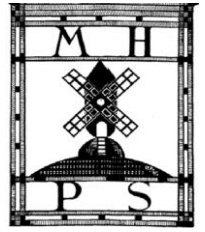


Mill Hill Preservation Society founded 1949



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Vice Chairman: Kevin Green
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Hon. Solicitor: Robert Cottingham MA
Hon. Treasurer: Wendy Living BA ACA JP
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For the attention of **Dominic Duffin**, Principal Planning Officer
London Borough of Barnet
Planning & Building Control
2 Bristol Avenue
Colindale
London
NW9 4EW

19th January 2023
Your Ref: **22/6038/FUL**
Our ref: JL /pg/MHPS Planning
Sent by email only to: dominic.duffin@barnet.gov.uk

Dear Mr Duffin,

TOWN AND COUNTRY PLANNING ACT 1990

SITE: *Mill Hill Cemetery, Milesplit Hill, London NW7 2RR*

PROPOSAL: *New internal access road, junction, car parking facilities, grounds maintenance building, attenuation pond and road embankments.*

PLANNING REFERENCE: *22/6038/FUL*

1.0 Introduction

The Committee of the Mill Hill Preservation Society (MHPS) has examined the application for these works on the LBB planning website and note the site is on the edge of and within the Mill Hill Conservation Area and is within the Green Belt. A previous application for a new access road, car parking facilities, and a maintenance shed (application 14/08161/FUL) was refused in August 2015 on the grounds of lack of information (including badgers and slow worms) and loss of trees. The Applicant went to Appeal (ref. APP/N5090/W/16/3145010) at which the proposal was allowed in March 2017 by Inspector Kenneth Stone.

The Applicant, within paragraph 2.15 of the Design and Access Statement for the present application, sets out that this permission was not implemented and has since lapsed. Subsequently, a 'temporary' access road which extends from the roundabout within Mill Hill cemetery was constructed, seemingly without any form of consent from the Local Planning Authority. The Applicant confirms that this road was constructed in June 2021 to allow for additional burial capacity, and it appears to have remained in situ to the present day.

We also wish to draw attention to the fact that the Applicant writes in the Design & Access Statement on page 10 – Clause 4.5

"It is also noted that the project team have been in regular contact with the three local residential groups, namely Friends of Mill Hill Park, Mill Hill Residents Association and Mill Hill Preservation Society."

We cannot speak for the other groups but we can confirm that our Society has not had regular contact with the project team and we dispute this statement. In fact to the best of our knowledge there has been no contact with the Society Committee. A couple of our members may have attended public presentations simply to find out what was being proposed but they have done this on their own account.

2.0 Material Considerations

Whilst permission was previously granted for a similar nature of development, this has now lapsed and cannot be relied upon to establish the principle of development for the current proposal. Moreover, there have been several material changes to the proposal in the intervening period, which warrant a reassessment of the credentials of the development. The following implications of the proposed development have been discussed in turn below:

- Green Belt
- Arboriculture and Ecology
- Heritage
- Transport

3.0 Impact on the Green Belt

According to information listed on the LBB planning register in relation to the reasons for refusal of the previous application the then Assistant Director of Development Management & Building Control wrote an explanatory note on the refusal of which we include in part as follows:

Re: New access road and car parking facilities with maintenance shed - Barnet Cemetery And Memorial Gardens, Milesplit Hill, London, NW7 2RR, application ref: 14/08161/FUL

The London Borough of Barnet recently refused planning permission for an application at Barnet Cemetery And Memorial Gardens in Milesplit Hill for a new access road, car parking facilities and a maintenance shed. The application was refused for the impact on trees and ecology/biodiversity.

Since the application was refused, I have reviewed the reasons for refusal and the evaluation of the application in the officer's report and while I am confident that the reasons for refusal are robust, reasonable and valid, I am of the view that officers have not carried out an appropriate assessment of the impact of the development on the Green Belt. As you may be aware, the NPPF requires a determination to be made as to whether development is appropriate within the Green Belt.

The proposed works (with the exception of the proposed maintenance shed) would be considered engineering operations so paragraph 90 of the NPPF would be relevant. This paragraph states that development like engineering operations would be considered inappropriate development if the development would not preserve the openness of the Green Belt and did not conflict with the purposes of including land within the Green Belt.

