this report comprise all correspondence and other documents on file ref. 12/03423, excluding exempt information.

as amended by documents received on 31.01.2013 15.05.2013 09.07.2013

RECOMMENDATION: PERMISSION BE REFUSED

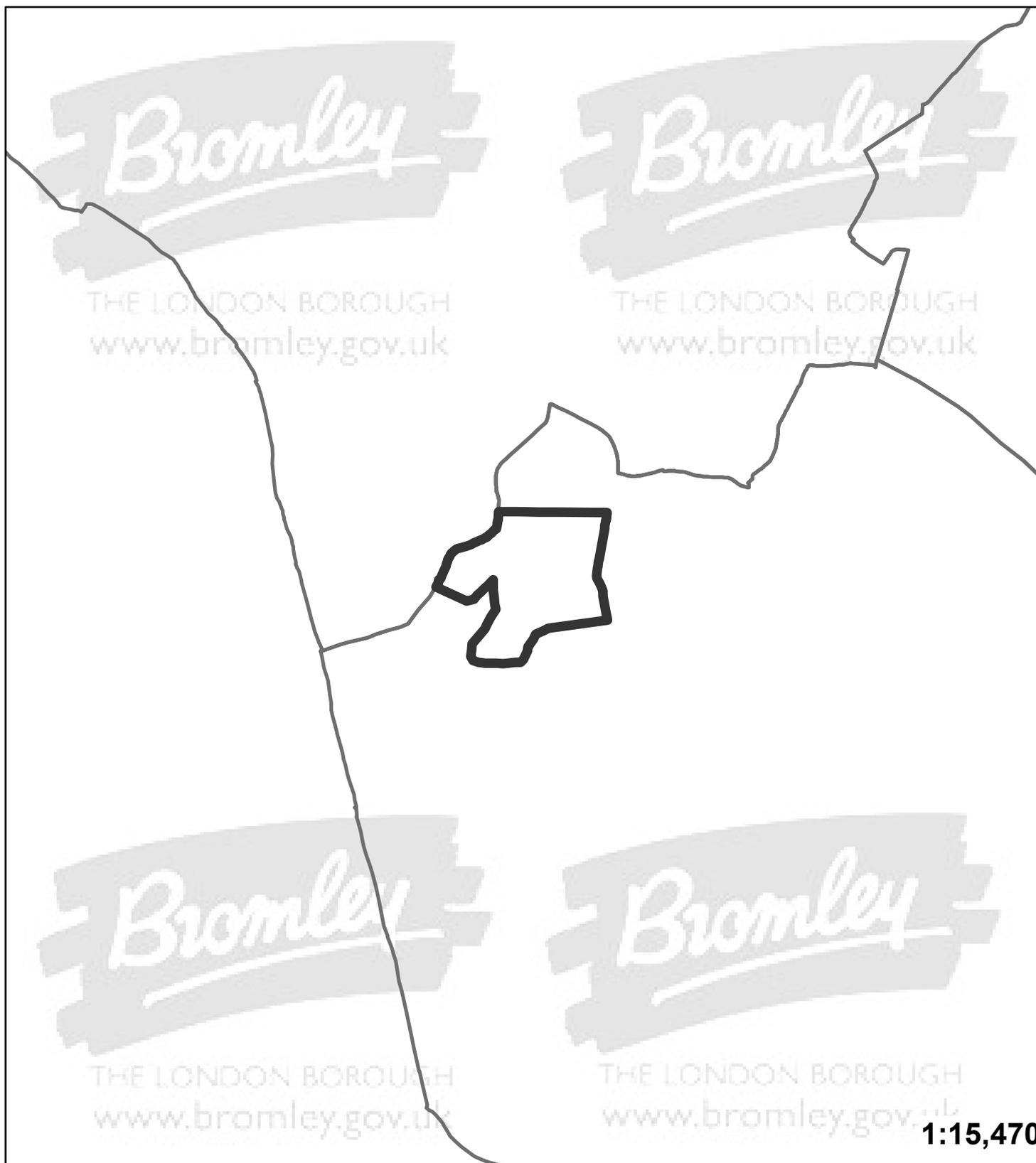
The reasons for refusal are:

- 1 In the absence of adequate, appropriate and reasonably enforceable measures to control the development and operation of the site it is considered that the proposal will potentially have a detrimental impact on landscape quality and character thereby contrary to Policy NE12 of the Unitary Development Plan.
- 2 The proposed cemetery use would have the potential to conflict with dog training activity at the adjacent Metropolitan Police Service Dog Training Establishment and potentially curtail this existing use contrary to Policy 7.13 of the London Plan.
- 3 Insufficient information has been submitted to properly assess the archaeological implications of the proposal contrary to Policy BE16 of the Unitary Development Plan and Policy 7.8 of the London Plan.

Application:12/03423/OUT

Address: Land West Of Layhams Road Keston

Proposal: Change of use of agricultural land to cemetery, single storey reception building, maintenance building, 55 car parking spaces, access drive and formation of vehicular access to Layhams Road



"This plan is provided to identify the location of the site and should not be used to identify the extent of the application site"

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