
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 05-Aug-2020

Subject: Planning Application 2020/91389 Change of use of vacant land to burial ground (within a Conservation Area) Batley Cemetery, Cemetery Road, Batley, WF17 8PG

APPLICANT

Paul Hawkins, Kirklees
Council-Bereavement
Services

DATE VALID

20-May-2020

TARGET DATE

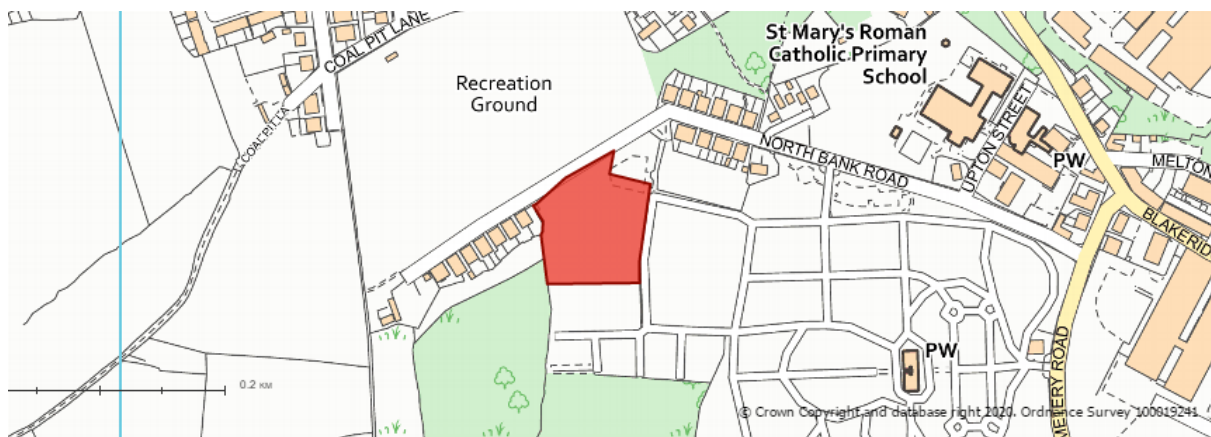
15-Jul-2020

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 Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.1 INTRODUCTION:

- 1.2 In accordance with the Council's Scheme of Delegation, this application is brought to Committee on the grounds that it is a non-residential planning application where the application site boundary exceeds 0.5 hectares.
- 1.3 The application proposes an extension to the existing cemetery land at Batley Cemetery to provide mostly Muslim burial plots to meet the present need for such burial space within the Batley district.

2.0 SITE AND SURROUNDINGS:

- 2.1 Batley Cemetery in its entirety lies approximately 1km to the west of Batley Town Centre. It is bounded to the north by North Bank Road, to the south by Arncliffe Road and to the east by Cemetery Road. To the west it is adjoined by an area of trees/woodland. Vehicular access is provided from Cemetery Road and North Bank Road. The entire cemetery and the woodland is designated as Urban Green Space within the Kirklees Local Plan (KLP). It is also within the Cross bank Conservation Area (CA).
- 2.2 The application site extends to an area of 0.693 hectares. It is almost pentagonal in shape, positioned in the north-west corner of the cemetery. The land is presently unused comprising overgrown vegetation, which slopes down towards the north. Its north-western edge adjoins the boundary with residential properties at 121 and 125 North Bank Road, from which it is separated by a boundary of existing trees/shrubs. Further hedgerows/trees bound it to the north with the cemetery compound to the north-east. This part of the cemetery is accessed from an existing tarmac pathway that runs along the eastern boundary of the application site.

3.0 PROPOSAL:

- 3.1 This application proposes to change the use of the land to a burial ground to provide space for approximately 600 plots. It represents Phase 2 of an expansion to the facilities at Batley Cemetery. Phase 1 was approved by the Heavy Woollen Sub Committee in December 2016 in accordance with planning permission 2016/93198. This provided for both Christian and Muslim burials and was completed in May 2018. It is understood that together with existing burial areas, this application would provide capacity at the Cemetery for approximately 10 years.
- 3.2 The burial plots within this Phase 2 application would be mostly allocated to Muslim burial for which the applicant states, the need is urgent. The plots would be laid out to face south-east toward Mecca. They would form a continuation of the existing Muslim burial plots across the access road to the east. Because of the individual grave plots would have concrete burial chambers in order to stabilise the ground within the application site.

