

## PLANNING COMMITTEE – 5 MARCH 2019

<b>Application No:</b>	<b>18/02001/FUL</b>	
<b>Proposal:</b>	<b>Change of use from grazing land to burial ground.</b>	
<b>Location:</b>	<b>Land to South Of Station Road, Rolleston</b>	
<b>Applicant:</b>	<b>Rolleston Parish Council</b>	
<b>Registered:</b>	<b>10.12.2018</b>	<b>Target Date: 04.02.2019</b>
		<b>Extension of Time Agreed until 07.03.2019</b>

**This application is being referred to the Planning Committee for determination by the local ward member Cllr R Blaney in the interests of transparency.**

### The Site

The application site is a small plot of land approximately 0.12 hectares in extent in the village of Rolleston. The site is positioned to the south west of the Grade I listed Holy Trinity Parish Church and to the south of the Grade II listed property known as The Vicarage. The site is accessed via a shared existing access from Station Road which serves the Church.

The site is within Flood Zone 2 according to the Environment Agency maps and there is a public right of way approximately 35m to the south east of the site boundary. The Scheduled Ancient Monument (SAM) of Rolleston Manor is some 240m north east of the site.

As existing the site comprises agricultural grazing land.

### Relevant Planning History

There is no planning history in relation to the site.

### The Proposal

The application seeks full planning permission to change the use of the land from agricultural grazing land to a burial ground which would essentially extend the existing burial ground which currently serves the adjacent Church. It is stated that the extension is expected to be in use for over 200 years.

The application has been assessed on the basis of the revised site location plan received 7<sup>th</sup> December 2018. In addition a Flood Risk Assessment dated November 2018; as well as a Planning Statement and Heritage Impact Assessment received during the life of the application on 23<sup>rd</sup> January 2019 (albeit dated November 2018) support the application.

### Departure/Public Advertisement Procedure

Occupiers of two properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

## **Planning Policy Framework**

### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 3: Rural Areas  
Spatial Policy 7: Sustainable Transport  
Core Policy 9: Sustainable Design  
Core Policy 10: Climate Change  
Core Policy 12 Biodiversity and Green Infrastructure  
Core Policy 13: Landscape Character  
Core Policy 14: Historic Environment

#### **Allocations & Development Management DPD**

Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM8 – Development in the Open Countryside  
Policy DM9 – Protecting and Enhancing the Historic Environment  
Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (Online Resource)
- Historic England Good Practice Advice Notes

### **Consultations**

**Rolleston Parish Council** – Support the proposal (7 for, 0 against)

#### **NSDC Conservation – Legal and policy considerations**

Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the ‘Act’) require the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In this context, the objective of preservation is to cause no harm. The courts have said that these statutory requirements operate as a paramount consideration, ‘the first consideration for a decision maker’.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF). The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF – revised July 2018). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation, for example. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should

require clear and convincing justification. In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness. LPAs should also look for opportunities to better reveal the significance of heritage assets when considering new development within their setting (paragraph 200).

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3).

#### Significance of heritage asset(s)

Holy Trinity Church is Grade I listed (LEN 1045559), designated in August 1961. The listing description advises;

