
Report of the Head of Development Management**HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 15-Dec-2016****Subject: Planning Application 2016/93198 Change of use of vacant land to burial ground (within a Conservation Area) Batley Cemetery, Cemetery Road, Batley, WF17 8PG****APPLICANT**Kirklees Council,
Landscape Architects**DATE VALID**

28-Sep-2016

TARGET DATE

23-Nov-2016

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral Wards Affected:**Batley West Ward**

N

Ward Members consulted

RECOMMENDATION:

Grant Full planning permission under Regulation 4 The Town and Country Planning General Regulations 1992 subject to the delegation of approval to the Head of Development Management in order to complete the list of conditions contained within this report (and any added by Committee).

1.0 INTRODUCTION:

- 1.1 The application is brought before the Heavy Woollen Planning Sub Committee due to the site area exceeding 0.5ha. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is located to the west of the existing cemetery. Part of the application site and the land to the north are currently undeveloped and are used for the storage of excess material from burial plots. To the south and east, the land is bounded by the existing cemetery and to the west by undeveloped land. The closest residential properties are those located on North Bank Road, located to the north west of the application site. The site is connected by the existing cemetery access road which runs to the east of the land. The application site lies within the Cross Bank, Batley Conservation Area. The site has an area of 9,537sqm/ 0.95ha.

3.0 PROPOSAL:

- 3.1 The proposal is to change the use of the land to burial ground which would represent an addition to Batley cemetery. The submitted plans indicate that the northern two thirds of the land would be used as a Muslim burial ground and the southern third of the site would be used for Christian burials. The land would be regraded in order to provide an even fall and the area would be re-seeded. The plans demonstrate that several trees would be planted largely around the perimeter of the site. The land to the north of the site, which is

outside of the realms of this application, would be retained as land for spoil. New lay-by sections would be created adjoining the existing roadway to the east of the site. In total, the plans have the potential of creating around 850 burial spaces for Batley cemetery.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2006/90294 – Change of use of land to cemetery and provision of access roads – approved

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 No revisions considered necessary to be sought during the course of the application.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan will be published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 The following policies are considered relevant to the determination of the application:
- **BE1** – Design Principles
 - **BE2** – New Development Design
 - **BE5** – Development within Conservation Areas
 - **BE23** – Crime Prevention
 - **EP6** – Development and Noise
 - **NE9** – Retention of Mature Trees
 - **T10** – Highway Safety
 - **T19** – Parking Standards

Supplementary Planning Guidance / Documents:

6.3 None

National Planning Guidance:

6.4 National Planning Policy Framework.

- **Chapter 7:** Requiring good design
- **Chapter 8:** Promoting healthy communities
- **Chapter 10:** Meeting the challenge of climate change, flooding and coastal change
- **Chapter 11:** Conserving and enhancing the natural environment
- **Chapter 12:** Preserving and enhancing the Historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 No comments received

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

The Coal Authority: No objection subject to the inclusion of an informative note on the decision notice

The Environment Agency: No objection, comments made

KC Highways Development Management: no objection subject to conditions

8.2 Non-statutory:

KC Environmental Services: no objection

KC Strategic Drainage: no objection subject to a condition

KC Ecology: no objection

KC Arboricultural officer (informal): no objection

KC Police Architectural Liaison Officer (informal): no objection

9.0 MAIN ISSUES

- Principle of development
- Residential amenity
- Visual amenity
- Highway issues

- Contamination
- Ecology and Trees
- Drainage issues
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 The proposal comprises the change of use of land to cemetery which would form a large extension to the existing Batley cemetery. The site is allocated as Urban Greenspace on the Kirklees UDP. As such, Policy D3 of the Kirklees UDP is of relevance in determining this application. This policy allows for the grant of planning permission on land defined as urban greenspace if it is necessary for the continuation or enhancement of an established use given that the proposed development will protect visual amenity, wildlife value and opportunities for sport and recreation. The impact on visual amenity and biodiversity is considered acceptable and is addressed in detail within the proceeding sections of this report. The land is currently vacant and used for storing spoil from the excavation of burial plots in the adjoining cemetery. As such, opportunities for sport and recreation would not be compromised by the permitting of this development.
- 10.2 Looking to national policy guidance, whilst the proposed development does not fit comfortably within the provisions of Paragraph 74 of the NPPF, Paragraph 70 is relevant. This states that planning decisions should ensure that established facilities are able to develop and modernise in a way that is sustainable and retained for the benefit of the community. As the application would result in the creation of additional burial space adjacent to an existing cemetery at a time of district-wide need, it is considered to be an appropriate use of the land and would ensure that it is retained for the benefit of the community.
- 10.3 In addition to this, the site is within the Cross Bank, Batley Conservation Area. Section 72 of the Listed Buildings and Conservation Areas Act (1990) requires special attention to be paid to the preserving or enhancing the appearance or character of the Conservation Area. This is reflected within Policy BE5 of the UDP together with guidance in Chapter 12 of the NPPF. The impact on the character of the conservation area is assessed in a proceeding section of the report.
- 10.4 It is also acknowledged that a previous application was permitted in 2006 for the change of the use of the land to cemetery and the formation of access roads, which was approved. This application comprises a lesser area and a different layout to that previously approved.
- 10.5 In summary, the principle of the change of use of this land to cemetery is considered acceptable subject to an assessment of other material considerations, which follows below.