- 3.3 Existing trees and vegetation around the boundary of the site would be retained. On its south-eastern edge, a new timber fence would be installed with native hedgerow and trees planted intermittently against it to provide an informal partition from the Christian burial area to the south. A new one-way access road would also be built centrally within the site for maintenance vehicles and to provide the space for hearse's to park to facilitate access for burial.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 The most relevant planning history is summarised below:

2016/93198: Change of use of vacant land to burial ground (Phase 1)

Approved at Heavy Woollen Planning Sub-Committee: 15 December 2016

This application related to an area of land of 0.95ha immediately to the south of the land that is the subject of this application.

2006/90294 – Change of use of land to cemetery and provision of access Roads

Approved: 6 March 2006

This application extended to 2.25ha and including the area of land that is the subject of this application, which was identified at that time as a potential longer term burial area.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 Following a response from an adjoining residential occupier at 121 North Bank Road, who raised concerns that their stone garage appeared to be included within the red line boundary, the red line boundary was amended to provide clarity that the garage would be unaffected by the proposal.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

Kirklees Local Plan (2019):

- 6.2 The following policies are most relevant to the consideration of this application:

Policy LP24 Design
Policy LP21 Highways and Access
Policy LP30 Biodiversity and Geodiversity
Policy LP32 Landscape
Policy LP33 Trees
Policy LP34 Conserving and Enhancing the Water Environment
Policy LP35 Historic Environment
Policy LP38 Minerals Safeguarding
Policy LP61 Urban Greenspace

Supplementary Planning Guidance / Documents:

- 6.3 There are no SPG/SPD documents that are directly relevant to a consideration of this application.

National Planning Guidance:

- 6.4 The following sections of the National Planning Policy Framework (NPPF) are most relevant to the consideration of this application:

Chapter 7: Requiring good design

Chapter 11: Conserving and enhancing the natural environment

Chapter 12: Preserving and enhancing the Historic environment

Climate change

- 6.5 On 12/11/2019 the Council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by means of a site notice as a development affecting a Conservation Area and also by direct neighbour notification.
- 7.2 One representation was received from the occupier of 121 North Bank Road, which adjoins the site. The neighbour was seeking clarification as to whether or not the red line boundary included their stone garage, which is constructed on Council land for which the neighbour pays a yearly rent. They requested clarification as to whether the land was to be sold and also, whether the trees around the site were to be retained. Finally, concerns were raised with regard to loss of privacy as a result of graves up to the boundary with the property and that North Bank Road was already busy with the cemetery and St Mary's Primary School and would become even busier.

Ward Members

- 7.3 Ward Members were also consulted on the proposal. A response was received from Councillor Lowe who raised no objection to the application. However, she did comment that it would be nice to see a “natural” burial ground in this Cemetery, just like Rose Hill in Huddersfield.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Environment Agency (EA): The EA advise that the operator has not confirmed whether their minimum groundwater protections requirements would be met by this development. A groundwater/surface water risk assessment in line with our guidance had not been submitted. Also, information had not been provided about the annual number of burials. The EA have not, however, objected to the application and they have requested that the applicant be made aware they may need a permit from the EA in the future.

Coal Authority: No objection subject to a condition relating to details of a mine entry.

KC Highways: No objection.

8.2 Non-statutory:

KC Environmental Health: As there are residential properties on the boundary of this application it is advised that grave digging should not occur through the night and KC Environmental Health recommend a condition to this effect.

KC Conservation and Design: No objection

KC Bio-diversity Officer: No objection subject to conditions.

9.0 MAIN ISSUES

- Principle of development;
- Residential amenity;
- Highway issues;
- Heritage issues;
- Landscape and Bio-diversity issues;
- Ground conditions, including drainage/contamination issues;
- Response to representations.

10.0 APPRAISAL

Principle of development

10.1 This application seeks to change the use of an area of unused land within Batley Cemetery to a burial ground to provide space for approximately 600 burial plots. Within the Kirklees Local Plan, the land is allocated as Urban Greenspace.