*'Parish church. C12, C13, C14, chancel restored 1878, tower restored 1889, further late C19 restorations. Dressed coursed rubble and ashlar. Slate roofs. Coped gables to east nave and chancel and south aisle with single ridge cross finials to the east nave and chancel. Tower, nave, aisles, south porch and chancel. Angle buttressed C12 and C14 tower set on a moulded plinth and of 4 stages with bands. Embattled with 8 crocketed pinnacles. The centre pinnacle on each side being corbelled out. The corbel rising from the centre point between the 2 light bell chamber openings. There are 8 gargoyles. The west wall has a single ogee arched light originally C12, recut C14. Above is an arched 2 light window with ogee arched and cusped lights and single quatrefoil. The north and south sides have single, similar recut lights. There are 4 C14 bell chamber openings each has 2 pointed arched openings surmounted by a further 2 similar openings. The ogee arched hood mould is broken by the pinnacle corbel. The south side has a single rectangular stair light and the south and north sides have single small arched and cusped lights and 4 tie plates. The west side has 2 tie plates and on each side is a single large tie plate. The west wall of the dressed coursed rubble north aisle has a single quatrefoil set into a circle. The buttressed north wall has a single restored lancet, to the left is a chamfered arched doorway with impost bands and hood mould. Further left are 2 pairs of restored lancets. The north east and east walls are on chamfered plinths. In the C14 ashlar clerestory are 4 windows each with 2 arched lights under a flat arch. The chancel is set on a plinth. The north chancel has a single lancet, to the left is a Caernarvon arched doorway and further left a C14 window with 2 ogee arched and cusped lights, each light with 2 decorative orbs, under a flat arch with hood mould and human head label stops. The hood mould is decorated with fleuron and there is a single central carved grotesque head over, with a single similar worn head under the window. The east end has a single arched C19 4 light window with cusped tracery and hood mould. The south chancel has 2 C14 windows each with 2 ogee arched lights, cusped tracery under a flat arch and hood mould. The east wall of the buttressed dressed coursed rubble south aisle has a single lancet with hood mould. The south wall with single C14 gargoyle, has 3 windows each with 2 arched and cusped lights, flat arch, hood mould and head label stops, mainly human. The gabled and copied diagonally buttressed porch with single ridge cross finial has a C19 moulded arched entrance. The inner order being supported on engaged colonnettes with moulded capitals and the arch decorated with fleuron. There is a hood mould and label stops over. In the apex, set into a rectangular panel, is a decorative shield with hood mould and label stops. The side walls each have single C19 arched and cusped lights. To the left of that on the east side is a single angel's head carved in shallow relief. Inner round and chamfered arched C12 doorway with impost bands and worn hood mould decorated with billet. Plank door with iron hinges. In the west wall of*

*the aisle is a single quatrefoil set into a circle. The clerestory corresponds to the north. Interior. 4 bay late C13 nave arcades with double chamfered arches. The north arcade has a single central octagonal column, alternating 4 sides of concave moulding with 4 shafts with large moulded capitals. The columns either side each consist of 4 shafts with moulded capitals and the responds of single shafts and moulded capitals. South arcade, rebuilt 1895-6, with wide octagonal west column with nailhead decorated capital. The 2 eastern columns each of 4 shafts with fillets around an octagonal column, the western most with crocket leaf capital and eastern most with stiff leaf capital and further decorated with carved heads. The large octagonal west respond with moulded capital. The east octagonal respond has a projecting corbel decorated with nailhead supporting a foliate decorated capital. The base has 2 spurs. The arch over the west octagonal column has broach stops and there is a hood mould with human head label stops over the 2 eastern most arches. Double chamfered tower arch, the inner order being supported on octagonal responds and moulded capitals. Double chamfered chancel arch the inner order supported on octagonal responds with overhanging moulded capitals and single shaft rings. The south chancel has an arched piscina with remnants of a pedestal piscina with scalloping. The south aisle south wall has an arched piscina. The south aisle south windows have shaped arches. The north wall of the nave and the south wall of the north aisle have some C12 herringbone masonry. Octagonal font on splayed octagonal pedestal with C17 cover. The pulpit, oak chest and altar rails with turned balusters are C17. C14 traceried screen. Fragments of C11 cross shaft. Remaining furniture C19 and C20. Monuments include in the north chancel to Nicholas Lodge, 1612, a plaque with marble surround decorated with fleuron with a skull on the apron and a shield on the crown. There is a brass plaque to Rev. John Edwards, 1804. In the south chancel is a damaged C17 ashlar monument to Luke Williamson, the sides decorated with scrolls and the crown with an angel's head and wings. That to Selina Hempsall, 1750, is flanked by single pilasters, has a decorative apron and is topped with a broken pediment. In the north aisle are fragments of C13 ashlar memorials decorated with stylised crosses with a monument to John Twentyman, 1774, in the north wall, a fragment of decoratively carved ashlar and a fragment of a C13 floor slab decorated with a cross. In the south aisle, west wall, is a monument to John Twentyman, 1705, with segmental arched head. To the right is a small carved fragment. There are the remains of some C13 floor slabs with several C18 floor slabs.'*

The Old Vicarage is grade II listed (LEN 1370183), the building designated in March 1986. The listing description advises;

*'Vicarage. c.1840. Painted brick. Hipped slate roof. 2 red brick stacks. Wide eaves overhang and shallow raised eaves band. 2 storeys, 3 bays. The central single bay slightly projects and is gabled with 3 wooden brackets supporting the eaves overhang. Central doorway with panelled door and glazing bar overhead. The projecting wooden hood is supported on 2 wooden brackets. Either side are single glazing bar sashes with 3 similar sashes above. To the rear is a 2 storey, 3 bay wing.'*

### Assessment of proposal

As an application in the setting a listed buildings a heritage impact assessment should have been included.