In this case, it is my opinion that robust analysis of the impact the proposed road and car park and associated activity (parking of cars) on the openness of this part of the Green Belt was not carried out. I have personally looked into this case and I am of the view that the introduction of the new access road

and car park and associated activity would not preserve the openness of this part of the Green Belt and as such the proposed development must be considered inappropriate development (by definition) in the Green Belt.

In cases where development is considered to be inappropriate development (by definition), then "very special circumstances" would need to be demonstrated. In this case, I am of the opinion that no "very special circumstances" were demonstrated to justify the proposed development."

The Society concurs with the sentiment of this extract and can find no satisfactory argument for Very Special Circumstances having been stated in this new application to compensate for the damage caused to the Green Belt. It is acknowledged that the Inspector, within appeal ref. APP/N5090/W/16/3145010, previously deemed the car park and access road to be engineering operations which preserved the openness of the Green Belt and could therefore be deemed 'appropriate' development. However, there are considerations which indicate that the current proposal undermines Green Belt openness and no longer meets this national policy exception for development in the Green Belt.

The Applicant identifies that the average burial attendance would generate the arrival of approximately 17-50 parked cars. Any overspill of the car park is proposed to occur onto the access road, which will have a width of between 5.2m and 6m to accommodate this. It is considered that the presence of up to 50 parked cars within the site, including the associated hardstanding upon which they would be sited, would compromise the openness of the Green Belt. Consequently, the proposed engineering operations comprise 'inappropriate' development in the Green Belt, for which no Very Special Circumstances have been demonstrated.

Regarding the proposed maintenance shed, whilst Paragraph 149 of the NPPF does allow for appropriate facilities within the Green Belt where they would support the function of a cemetery, it is noted that a similar proposal was allowed at appeal in 2017 but was never implemented. This is despite the Applicant subsequently introducing a temporary access road to facilitate additional burial capacity.

This raises the question of whether the maintenance shed is necessary to support the function of the cemetery which has expanded its operations without the need for such a facility. Moreover, this additional built form would have a cumulative impact with the aforementioned engineering operations, resulting in an urbanising effect on the site, harming the openness of the Green Belt. The proposed maintenance shed can therefore also be considered 'inappropriate' development, for which no Very Special Circumstances have been demonstrated.

4.0 Arboricultural and Ecology Impact

The Applicant's Arboricultural Impact Assessment sets out that the proposed development will result in the loss of 131 trees. This proposal more than doubles the number of trees lost when compared against the previously allowed appeal and would represent the majority of trees at the site being removed, with only 96 being retained. Within their Planning, Design and Access Statement, the Applicant states that *"for every tree removed within the site, the applicant commits to plant two replacement trees within the borough."* This approach, which prioritises compensation over avoidance or mitigation, is contrary to Paragraph 180 of the NPPF and does not reflect the importance of the trees on site which is established by the 'area' Tree Preservation Order and Paragraph 4.4 of the Mill Hill Conservation Area Character Statement.

Within the previous appeal, the Inspector stated, *"The access road would follow an alignment that uses the existing site levels and gradients and would facilitate access to a good proportion of the site."* Subsequently, the access road has been redesigned in a manner which has it meandering through site and, in turn, results in a greater level of tree loss. The Applicant has not provided justification for this amendment, which appears unnecessary given the approved routing within the (now lapsed) permission was suitable for the Applicant's requirement of serving additional burial capacity.

We have reviewed the Woodland Management Plans, and Paragraph 4.1 states:

"4.1 The development proposal is to convert the woodland into a burial cemetery site. The development shall use the CAVAT system of fiscal analysis for tree loss which shall be submitted separately to the Local Planning Authority for review.

The broad principles of the development shall be that a retained area of trees shall be determined on the eastern, northern, and western boundaries thereby maintaining the public visual amenity conferred by the existing trees in these positions.

All internal trees will ultimately be removed over the next 30 years to make space for burial plots."

This substantial quantum of tree loss will likely have adverse impacts upon local ecology. This contravenes Cores Strategy Policy CS7, which states the Borough will ensure that *"development protects existing site ecology and makes the fullest contributions to enhancing biodiversity."* Moreover, in allowing the previous appeal, the Inspector noted that the following planning condition should be applied:

6) The development hereby approved shall not begin until a landscape and ecological management plan for the site has been submitted to and approved in writing by the local planning authority. The plan shall include the following details:

a. Proposals to implement the mitigation measures set out in the approved ecological surveys as set out in the Proof of Evidence of Dominic Farmer

b. Proposals to maintain the landscape and ecology features of the site

c. Proposals to provide, manage and maintain public access to the site

d. A detailed tree felling/pruning specification plan - and

e. A programme for implementation.