10.2 Policy LP61 of the Kirklees Local advises that development proposals which would result in the loss of urban green space will only be permitted where one of the following apply:

- a. An assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or
 - b. Replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or
 - c. The proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.
- 10.3 In this case, the site lies within the boundary of the existing cemetery. It was identified in two previous planning permissions – 2006/90294 and 2016/93198 as an area that would be used in the future as an extension to the existing burial ground. Furthermore, the applicant advises that as with many cemeteries throughout the district, the requirement for burial space is urgent and some cemeteries are running out of space. It is stated that whilst the need for Christian burial has decreased over recent decades, the need for Muslim burial is urgent. The need for burial space within the Batley district and community is identified as being particularly pressing.
- 10.4 The proposal would retain the existing open character of the urban green space and, being within the Cemetery, it would remain open for the public to access. In this context, it is considered to represent an alternative form of open space that is needed to help address identified deficiencies. The evident demand for burial space is therefore considered to outweigh the loss of the urban green space in this particular instance.
- 10.5 The development is therefore considered to accord with the objectives of Policy LP61 and the proposal is considered acceptable in principle.

Residential Amenity

- 10.6 Policy LP24 of the Kirklees Local Plan advises that good design should be at the core of all proposals in the district. With specific regard to this application, Policy LP24 (b) advises that proposals should promote good design by ensuring that they provide a high standard of amenity for future and neighbouring occupiers. This is consistent with guidance at Paragraph 127 of the NPPF, which states that development should provide a high standard of amenity for existing and future users.
- 10.7 In this case, whilst the application site lies within the boundary of the existing Cemetery in the north-west corner, it is situated immediately adjacent to residential properties on North Bank Road. It is therefore acknowledged that the proposal would result in burial plots being positioned in relatively close proximity to existing residential occupiers, within 3 metres of the site boundary.

- 10.8 At the present time, the north-western boundary of the Cemetery adjoining 121 North Bank Road is bounded by hedges/trees/shrubs. However, the application confirms that it is the intention to keep all of the boundary vegetation and trees. This would maintain a screen between the burial space and the adjacent residential property to protect the living conditions of these existing occupiers with regard to their privacy. The applicant has also advised that they would be willing to consider additional boundary planting, which would be secured by means of a planning condition.
- 10.9 It is acknowledged that further burial space would result in more people visiting the Cemetery. However, given the nature of burial grounds, it is not considered that it would result in any significant increase in traffic generation at any one time to unduly cause detriment to the living conditions of adjoining occupiers.
- 10.10 Finally, with regard to noise, it is acknowledged that digging graves with mechanical equipment would generate noise. It would, however, be short-term. Nevertheless, it is considered appropriate to impose a condition that grave digging should not occur through the night in order to protect the living conditions of adjoining occupiers in this regard.
- 10.11 Subject to the imposition of conditions pursuant to landscaping and to control the hours of operation of mechanical equipment to dig the graves, the proposal is considered to sufficiently protect the living conditions of existing occupiers in accordance with Policy LP24 of the Kirklees Local Plan and guidance within the NPPF.

Highway issues

- 10.12 Policy LP21 of the Kirklees Local Plan advises that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.
- 10.13 In this case, the proposal does not seek to amend any of the existing access arrangements into the Cemetery from Cemetery Road or North Bank Road. These are retained and unaltered by the proposal and they both provide good visibility and sightlines for a safe means of access.
- 10.14 The existing tarmac road that bounds the site on the eastern side will also remain as the access to the new burial area. The application will result in a new one-way road through the site to allow access for maintenance vehicles and for hearse's to park. However, the applicant advises that vehicle traffic would be quite minimal to this area. No specific provision for car parking is made as visitors to the Cemetery appear to drive within the Cemetery and park along the access roads. In any event, Highways Development Management consider that the proposal should not result in any significant increase in traffic generation.
- 10.15 Highways DM do recommend a condition that parking and turning areas (for the hearse and maintenance vehicles) should be laid out with a hardened and drained surface. On this basis, the proposal is not considered to give rise to any issues of highway safety. Consequently, it is considered acceptable in accordance with Policy LP21 of the Kirklees Local Plan.

