
Report of the Head of Development Management**HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 15-Dec-2016****Subject: Planning Application 2016/93056 Change of use of land to cemetery and formation of access road Land adj, Liversedge Cemetery, Clough Lane, Hightown, Liversedge****APPLICANT**Sarah Durdin, Kirklees
Bereavement Services**DATE VALID**

30-Aug-2016

TARGET DATE

25-Oct-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:

Liversedge and Gomersal Ward

No

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 comprises vacant greenfield located immediately to the east of Liversedge Cemetery. The site is bounded by Clough Lane to the east and contains vegetation and some post and rail fencing fronting the road. A dry stone wall forms the western boundary treatment; this wall separates the application site from the existing cemetery. The site slopes gently down to the north. To the north east of the application site lies the nearest residential property, Triangle Farm, which is positioned on the opposite side of Clough Lane. There is an area of woodland to the south of the site which is out of the remit of this application. The site is surrounded by open fields to the south and east. The site has an area of 7, 777 sqm/ 0.77ha.

3.0 PROPOSAL:

- 3.1 The application proposes the change of use of the land to cemetery which would be associated with the existing cemetery adjacent the application site. The land would be used for natural burials, which incorporate burial plots with informal tree/shrub/bulb planting. A new vehicular access is proposed from Clough Lane, which would be temporary and provide only hearse and maintenance access into the site. The proposal is to break through the wall forming the western boundary of the site which would allow the new road to connect to the existing road in the adjacent cemetery. The existing hedgerow

would be replaced by new trees in a set-back position to provide adequate sightlines for this access. The site would contain a new gravel footpath and pedestrian access also from Clough Lane leading to a small gathering area within the site.

- 3.2 It is estimated that the proposal will create approximately 1000 natural burial plots and provide for roughly 20 years provision contributing towards a district need for burial grounds.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 No relevant planning history on the site.

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 was 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 Policies 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
 - **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 9:** Protecting Green Belt land
- **Chapter 10:** Meeting the challenge of climate change, flooding and coastal change
- **Chapter 11:** Conserving and enhancing the natural 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

8.2 Non-statutory:

KC Highways Development Management: no objection subject to conditions

KC Environmental Services: no objection

KC Strategic Drainage: no comments

KC Ecology: no objection

KC Arboricultural officer (informal): no objection

KC Police Architectural 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 application proposes the change of use of vacant greenfield land adjacent Liversedge Cemetery to a natural burial ground associated with the existing cemetery. The site is designated as green belt in the Kirklees Unitary Development Plan.
- 10.2 As a consequence of the Court of Appeal's judgment (Timmins and Lymn Family Funeral Service v. Gedling Borough Council and Westerleigh Group Limited, 22nd January 2015) this application must be considered as proposing a form of development that is inappropriate in Green Belt. This is because the application proposes a material change of use of land in the Green Belt to one not falling within the provisions of NPPF Paragraphs 89 and 90. It is therefore by definition harmful to the Green Belt and should not be approved except in very special circumstances. Moreover NPPF Paragraph 88 states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.
- 10.3 Notwithstanding, in this instance, it is considered that the potential harm arising from this proposal by reason of inappropriateness is clearly outweighed by other considerations which individually and cumulatively are considered to constitute very special circumstances, particularly when set against the substantial weight that can be attached to the harm in question.
- 10.4 Paragraph 81 of the NPPF also places an obligation on local planning authorities to plan positively to enhance the beneficial use of the Green Belt in four ways:
 - i) to look for opportunities to provide access;
 - ii) to provide opportunities for outdoor sport and recreation;
 - iii) to retain and enhance landscapes, visual amenity and biodiversity; and
 - iv) to improve damaged and derelict land.
- 10.5 Fulfilment of these obligations will normally involve a change of use amounting to development for which planning consent is required. Hence, it could be argued in support of this proposal that development in the form of a material change of use of land to a cemetery is appropriate, as the NPPF cannot have intended to categorise as inappropriate a form of development that will satisfy the requirements of Paragraph 81 with regard to landscape, visual amenity and biodiversity. Nevertheless the other considerations that are considered to constitute very special circumstances for justifying this proposal are set out below:

1. The proposed change of use of the land to cemetery is considered to enhance biodiversity, visual amenity and landscaping through the incorporation of appropriate landscaping both surrounding and within the site. Whilst the existing trees along the eastern boundary would be removed, these are considered to be of low arboricultural value and would be replaced by a higher number of new trees to offset this loss. This will enhance local visual amenity and biodiversity as well as providing dense screening to the site once matured. In addition to this, the site has been reviewed by the Council's Ecologist who has confirmed that it comprises low value grassland habitat at present and local biodiversity will be enhanced due to the planting of additional vegetation, trees and bulbs which are inherent to natural burial grounds. This in turn is considered by the Council's Ecologist as an opportunity enhance biodiversity and wildlife networks across the site and in surrounding area. In the context of the above, the proposed change of use of land to cemetery in this green belt location is considered to satisfy the requirements of Paragraph 81 with regard to landscape, visual amenity and biodiversity. This in itself is considered to constitute a very special circumstance for permitting the proposed change of use within the green belt. In the context of the above, the application is considered to bring about several benefits in terms of visual amenity, landscaping and biodiversity; the substantialness of which is considered to outweigh the harm to the green belt by reason of inappropriateness.
 2. As set out in the supporting information which accompanies the application, there is a distinct district-wide need to explore alternative methods to burial, with many of the traditional cemeteries nearing capacity. At present, there is no provision for this type of facility within the vicinity of the site. As such, the provision of additional burial space for this alternative method of burial is considered to be of a significant community benefit and helps to meet a district wide need of burial provision for a range of faith groups; the substantialness of which is considered to outweigh the harm to the green belt by reason of inappropriateness. This is considered to constitute a very special circumstance for permitting the proposed change of use within the green belt.
- 10.6 Further to this, whilst under the wording of the NPPF, a cemetery is considered as inappropriate development, which is, by definition, harmful to the Green Belt, the degree of substantial weight that can be attached to the potential Green Belt harm arising from this change of use to cemetery must be questioned. Whilst proposed works include the provision of a temporary road, gravel footpath and gathering area, these are considered necessary for the proper functioning of the site as a cemetery and appropriate in scale relative to the site size. The main cemetery facilities such as the chapel and the principle public access already exist in the adjacent site and would be retained in their existing location. As described above, the incorporation of vegetation, trees and bulbs softens the impact of the proposed use and will enhance visual amenity and biodiversity throughout the site. The proposed access road would be temporary, providing hearse and maintenance access.