The application is to extend the existing grave yard for the church into the neighbouring grazing field that is to the south of the Old Vicarage. The existing boundary between the application site and the Old Rectory is a 2 meter closed boarded fence and therefore they do not have a strong relationship. It is considered that the change in land use will not impact the setting of the adjacent listed buildings.

**NSDC Environmental Health (contaminated land)** - This application is for the creation of a new burial ground. I would advise the applicant to read the DEFRA guidance 'Cemeteries and burials: prevent groundwater pollution' which is available from the following link:

<https://www.gov.uk/guidance/cemeteries-and-burials-prevent-groundwater-pollution>

**NSDC Access and Equalities Officer** – Observations in relation to Building Regulations.

**Historic England** - Thank you for your letter of 13 December 2018 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

**NSDC Archeological Advisor** – The site falls in an area of archaeological potential. Its position close to the church could indicate early medieval settlement may be present here. However more significantly the site is close to a known prehistoric settlement which may extend into this site.

However despite this evidence there is insufficient site specific information at present with which to make any reliable observation regarding the impact of this development upon any archaeological remains. I recommend that further information is required from the applicant in the form of an archaeological evaluation to be considered alongside the application. This evaluation should provide the local planning authority with sufficient information to enable it to make a reasoned decision on this planning application. This evaluation should consist of trial excavation.

'Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publically accessible.' Policy 199 National Planning Policy Framework (2018)'

Although this is a small site the potential is high and should permission for these proposals be granted it would not be appropriate to undertake any archaeological work that does not evaluate the land and, if appropriate deal with any archaeology, well in advance of the land being used as a burial ground.

**Environment Agency** – The Agency has no objections to the proposed development but wishes to make the following comments.

This planning application proposes a small scale extension to an existing cemetery. The geology of this area consists of superficial sand and gravel deposits and alluvium, overlying the Gunthorpe Member of the Mercia Mudstone group. At this location, the superficial deposits are classified as a Secondary A aquifer, whilst the mudstone bedrock is classified as a Secondary B aquifer.

Secondary A aquifers comprise permeable layers that can support local water supplies, and may form an important source of base flow to rivers. Secondary B aquifers are mainly lower permeability layers that may store and yield limited amounts of groundwater through characteristics like thin cracks (called fissures) and openings or eroded layers.

The Environment Agency has published online webpage guidance on cemeteries and burials to ensure groundwater pollution does not occur. We recommend that the applicant familiarises themselves with this guidance by following the link to the .gov website below.

<https://www.gov.uk/guidance/cemeteries-and-burials-prevent-groundwater-pollution>

In particular, we draw the applicant's attention to the points below, which must be adhered to during the course of the development:

A burial site must be:

- at least 250 metres from any well, borehole or spring supplying water for human consumption or used in food production – for example at farm dairies
- at least 30 metres from any spring or watercourse not used for human consumption or not used in food production
- at least 10 metres from any field drain, including dry ditches
- have at least 1 metre clearance between the base of the grave and the top of the water table – they shouldn't have any standing water in them when dug

It should be noted that, if at any point in the future additional extensions are proposed, further information such as environmental risk assessments may be required, as we must consider the cumulative impact of multiple small scale extensions

**NCC Highways** - This application is for the change of use of grazing land to provide an extension to the existing burial ground. This is not expected to have a significant impact on the public highway, therefore, there are no highway objections.

**No letters of representation have been received.**

### Comments of the Business Manager

#### *Principle of Development*

The settlement hierarchy for the district is set out in Spatial Policy 1, whilst Spatial Policy 2 deals with the distribution of growth for the district. This identifies that the focus of growth will be in the Sub Regional Centre, followed by the Service Centres and Principal Villages. At the bottom of the hierarchy are 'other villages' which do not have defined built up areas in terms of geographically defined village boundaries. Given its location in a rural area, the site falls to be assessed against Spatial Policy 3 of the Core Strategy. The policy states that '*Beyond Principal Villages, proposals for new development will be considered against the following criteria*' then lists location, scale, need, impact and character for consideration. It goes on to say that development away from the main built-up areas of villages (i.e. outside of the village and therefore in the open countryside) will be strictly controlled and restricted to uses which require a rural setting and directs readers to the Allocations and Development Management DPD for policies that will then apply.

