

DEVELOPMENT MANAGEMENT COMMITTEE – 10 OCTOBER 2018

Application Number	3/16/1939/FUL
Proposal	Change of use from agricultural land to cemetery including access
Location	Land adjacent to Cemetery at St Bartholomew's Church, The Causeway, Buntingford
Parish	Buntingford
Ward	Buntingford

Date of Registration of Application	25 August 2016
Target Determination Date	24 November 2016 – ETA 11 th October 2018
Reason for Committee Report	Major
Case Officer	Simon Dunn-Lwin

RECOMMENDATION

That planning permission be **GRANTED** subject to the conditions set out at the end of this report.

1.0 Summary of Proposal and Main Issues

- 1.1 The proposal is for a cemetery use which would accommodate approximately 1460 grave spaces with an area for cremated remains. The demand is expected to be up to 10 burials a year and the burial of cremated remains. There would be a new access formed through the existing hedge on The Causeway.
- 1.2 The main issues for Members to consider relate to the principle of such a use in this area and the impact it would have in visual terms and with respect to its operation.

2.0 **Site Description**

- 2.1 The application site, which is approximately 1 hectare in size, is an open field which is relatively level and roughly rectangular in shape. It measures approximately 216m in length by 45.5m in width, and is enclosed by hedges and trees to the north, south and east. Apart from the neighbouring Church and cemetery, the area is largely farmland with paddocks immediately surrounding the site to the west and north. There is a neighbouring property to the southwest of The Causeway, due south of the church, at Gooseacre Farmhouse and the church itself has been converted to residential use.
- 2.2 There are uninterrupted views across the Rib Valley towards Throcking in the west. A Public Right of Way (Buntingford 032) runs along the northern boundary of the site.

3.0 **Planning History**

- 3.1 There is no planning history for the site.
- 3.2 The determination of this application has been delayed because of drainage issues and site investigations necessary to address concerns initially raised by the Lead Local Flood Authority (LLFA) and the Environment Agency (EA). Officers understand that intrusive investigations were delayed because of the harvesting season and could not be progressed until the site was acquired by the applicant. The scheme now under consideration has been amended to address the LLFA and EA objections. All consultees including the LLFA and the EA have been re-consulted on the amendments. The consultation replies set out below represent the final response from all consultees since the original submission in 2016.

4.0 **Main Policy Issues**

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the adopted East Herts Local Plan 2007 (LP) and the Buntingford Community Area Neighbourhood Plan (NP)

Main Issue	NPPF	Local Plan policy	Neighbourhood Plan
Principle of development		GBC2, GBC3	
Visual amenity impacts and landscape	Section 15	ENV1, ENV2, ENV11	ES1
Impact upon highway network	Section 9	TR2, TR7,	T4
Surface Water Drainage and Flooding	Section 14	ENV20, ENV21	

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

- 4.2 On the 11 September 2018 the Secretary of State issued a holding direction under section 21A of the Planning and Compulsory Purchase Act 2004 (inserted by section 145(5) of the Housing and Planning Act 2016) on the adoption of the East Herts District Plan. The direction prevents the Council from taking any step in connection with the adoption of the Plan. The direction will remain in place until withdrawn or the Secretary of State gives a direction under section 21 of the 2004 Act in relation to the Plan. Section 21A of the Planning and Compulsory Purchase Act 2004 states that a document to which a direction relates has no effect while the direction is in force. Therefore no weight can be attributed to the District Plan whilst the holding direction remains in force.

5.0 **Summary of Consultee Responses**

- 5.1 HCC Highway Authority does not wish to restrict the grant of permission subject to conditions relating to the entrance gate positioning, access and junction arrangements to be in accordance with the approved plans and provision of visibility splays.
- 5.2 Lead Local Flood Authority originally objected on drainage grounds, but following consideration of additional information confirmed that their objection could be removed. The LLFA commented that the proposed development site can be adequately drained and mitigate any potential existing surface water risk if carried out in accordance with the overall drainage strategy, subject to a condition relating to the implementation of the SUDS Design and FRA Statement for mitigation measures.
- 5.3 The Environment Agency comments that the proposed development will be acceptable subject to two planning conditions relating to a working method statement for burials and no infiltration of surface water drainage into the ground. The EA commented that the proposal is located within a vulnerable ground water area in a Source Protection Zone and the proposed use has the potential to cause pollution to controlled waters. Without these conditions the site would pose an unacceptable risk to the environment and the EA would object to the application.
- 5.4 HCC Historic Environment Unit comments that it is possible that in addition to the potential for medieval archaeological remains close to the church, there is also potential for the remains of a high status Roman building in the immediate area. An appropriately worded condition is therefore recommended to require the implementation of a programme of archaeological works.