Residential Amenity

- 10.6 The closest residential properties are located on North Bank Road to the north west of the development site. The impact on the amenity of these occupants is considered to be limited in terms of noise and disturbance. Considering the presence of the existing cemetery and that the main facilities would remain located in this area, there would be little impact on the amenity of these residents above and beyond existing. The access and parking arrangements would remain unchanged through this application with the exception of the creation of new lay-bys off the existing cemetery access road.
- 10.7 KC Environmental Health has been consulted on the application and raises no concerns regarding the change of use of this section of land. They have requested that a footnote is added to the decision notice recommending working time in order to limit disturbance to the nearby residents.
- 10.8 As such, the application is considered to be acceptable in terms of residential amenity and compliant with Policies BE1 and EP6 of the Kirklees UDP, as well as the aims of chapter 11 of the NPPF.

Visual amenity and heritage issues

- 10.9 The impact that the proposed development would have on visual amenity is considered to be minimal. The area is immediately adjacent to the existing cemetery and is currently used for storing spoil resulting from the excavation of burial plots. It is considered to be of the same character as the adjacent land and would appear as a natural expansion of the existing cemetery. The submitted plans indicate that several trees would be planted within the site as a part of the proposal; it is considered that this would enhance local visual amenity.
- 10.10 As the site lies within the Cross Bank, Batley conservation area, the Council's Conservation and Design team has reviewed the proposal. They comment that the proposed change of use of the land to cemetery would not cause undue harm to the special character of the conservation area, which is characterised by the spacious grounds of the cemetery as well as a mix of large industrial mills. The proposal will have a neutral impacts on the Character or Appearance of this part of the Conservation Area.
- 10.11 In summary, the application is considered to have an acceptable impact on visual amenity and heritage, compliant with Policies BE1, BE2 and BE5 of the Kirklees UDP, as well as the aims of chapters 7 and 12 of the NPPF.

Highway issues

- 10.12 KC Highways DM has been consulted on the application. They note that there are a number of existing access points from the current site leading onto Cemetery Road and North Bank Road. Sightlines from both these access points are considered to be good in both directions. KC Highways DM

do not anticipate that an increase in traffic generation to result from the proposed development.

- 10.13 In summary, the application is considered to be acceptable in terms of highway safety and compliant with the aims of T10 of the UDP.

Contamination

- 10.14 The Coal Authority has been consulted on the application and confirms that the site falls within a Development High Risk Area. Their records indicate that within the application site and surrounding area there are coal mining features and hazards which should be considered as part of development proposals. The Coal Authority records indicate that the site has/is likely to have been subject to past coal mining activities, which would include unrecorded probable shallow coal workings in the associated thick coal outcrop and mine entry to the north of the north-west corner of the new area.
- 10.15 No Coal Mining Risk Assessment has been submitted alongside the application, however, in this instance, The Coal Authority does not require a CMRA to be submitted for consideration due to the nature of the development proposed and do not object. However, in the interest of public safety they recommend that an informative note is added to the decision notice.
- 10.16 The Environment Agency has been consulted on the application and raise no objection. They have provided comments which relate to groundwater protection. This will be added to be decision notice as informative comments for the developer to be aware of. No specific conditions are requested.
- 10.17 Environmental Health has also been consulted and they do not consider that the application would result in any significant impact to health.
- 10.18 In summary, with the inclusion of the recommended informative notes in the decision notice, the application would have an acceptable impact in terms of land and water contamination; no objections have been received from The Coal Authority, The Environment Agency and Environmental Health.

Ecology and Trees

- 10.19 The application site has been inspected by the Council's Ecologist, who raises no objection to the proposed change of use. The Ecologist considers that the land is semi-improved neutral grassland and is not considered to be ecologically significant. No objection is raised on ecology grounds.
- 10.20 The application has also been reviewed by the Council's Arboricultural Officer who raises no concerns regarding the proposed development. There are no trees within the red line boundary and the proposal to plant trees/vegetation largely around the perimeter of the site is supported. The application is considered to be in accordance with the aims of Policy NE9 of the Kirklees UDP.

Drainage issues

- 10.21 The application has been reviewed by KC Strategic Drainage. The submitted information states that the site will be drained to soakaways. Strategic Drainage raises no objection to the proposed development subject to a condition being added to the decision notice. This will require a scheme to the submitted demonstrating an adequately designed soakaway. This will be added in the interests of satisfactory and sustainable drainage in accordance with Policy D2 of the Kirklees UDP and the guidance contained within the NPPF.

Representations

- 10.22 None received.

11.0 CONCLUSION

- 11.1 The proposal would represent an extension to the existing cemetery which is considered acceptable in principle. The proposal would not result in undue harm being caused to either visual or residential amenity nor would it impact on the setting of the conservation area. It would have an acceptable impact on highway safety, biodiversity and trees.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development Management)

It is proposed that the following planning conditions would be included should planning permission be granted:

1. Time limit for implementation
2. Development carried out in accordance with the plans and specifications
3. Drainage pre-commencement condition relating to the submission and approval of a soakaway scheme

Background Papers:

Application and history files.

Website link to the application details:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93198>

Certificate of Ownership – Certificate A signed 15 September 2016.