The site is a Site of Importance for Nature Conservation (SINC). The present application, by virtue of the substantive habitat removal, would not maintain or enhance the existing landscape and ecological features of the site. This contradicts both adopted Development Plan policy, and a condition which was previously required to make a lesser proposal acceptable in planning terms.

With regards to protected species, the Applicant acknowledges the presence of badgers on the site. The previous appeal was allowed on the justification that badgers were to be temporarily relocated to a satellite sett, and to be reintroduced upon completion of the construction works. This is no longer the case, with badgers proposed to be permanently excluded from the site and relocated elsewhere under a Natural England licence. Unlike the previous application, the adverse impact upon badgers is permanent and would result in a high degree of disturbance to this protected species. The Applicant's approach of replacing the existing badger sett, rather than accommodating it within the development, is not reflective of the site's designation as a Site of Importance for Nature Conservation and would justify a refusal on ecological grounds.

Lastly, it is noted that since the determination of the previous appeal, the Environmental Act has established a legislative requirement for Biodiversity Net Gain (BNG) to be considered as part of applications for new development. The Applicant does not appear to have submitted a biodiversity metric with the application and, therefore, it is unclear the exact effect the proposal would have upon biodiversity.

However, in light of the extensive loss of habitat required to facilitate the proposed development, it is considered likely that such an assessment would demonstrate a net loss of the biodiversity value of the site, contrary to National and Development Plan policy.

5.0 Heritage Impact

The proposed access to the site will result in harm to the Conservation Area. Milesplit Hill is a lane leading up to the oldest part of Mill Hill – the Mill Hill Village. It is narrow for much of its length only becoming wider lower down the hill near the existing entrance to the Westminster Cemetery. This application will facilitate an extension to the Westminster Cemetery.

There is a service access point where the junction is proposed but this is not a made up road, but an overgrown area over which a right of way is established if access is needed to the adjacent electrical substation.

The approximately 25m wide junction, as it will need be for in and out vehicles, with sightlines to facilitate hearses and a cortege of mourners, will be totally out of keeping with the existing lane and change its nature. There may even need to be some security measures installed which would also detract from the rural nature of the lane.

The Inspector commented within the previous appeal that, regarding the character of the Mill Hill Conservation Area *“The loss of trees would not be noticeable against the backdrop of the existing tree coverage and the general wooded nature of the site.”* These previous conclusions are no longer accurate as a result of the extent of additional tree loss proposed at the site. The ‘general wooded nature’ of the site would cease to exist, with over half the existing trees proposed for removal. This loss, in combination with the urbanising nature of the new access road, car parking, and maintenance shed, would deteriorate the *“rural and open character of the conservation area”* (Paragraph 4.4 of the Mill Hill Conservation Area Character Statement) and would result in a substantial level of harm to this heritage asset.

The location of this application is in one of the most historic parts of Mill Hill and is surrounded by buildings of historical interest. There are locally listed buildings in, or close to Milesplit Hill, for example The Former Ridgeway Methodist Church, the Lodge House and Archway Gate lower down the hill and the Mill Hill Cemetery buildings themselves.

Of the Listed Buildings adjacent there is The Mount School, Grade II Listed (now named The International School of the Mill Hill School Foundation), very close to the proposed new access onto Milesplit Hill and apart from the harm to the visual amenity this will have there is also the issue of the safety of pupils crossing the road to access the school that will be made more precarious.

The hill leads up to the old village where there are a considerable number of Listed Buildings: to name a few there is Parkfield Cottages, Hillside Cottages, The Welches, Nicoll’s Almshouses, Blenheim steps.

In addition the Angel Green and Angel Pond have village green status, and many of the green verges are remnants of the Wastes of the Manor.

It is clear that this location is very sensitive and should be dealt with using the utmost care. We believe the proposed new access road and all the associated street paraphernalia are not conducive to this historic setting.

6.0 Transport Impact

The Inspector's Report relating to the previous appeal included a condition regarding the proposed access, which is sited in the same location as that currently proposed. This condition stated:

9) Notwithstanding the approved plans, the means of vehicular access/egress to the development shall be from Mill Hill Cemetery only. Access to the site from Milesplit Hill shall be for emergency use only.