- 5.5 EHDC Landscape Advisor comments that the proposal is non-contentious in landscape terms, albeit a material change in local landscape character and land use, it is acceptable within the context of the site and the wider surrounding area. Only minor adverse impact on trees and hedgerow, although some to be removed. The advisor has no objection to the proposal.
- 5.6 EHDC Engineering Advisor comments that the site is situated in flood zone 1. The site is shown as mostly away from surface water (SW) inundation zones aside from a very small area located to the north west of the site. The submitted layout for the site shows good quality green infrastructure sustainable drainage systems (SuDS) such as:- Swales (green infrastructure SUDS), French drain and Permeable surfaces. The SuDs and in particular the green infrastructure SuDS will contribute to flood risk reduction as well as creating new amenity and biodiversity areas which will be beneficial here and to adjacent areas.
- 5.7 EHDC Environmental Health Advisor does not wish to restrict the grant of planning permission.

6.0 **Town Council Representations**

- 6.1 The application is submitted by the Town Council and no formal comments have been received from the Town Council on the application.

7.0 **Summary of Other Representations**

- 7.1 2 letters have been received raising the following comments:
- Should ensure proper flood risk assessment is carried out for drainage;
 - Impact on ground water should be managed and conditioned;
 - Ground water Audit recommends no more than 18 burials per year distributed randomly across the burial ground;

- Existing hedgerows should be retained to protect livestock from neighbouring farm;
- CCTV should be installed for site security and prevent anti-social behaviour, particularly in the proposed car park to the south.

8.0 **Consideration of Issues**

Principle of development

- 8.1 The site lies within the Rural Area Beyond the Green Belt, wherein Local Plan Policies GBC2 and GBC3 apply. Policy GBC3 states that except within the main settlement of Buntingford (the application site lies outside of the settlement boundary) and Category 1 Villages, permission will not be given for the construction of new buildings or changes of use except for certain types of development. The use of land as a cemetery is not specified within policy GBC3, and therefore the proposal does not accord with policy GBC3.
- 8.2 In the NPPF, at para 92, the need to provide social, recreational and cultural facilities is referred to.
- 8.3 The NPPF guidance does not relate directly to cemetery use and therefore, given the Local Plan policy, it is necessary to consider whether material considerations exist to warrant a departure from policy in this case.

Visual impact and landscape

- 8.4 The proposal would result in a change to the existing appearance of the site, which would clearly be discernible on approach along The Causeway with views through the access to the site. However, the changes to the appearance of the site would largely be discrete in longer views because the site is enclosed by boundary hedges to the north and west, and further landscaping along the boundaries of the site is proposed. It is noted that the Council's Landscape Advisor has not raised any concerns with the proposal.

- 8.5 The proposed cemetery would be set within landscaped grounds and managed for the long term to preserve its setting and appearance. There would be no structures that exceed the height of the boundary hedges surrounding the site and therefore it would remain discrete within the wider landscape. Visually the proposal would be sympathetic in appearance to the surrounding countryside and maintain an open character.
- 8.6 Overall in landscape and visual amenity terms, the proposal would be sensitive to its surroundings. The proposed landscaping would mitigate the impact of the proposals, ensuring that the cemetery would sit comfortably within its landscape setting and appear largely imperceptible from views in the surrounding countryside. It would not therefore have an unacceptable impact on the character and appearance of the site and its surroundings in accordance with policy ENV1.

Impact upon highway network

- 8.7 The site would be accessed from The Causeway to the south. The proposed access would be approximately 5m wide which would require the removal of part of an existing mature hedge. This would be replaced by a traditional timber gate, the details of which have been submitted. A car park is proposed adjacent to the entrance to accommodate 10 parking spaces for mourners and visitors, including two disabled spaces.
- 8.8 The proposal includes an internal access road with a turning area along the western boundary to access plots to the northern end of the site. This is to meet access requirements under the Disability Discrimination Act (DDA) and Health and Safety legislation with respect to the manual handling of a coffin from the funeral car to the grave side. The current recommendation is that a burial

plot should not be more than 25m from a roadway or major footpath and 5m from a minor footpath.