Whilst the site is immediately adjacent to the village Church and the associated Vicarage, the positioning of the site in my view constitutes open countryside warranting assessment against Policy DM8. This policy of the Allocations and Development Management DPD sets out criteria to deal with applications in the open countryside.

The change of use to a burial ground does not fit neatly within any of the types of development outlined by Policy DM8. The category of development it aligns closest with would be the allowance for 'Community and Leisure Facilities.' Policy DM8 does not define community facilities but Spatial Policy 8 of the Core Strategy in relation to the protection of existing community facilities confirms that places of worship are included within the definition. Again there is no explicit mention of burial grounds but it is a logical conclusion that a burial ground in connection with an existing place of worship would extend an existing community facility.

Policy DM8 confirms that community and recreational uses requiring land in the countryside will be supported on sites in close proximity to settlements which this application would conform with. It goes on to require proposals to demonstrate that they would meet the needs of communities and in particular any deficiencies in current provision. This proposal would allow an extension of the existing adjacent burial ground and the additional space is required to meet the needs of the community. The benefit to the community is that the Church would be able to accommodate for additional burials allowing family members to pay their respects within their village without having to secure burial plots elsewhere.

The NPPF only discusses burial plots in the context of Green Belt development. Clearly this would not be relevant to the current application however it is an interesting point that the NPPF does acknowledge that burial grounds could be an appropriate form of development in the Green Belt. The relevance being that the aims of the Green Belt policy are to keep land open.

On the basis of the above discussion, when taking a pragmatic approach to the wording of Policy DM8, the proposal is considered to conform to the policy and constitute an appropriate form of development within the open countryside.

#### *Impact on Character including Heritage Setting*

Policy DM5 refers to the rich local distinctiveness of the District's character of built form requiring new development proposals to reflect their local surroundings. Policy DM5 also confirms that, where local distinctiveness derives from the presence of heritage assets, as in the case in the context of this proposal, development will also need to satisfy Policy DM9. The policy requires that development must promote local distinctiveness and protect heritage assets (including their setting). Policy DM9 of the DPD also states that where proposals are likely to affect sites of significant archaeological potential, the applicant is required to submit an appropriate desk based assessment and, where necessary a field evaluation. This is mirrored by paragraph 189 of the NPPF.

The proposed use is relatively low key which would allow for the retention of a largely rural character to the site. Although it is likely that the site will feature gravestone to mark the individual plots these would be modest in their size and in any case would assimilate well with the burial ground on the adjacent land surrounding the Church.

The adjacent Church is Grade I listed and there is also a Grade II listed building (The Vicarage) adjacent to the site. Thus whilst the site itself does not contain designated heritage assets, it does demonstrate the potential to affect the setting of designated heritage assets. In line with the Procedure Order, Historic England have been consulted on the application owing to the fact that the development has the potential to affect the setting of a Grade I listed building. Historic England has confirmed that they do not wish to offer any comment specific to the scheme. Equally NSDC Conservation Officers have confirmed that the change in use of the land will not impact upon the setting of the adjacent listed buildings.

However, as is referenced by the consultation section above, the Council's independent Archeological Advisor has confirmed that the site falls in an area of archeological potential being close to a known prehistoric settlement which may extend into the site. The Scheduled Ancient Monument (SAM) marked boundary of Rolleston Manor is some 240m north east of the site. The comments of the Archeological Advisor go on to request further information which has been passed to the applicant during the life of the application.

In response to the request the applicant has submitted a Planning Statement and Heritage Impact Assessment during the life of the application (stated as being an omission from the original application submission). The document identifies the presence of the SAM but does not advance to a discussion as to how / if the development would affect any archeological potential of the site. The Archeological Advisor has provided advice to the applicant in respect to the recommended trial trenching works confirming the importance of evaluating the site in order to work out a mitigation strategy if necessary prior to the site being used as a burial ground. However, the applicant has confirmed by email dated 29<sup>th</sup> January 2019 that they will not be undertaking the trial trenching works due to insufficient funds.