It is clear from the submitted proposal that this condition concerning vehicular access/egress has been disregarded. In arriving at his decision the Inspector took a balanced view bearing in mind the location of the site and its proximity to the Conservation Area and the surrounding residences and the nearby International School. The decision taken to prevent the access being in general use for all vehicles needs to be upheld and the Applicant's proposal, by contradicting this condition that was deemed necessary by the Inspector, should be refused accordingly.

Further, we have studied the Transport Statement prepared by Capita and there are concerning issues.

a. In the Introduction, Clause 1.1.6 it states that:

"The proposal seeks to construct a one-way internal access road from Milesplit Hill to Mill Hill Cemetery. Vehicles are anticipated to enter the access road from a new junction with Milesplit Hill near the Mill Hill International School and exit via Mill Hill Cemetery. A 20 bay car park will be located at the entrance of the access road off Milesplit Hill."

Firstly, if the car parking is so closely located to Milesplit Hill, it is likely drivers will be drawn to use that junction as an exit point rather than driving through the whole length of the cemetery to exit and gain access to the road network. (See also 3.1.7)

Secondly, we fail to see how this new entrance will not become a means of access to the whole cemetery to vehicles approaching from The Ridgeway, rather than travelling the extra distance to use the established access to the cemetery site. Given, that visitors to the main cemetery may wish to leave and access The Ridgeway, the proposed new junction would facilitate this.

Thirdly, while the Transport Statement references the "anticipated" one-way use of the new road, it is shown as being 6.0 metres wide which is greater than a normal lane and wide enough for vehicles to pass, so it could in fact be used as a two-way road rather than the stated one-way road. Moreover, Paragraph 5.10 of the Planning, Design and Access Statement contradicts the Transport Assessment, stating that whilst Milesplit Hill cemetery is open and Mill Hill cemetery is not, the road is to intentionally be used in a two-way manner. There is clear inconsistency between the Applicant's reports regarding the function of the proposed access road, but on the basis of the above points regarding road width and the proximity of parking to the wider road network, it is likely to be used in a two-way manner, akin to that of the existing access to the south.

b. Clause 2.1.7 of the Transport Statement states that:

"Other noteworthy roads include High Street and Wise Lane, which both feed into Milesplit Hill. They largely function as access roads to nearby residential areas but can be used as cut-through routes to reach the Site."

We wish to point out that Wise Lane is of a different width and character than High Street, the latter being in the Conservation Area, and whilst a hearse and cortege would be able to use Wise Lane that would not be practical for High Street which is very narrow. In addition, all the roads in this area off The Ridgeway are narrow and convoluted and not suited to routing a hearse and cortege.

c. Clause 3.1.9 States that no cycle provision has been made. We question whether this is in accordance with Policy T5 of the London Plan and that some cycle parking be made available.

d. Clause 4.1.4: This clause "assumes" that the cemetery will adopt the similar opening hours to that of the Mill Hill Cemetery. As highlighted above, this is contradicted by the Paragraph 5.10 of the Planning Design and Access Statement. If the application is granted we believe that a condition would be necessary to ensure the same opening hours, otherwise the function of the proposed one way system would be impossible.

e. Clause 4.1.7/9 states that up to 50 vehicles could attend a burial but that car parking will be provided for only 20 cars. In this instance it is assumed that there will be on-site parking on the roadway. The PTAL level of the proposed new junction is 1a and the site is poorly served by public transport (Clause 5.1.5) therefore it is assumed that the number of cars attending a burial will regularly be on the higher end of this margin.

If the overspill car parking cannot be dealt with on site, then the possibility of overspill car parking on Milesplit Hill would not be acceptable due to its reduced width and the adverse impact this would have upon highways operation safety.

f. Clause 5.1.7 predicts that there will be on average 2-3 burials a day which is a significant number. The Society is very concerned that this frequency of burials will result in the new road junction being in constant use causing considerable congestion to the area.

7.0 In Conclusion

The Society concludes that this is an unjustifiable proposal for the reasons we state above. We are very concerned that the design is not appropriate to the proposed location. The Society objects most strongly and we encourage the Local Planning Authority to determine that this application be refused.

We are also concerned about the potential for a conflict of interest between Capita's role as the planning agent supporting the proposal, given their ongoing role in supporting LBB's determination of planning applications. We are not content that the resulting conflict of interest issues have been properly addressed. Please be in touch if you require further information.

Yours sincerely

John Living

John Living: Honorary Architect
on behalf of the Management Committee and Planning Group