- 8.9 The main consideration in highway terms centres around the impact of the increased movement of cars on The Causeway which is a narrow country lane terminating at St. Bartholomew church to the east. The main traffic on The Causeway terminates at Layston School which is located approximately 430 metres to the west of the proposed site, on the eastern edge of the built up area of Buntingford.
- 8.10 The Highway Authority has considered the proposal on the basis of the projected 10 burials per year as submitted by the applicant. It considers that the proposed access is acceptable. It advises that the narrow carriageway width of The Causeway is noted however, given the small number of properties accessed at its eastern extents, the nature of the proposals being a cemetery (accessed by slower moving vehicles and reduced trip generation), the level of visibility achievable from the proposed access is considered acceptable. It advises that the entrance gates should be set back a minimum of 6m from The Causeway and open inwards.
- 8.11 The applicant however has indicated that it is not necessary for the gate to be set back within the site as it will remain open during the day, and therefore cars will not need to wait on the highway to access the site. As it is proposed that the gates remain open during the day and having regard to the number of vehicle movements associated with the use, it is not considered that such a condition is necessary in this case.
- 8.12 Additionally, the supporting information within the Design and Access Statement states that 'it is anticipated that there will be little traffic entering the new cemetery. There will be a Solar Powered gate at the vehicular access point on The Causeway. This gate will be open automatically between the hours of 7.00am and 7.00pm, 7 days per week, 365 days per year. A

pedestrian access gate will be provided adjacent to the vehicle gate to allow mourners and visitors to access the cemetery.'

- 8.13 The Highway Authority concludes that, on the basis of the likely movement of traffic for burials over 10 days in any given year, it is accepted that traffic generation to the cemetery will be limited and considers an objection to the proposals would not be justified in highway terms, subject to conditions set out at the end of this report.

Surface Water Drainage and Flooding

- 8.14 The site lies within Flood Zone 1 and is therefore not at risk of fluvial flooding. However, the site is located within a Source Protection Zone for public water supply. The proposal raises two main issues:

1. Surface water drainage and potential flooding of the cemetery and the consequential human impact of a cemetery flood;
2. Potential contamination and impact on the ground water supply.

- 8.15 The LLFA objected to the scheme as originally submitted because of the absence of sufficient information to address issue 1. The Environment Agency would only support the proposal subject to strict conditions limiting maximum burials and compliance with specification on burials near water sources and drains to address 2.

- 8.16 Consequently, the applicant submitted a revised drainage strategy (SUDS Design and FRA Statement) and a revised layout for reconsideration. The drainage information was assembled with information based on specific site infiltration tests. A revised layout of the cemetery was also produced to address the second issue.

- 8.17 The revisions have been reconsidered by the LLFA and the EA. Both bodies have confirmed that the amended scheme and drainage strategy satisfactorily address the issues previously raised, but further conditions are recommended requiring compliance with the drainage strategy and mitigation measures and a detailed method statement on burials.

Other Issues

- 8.18 Heritage: The site lies within an Area of Archaeological Significance (AAS) with potential subterranean heritage assets. The County Archaeologist confirms that Roman and Medieval remains have been found nearby and there is potential for further finds in the area. However, it is considered that heritage assets can be protected by applying a suitable condition for further investigations for potential archaeological remains within the site, in accordance with policy BH3 of the Local Plan.
- 8.19 Officers are content that given the nature of the proposed development there would be no harm to the significance, character, appearance or setting of the Grade 2* Listed St. Bartholomew's church.
- 8.20 Neighbour amenity: There are residential properties nearby at the converted listed church and at Gooseacre Farmhouse to the south east. However, a cemetery, absent of any buildings or substantial structures would not detrimentally impact on neighbouring amenity. Furthermore, it is not considered that the level of activity associated with the use of the land would result in significant harm by reason of noise and disturbance to the occupiers of nearby properties.
- 8.21 The concerns raised in relation to security have been noted. The applicant intends for the site to be closed for

access between 7:00pm and 7:00am. Having regard to this and the nature of the use, it is not considered reasonable or necessary to require the provision of CCTV facilities.

- 8.22 Ecology: Officers do not consider that the nature of the proposal would give rise to ecological concerns. Trees and hedges would largely be retained and enhanced by additional planting within the site which should enhance local biodiversity.
- 8.23 Need: The applicant (Buntingford Town Council) has commented in their submission that the existing churchyard is becoming full and the St. Albans Diocese has not indicated interest in extending the existing churchyard. The applicant has therefore taken the decision to provide a new cemetery to deal with future burial needs in the locality. Furthermore, due to the location of the application site adjacent to the existing cemetery which serves Buntingford, the proposal would appear as an extension to the existing cemetery.
- 8.24 The provision of a new cemetery in Buntingford was an issue in the appeal in respect of development on land to the North of Hare Street Road (ref. 3/13/1000/FP). These proposals included cemetery provision. In the appeal, evidence was submitted by the Town Council which stated that the Hare Street Road site was not their preferred location for a cemetery. The appeal granted planning permission for a cemetery but the inspector acknowledged that it may not come forward. The appeal permission was subject to a condition that required amendments to the approved scheme if the cemetery was not to come forwarded.
- 8.25 Also relevant in this case is the issue that, due to the nature of the use, the extent of land required will be of such a size that a site within the built up area of a settlement is unlikely to be found. Therefore, it is likely that such uses would only come forward on larger, open sites on the periphery of settlements.