Although this is a small site, weight must be attached to the professional views of the Council's Archeological Advisor that there is a potential of archeological value. Clearly it would not be reasonable (or indeed enforceable) to condition archeological works at the time of each grave being dug. Thus in the absence of an appropriate archeological assessment prior to the determination of the application, the impact of the development on the significance of heritage assets of archaeological interest is not able to be evaluated and it is not a matter that could be left to a pre-commencement planning condition. In this respect, the proposal is therefore contrary to Core Policy 14 of the Core Strategy, Policy DM5 and Policy DM9 of the Allocations and Development Management DPD as well as paragraph 189 of the NPPF.

#### *Impact on Flooding and Groundwater*

The site is within Flood Zone 2 according to the Environment Agency maps. The NPPF adopts a Sequential approach to flood risk with the overall aim of directing development to areas at the lowest risk of flooding (Flood Zone 1). However, paragraph 164 of the NPPF states that applications for minor development (to which this application would be) should not be subject to the sequential or exception tests but should still meet the requirements for site specific flood risk assessments set out in footnote 50. The application has been accompanied by a Flood Risk Assessment which confirms that burial grounds are considered as a less vulnerable use in Flood Risk terms and therefore the proposal is appropriate development in Flood Zone 2.



The use of land for burials is required to meet strict environmental conditions established by the Environment Agency in order to safeguard against groundwater pollution. The comments of the Environment Agency listed above confirm that there are no objections to the proposed development but does offer additional comment in respect to the geology of the area and Environment Agency online guidance for cemeteries. I consider it would be useful to add this information as an informative if permission were to be forthcoming.

#### *Impact on Highways*

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities. It is notable that the proposal does not include provision for car parking and indeed the existing adjacent Church is not served by car parking spaces. However, the area of land affected by the change of use is modest. Moreover, the nature of the development is likely to lead to infrequent and irregular vehicular visits which are not considered to amount to a materially different highways impact than established by the existing Church and burial ground. This is acknowledged by the Highways Authority who have confirmed that they do not anticipate a significant impact on the public highway.

#### *Impact on Amenity*

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The closest neighbor to the site is The Vicarage to the north. Given the very low level of activity proposed on the site, and taking into account the solemn nature and short time span of the activities taking place I do not consider that significant issues of disturbance would arise.

#### *Overall Balance and Conclusion*

Although not being explicitly referenced by Policy DM8, it is considered reasonable to conclude that the proposed burial ground would form a community facility which would serve the adjacent village of Rolleston in support of the existing Church. The low key nature of the development ensures that there would be no significant impacts on the character of the area or the amenity of neighbouring residents. Whilst there is the potential for some disturbance to the highways network through parked vehicles, this would be infrequent and indeed not materially different from the situation which exists through the operation of the existing Church.

However, the applicant has failed to demonstrate through appropriate trial trenching whether or not the proposal would have an adverse impact on the significant archeological potential of the area. Its position close to the church could indicate early medieval settlement may be present at the site and more significantly the site is close to a known prehistoric settlement which may extend into this site. The lack of appropriate assessment as required by paragraph 189 of the NPPF and Policy DM9 must be afforded significant weight which in Officers view tilts the overall balance to a recommendation of refusal as outlined below.

## **RECOMMENDATION**

### **That planning permission is refused for the following reason:**

The site lies in an area of archaeological potential. Its position close to the church could indicate an early medieval settlement may be present at the site and more significantly the site is close to a known prehistoric settlement which may extend into this site. No archaeological desk-based assessment and field evaluation has been submitted with the application, in accordance with paragraph 189 of the NPPF and Policy DM9 of the Allocations and Development Management DPD. The applicant has failed to demonstrate what impact the proposals would have on heritage assets of archaeological interest. In the absence of any assessment, the proposal is contrary to Core Policy 14 (Historic Environment) of the Core Strategy (adopted March 2011), Policy DM9 (Protecting and Enhancing the Historic Environment) of the Allocations and Development Management DPD (adopted July 2013) and the National Planning Policy Framework (2018) a material planning consideration.

### **Notes to Applicant**

01

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. The applicant has confirmed that they do not wish to submit trial trenching which could potentially overcome the reason for refusal.

### **Background Papers**

Application case file.

For further information, please contact Laura Gardner on ext. 5907.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Director – Growth & Regeneration**

Committee Plan - 18/02001/FUL