The footpath would be covered in gravel; the choice of this treatment is considered to further soften the impact of the works.

- 10.7 In summary, whilst it is acknowledged that under the NPPF a cemetery is inappropriate development which is, by definition, harmful to the green belt, in this instance, it is considered that the scheme will preserve openness and bring about benefits in terms of landscape, biodiversity, visual amenity and alternative burial provision which constitute very special circumstances. As such, the principle of the change of use of the land to cemetery can be, in this instance, considered appropriate in this green belt location and in accordance with the aims of the NPPF.

Residential Amenity

- 10.8 The closest residential property is Triangle Farm which is located to the north east of the development site. The impact on the amenity of this occupant 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 the existing situation. The access road would be for hearse use and maintenance only and gated. This limits disturbance in terms of additional vehicular movements. The proposed footpath through the site is not considered to result in a detrimental impact on the residential amenity of these occupants. KC Environmental Health has been consulted on the application and raise no concerns regarding any potential noise impact.
- 10.9 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.

Visual amenity

- 10.10 The proposed development would have an acceptable impact on visual amenity. The proposed site layout demonstrates that trees/vegetation would be located along the site boundary along Clough Lane, albeit set back in order to provide appropriate sightlines for the access. This planting would assist in screening the proposed cemetery area and retaining the rural character of this section of Clough Lane. The details of the proposed fencing along this boundary can be secured by condition.
- 10.11 Due to the proposed space being used for natural burials, the access road would be temporary and used for hearse access and maintenance purposes. As described in the above section, the footpath surface treatment would be gravel which would assist in softening the impact of the hardstanding area. Natural burials do not involve the use of traditional headstones and result in the creation of a natural landscaped area one fully occupied. As such, there would be limited impact from use of this. The gathering area would be located towards the centre of the site and be small in scale. A key element of natural burial sites is to incorporate vegetation with burial plots. Once this matured, this too will soften the appearance of the site.

- 10.12 It is understood that the existing dry stone wall along the western boundary would be retained, except for where the link to the existing access would be formed. The creation of the gated access from Clough Lane would preserve the visual amenity of the area.
- 10.13 In summary, the application is considered to have an acceptable impact in terms of visual amenity and is compliant with Policies BE1 and BE2 of the Kirklees UDP.

Highway issues

- 10.14 A new access is proposed directly onto Clough Lane. KC Highways DM has reviewed the application and confirmed that Clough Lane is an adopted road and that sightlines from the proposed access are good in both directions. This would be temporary then allowed to grass over once the site is full. With regard to the internal layout, Highways DM consider that, as the new access road would be for horse and maintenance use only, this should not result in a significant increase in traffic volume and is considered acceptable from a highways perspective. A condition is required relating to the surfacing and draining of areas.

Contamination

- 10.15 The Coal Authority has been consulted on the application and confirm 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 is likely to have been subject to historic unrecorded underground coal mining at shallow depth.
- 10.16 No Coal Mining Risk Assessment has been submitted alongside the application, however, in this instance, The Coal Authority does not consider that requiring a CMRA would be proportionate to the scale and 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.
- 10.17 The Environment Agency has been consulted on the application and raise no objection. They have provided comments which relate to groundwater protection and the creation of a Hydrogeological Risk Assessment. This will be added to the decision notice as informative comments for the developer to be aware of. No specific conditions are requested.
- 10.18 Environmental Health has also been consulted and they do not consider that the application would result in any significant impact to health.

- 10.19 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

- 10.20 The application site has been inspected by the Council's Ecologist, who has confirmed that the land comprises low value grassland habitat at present. The Ecologist has no objections to the proposal and considers that it presents an opportunity for local biodiversity enhancements through the proposed additional vegetation that would be incorporated into the site.
- 10.21 The application has been reviewed by the Council's Arboricultural Officer who has concluded that the proposed would not result in a significant adverse impact on trees within the site. The removal of the existing trees along the site frontage and replacement with new trees in a set-back position is considered as an enhancement to the application site. As such, the application is considered to be in accordance with the general aims of the Policy NE9.

Drainage issues

- 10.22 The application has been reviewed by KC Strategic Drainage. They state that they have no comments to make on this application.

Representations

- 10.23 None received

11.0 CONCLUSION

- 11.1 The proposal would constitute inappropriate development within the Green Belt. However, as set out in this assessment, 'very special circumstances' are considered to exist. In addition, the proposal is considered acceptable from a visual and residential amenity perspective and it is not considered that the proposed development would result in any harm to highway safety.
- 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 proposals that the following conditions would be included should planning permission be granted:

1. Time limit for implementation (3 years)
2. Development carried out in accordance with the plans and specifications
3. Areas to be surfaced and drained

Informative notes from the Coal Authority and the Environment Agency

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%2f93056>

Certificate of Ownership – Certificate A signed 30 August 2016.