9.0 **Planning Balance and Conclusion**

- 9.1 The application site lies within the rural area beyond the green belt as designated in the adopted Local Plan. The proposal fails to accord with policy GBC3 of the Local Plan and there is an in principle objection to the provision of a cemetery in this location.
- 9.2 The applicant has set out that there is a need in the locality for additional burial space, and permission was granted for burial space on land to the west of the application site in 2014, in relation to the Hare Street Road site (albeit that this site was not the preferred location for a cemetery). It is therefore considered that a need for additional burial space has been identified, and this is a material consideration of significant weight in the determination of this application.
- 9.3 No harm has been identified with the proposal in respect of visual impact, highways, drainage and flooding, heritage assets, ecology and neighbour amenities. The proposal therefore complies with policy in all other respects.
- 9.4 Having regard to the above considerations, the need for additional burial space and the extent and nature of land that is required, in the absence of any other identified harm, it is considered that material considerations exist in this case to warrant a departure from policy GBC3 of the Local Plan.
- 9.5 It is therefore recommended that planning permission is granted subject to the conditions.

RECOMMENDATION

That planning permission be **GRANTED** subject to the following conditions:

Conditions:

1. 3 year time limit(1T12)
2. Approved plans (2E10)
3. Archaeology (2E02)
4. Landscape Works Implementation (4P13)
5. The vehicular access gate to the site shall remain open between the hours of 7:00 am and 7:00pm, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To allow vehicular access to the site and in the interests of highway safety.

6. The development permitted by this planning permission shall be carried out in accordance with the approved SUDS Design and FRA Statement dated May 2018 and prepared by Cemetery Development Services submitted and the following mitigation measures detailed within the drainage strategy:
 - Implementing appropriate drainage strategy based on infiltration and to include French drains, a swale and a soakaway as shown on the Drainage Layout Plan Drwg. No: CDS_BUN_FRD_05 rev 3;
 - Providing storage volume to ensure no increase in surface water runoff volumes for all rainfall events up to and including the 1 in 100 year + climate change event.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.

7. No development shall take place until a working method statement is submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any

subsequent amendments shall be agreed in writing with the local planning authority.

The method statement must address the following requirements. All burials in the cemetery must:

- be at least 250 metres from a well, borehole or spring used to supply water that is used for human consumption, or for use in dairy farms;
- be at least 30 metres from any other spring or watercourse and at least 10 metres from any field drain;
- have at least one metre of subsoil below the bottom of the burial pit, allowing a hole deep enough for at least one metre of soil to cover the remains;
- have at least one metre of unsaturated zone (the depth to the water table) below the base of any grave. Allowance should also be made to any potential rise in the water table;
- be in line with the revised drawing: Burial Layout Plan ref: CDS_BUN_FRD_03 Rev 02, prepared by Cemetery Development Services, dated 23 July 2018.

Reason: The burial area is located in a vulnerable groundwater area in a Source protection zone three and this activity has the potential to cause pollution to controlled waters.

8. No infiltration of surface water drainage into the ground at this site is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To protect controlled waters.

9. Before any development commences, all access and junction arrangement serving the development shall be completed in accordance with the approved in principle plan (CDS_BUN_FRD_04 Rev 01 'Road Access Plan'), and constructed to the specification of the Highway Authority and the Local Planning Authority's satisfaction.

Reason: To ensure that the access is constructed to the Highway Authority's specification as required by the Local Planning Authority and to comply with Policy TR2 of the East Herts Local Plan 2007.

10. Concurrent with the construction of the access, visibility splays of 2.4m X 34m shall be provided and permanently maintained in each direction within which there shall be no obstruction to visibility between 600mm and 2m above the carriageway level.

Reason: In the interest of highway safety, amenity and free and safe flow of traffic

Informatives

1. Other legislation (010L)

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The balance of the considerations having regard to those policies is that permission should be granted.