Heritage issues

- 10.16 Batley Cemetery lies within the Cross Bank, Batley Conservation Area (CA). The Council therefore has a duty under Section 72 of the Listed Buildings and Conservation Areas Act (1990) to pay special attention to preserving or enhancing the appearance or character of the Conservation Area. This is reflected in the requirements of Policy LP35 of the Local Plan and guidance within the NPPF.
- 10.17 There is no Conservation Area appraisal for the Cross Bank, Batley (CA) but its character is drawn broadly from the historic form of the Cemetery and the circa Victorian buildings that constitute the remainder of the CA. The original 19th Century Cemetery is located to the east of the application site. At its centre is the Grade II listed chapel, dating to 1865. The application site was historically open fields and prior to becoming part of the Cemetery, it was allotments in the early 20th Century.
- 10.18 The Council's Conservation Officer has considered the proposal and advises that the extension to the burial ground will not harm the character or significance of the conservation area. The area of land that is the subject of the application will be landscaped with tree and hedgerow planting, tarmac roadways and paths and sections of low timber fencing. In addition, the provision of additional burial space in an existing cemetery is a clear public benefit for the community.
- 10.19 It is therefore concluded that the proposal will preserve the character of the Conservation Area and it is therefore compliant with Policy LP35 of the Local Plan and guidance within the NPPF.

Landscaping and Bio-diversity

- 10.20 Policy LP30 of the Kirklees Local Plan states that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees. Development proposals will therefore be required to result in no significant loss or harm to biodiversity in Kirklees and to provide net biodiversity gains where opportunities exist. Policy LP32 requires development proposals to take into account and seek to enhance the landscape character of the area whilst Policy 33 advises, amongst other matters, that proposals should normally retain any valuable or important trees where they make a contribution to public amenity.
- 10.21 In this case, the Design and Access Statement confirms that to achieve the required additional burial area, the ground layer and scrubby vegetation would need to be cleared. Any holes and dips in the current topography would be filled and the whole area brought to an even grade across the site. It would then be re-seeded with an amenity grass seed mix so that the area could be mown and kept maintained.
- 10.22 The area would be bounded by intermittent native hedgerow and trees to ensure that it blends the site into the surrounding landscape and urban greenspace. This would also provide opportunities to enhance bio-diversity, green infrastructure and natural habitat. The application confirms that much of the existing vegetation along the boundaries would be utilised to this effect, supplemented with additional planting such as wildflower mixes to promote diversity and encourage pollinators. Details of this additional planting would be secured by means of a planning condition.

- 10.23 The Christian and Muslim burial areas would be partitioned by a wooden post and rail type fence, with a native hedgerow planted in sections along it. This would include gaps for access and to allow views through to be maintained. Sporadic native trees would provide summer shade, height and interest, screening and habitat creation, as well as being part of the sustainable drainage system. As well as a limited network of formal hard-surfaced paths, more informal routes between rows would also be provided so that visitors can access the graves easily.
- 10.24 With regard to bio-diversity, the Council's Ecologist has confirmed that the area consists of typical species poor semi-improved grassland and tall ruderal vegetation, which is locally abundant in the area. It is noted that the mature trees bordering the site are to be retained and therefore, there is limited risk of significant ecological harm. It is, however, currently utilised by breeding birds and pollinating invertebrates. Consequently, ecological enhancements should be incorporated to ensure no net loss of biodiversity.
- 10.25 Whilst the proposals include native tree and hedge planting which is welcomed, a wildflower area that is referenced on the key of the landscaping details is not incorporated within the plans. Its inclusion would ensure that adequate provisions for invertebrate species are maintained and details will therefore be secured by condition as part of a detailed landscape plan.
- 10.26 Furthermore, the Ecology Officer notes that the site has been regularly cleared and used to store excess spoil from elsewhere on the site, and numerous spoil heaps are evident at the site entrance and edges. Four areas of Japanese Knotweed have been identified within these spoil heaps. As this is listed as invasive under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended), it will require control via a suitably qualified contractor to ensure it does not spread further on or off site. This will be the subject of a planning condition.
- 10.27 Subject to the imposition of a condition requiring a detailed landscape plan and a methodology to control Japanese Knotweed, the proposal is considered to comply with the objectives of Policies LP30, LP32 and LP33. It is therefore acceptable in respect of landscaping and bio-diversity.

Ground conditions, including drainage and contamination issues

- 10.28 Policy LP34 of the Kirklees Local Plan advises, amongst other matters, that proposals must ensure no deterioration of water courses or water bodies (including groundwater). Furthermore, Policy LP38 of the Local Plan, which relates to Mineral Safeguarding, advises that surface development will only be permitted in specific circumstances. These include at LP38 (c) where there is an overriding need for the development. The applicant has identified the specific local need for additional burial space within Batley, which is considered to be overriding in this instance such that a minerals safeguarding report has not been sought in this case.

- 10.29 Whilst the application site lies within Flood Zone 1 with regard to flood risk (low risk), the site appraisal undertaken by the applicant identifies that there are patches of wet ground within the application site. As a result, the application includes a land drainage plan, which shows the inclusion of soak-away pits and bio-swales. The application confirms that all drainage will be sustainable and it will be contained on the site, which is considered acceptable. An approved plans condition would ensure that the proposal is completed in accordance with these details.
- 10.30 The Environment Agency have been consulted on the application in their role as monitoring groundwater. They advise that during the coronavirus pandemic, the Environment Agency will not require environmental permits for proposed cemetery developments. They note that the application does not confirm whether the EA's minimum groundwater protections requirements would be met by this development as a groundwater/surface water risk assessment has not been submitted. Also, information has not been provided about the annual number of burials. Nevertheless, the EA have confirmed that they do not object to the application subject to an informative to advise that the development may need an environmental permit in future.
- 10.31 The site also falls within a Development High Risk Area with regard to coal. Furthermore, the Coal Authority records indicate that there is a mine entry and its resultant zone of influence on the site. It is also in an area of likely historic unrecorded coal mine workings at shallow depth. Whilst no Coal Mining Risk Assessment has been submitted as part of the submission, the Coal Authority advise that in this case, there is no objection to the application on the grounds that no built development is proposed. However, it will be necessary to impose a condition requiring the mine entry to be located, its condition established and a remedial strategy proposed for this feature to ensure that the potential risks it poses to users of the site are satisfactorily addressed.
- 10.32 It is therefore considered that subject to appropriate conditions, the proposal is acceptable with regard to ground conditions, including drainage and contamination issues and coal risks. It is therefore in accordance with Policies LP34 and LP38 of the Kirklees Local Plan.

Response to Representations

- 10.33 The issues raised in the representations received in connection with this proposal and the associated responses are summarised below:
- In response to the neighbour's concern that the red line boundary included their stone garage, the applicant has confirmed in writing that the garage is unaffected by the proposal.
 - Concerns raised in respect of loss of privacy and disturbance are addressed in the residential amenity section above.

In response to the comment from Councillor Lowe with regard to seeking a natural burial ground at Batley Cemetery, the applicant has advised that the ground within the application site would not allow for natural burial. It comprises 'made up' ground layers from a former old tip and allotments. Trial digs and soil testing have shown that when graves are dug, the sides collapse. It is for this reason that the applicant would need to install concrete burial chambers.

11.0 CONCLUSION

- 11.1 This proposal would represent an extension to the existing cemetery, which is considered acceptable in principle. It would not result in undue harm being caused to the living conditions of adjoining occupiers, nor would it impact upon the character or appearance of the Conservation Area. It would also be acceptable with regard to highway safety, biodiversity, landscaping and ground conditions.
- 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 it 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 Planning and Development)

1. Time limit for implementation.
2. Development carried out in accordance with the plans and specifications.
3. Restriction to the hours of operation of grave digging.
4. Parking and turning areas to be permeable surface.
5. Detailed landscape scheme to be submitted.
6. Method statement for Japanese Knotweed.
7. No removal of hedgerows between 1st March and 31st August inclusive.
8. Location and condition of mine entry.

Background Papers:

Application and history files:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91389>

Certificate of Ownership – Certificate A signed on 19 May 2020.