

PLANNING COMMITTEE – 2 JULY 2019

Application No:	16/01900/FULM	
Proposal:	Proposed new multi-faith (non-denominational) burial ground at Badgers Field, Bishop's Drive, Southwell	
Location:	Land At Memorial Drive Southwell Nottinghamshire	
Applicant:	Mr Chris Gascoine	
Registered:	14th November 2016	Target Date:13th February 2017
	Extension of Time Agreed until 5th July 2019	

This application is being referred to the Planning Committee given the officer recommendation of refusal on ecology grounds is contrary to Southwell Town Council's support.

The Site

This application relates to 1.25 hectares of vacant land known as Badgers Field bounded by mature hedgerow. The site is located adjacent to an existing cemetery to the east, sports and recreation facilities to the north and Minster School playing fields to the west with agricultural land to the south.

The site falls within an area identified as a Main Open Area for Southwell and within an area of land identified as a Strategic Landscape Buffer within the proposals map of the Allocations and Development Management DPD.

The site also falls just to the southern boundary of the Southwell Conservation Area. The majority of the site falls within Flood Zone 1, although a small section of the site to the northern boundary (circa 0.0023ha) falls within Flood Zone 2. A public right of way adjoins the eastern boundary which then cuts south-west across the site (Southwell Footpath 7).

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 to a multi denominational burial ground in the northern section of the site together with an area for green burials in the southern part of the site in order to meet a need for such a facility in the settlement.

The proposed burial ground would be accessed from Westgate along Bishops Drive and then Memorial Drive, an unadopted road which serves a recreation ground, a playground and car park and the existing cemetery.

The proposed development would comprise a walkway constructed of permeable materials. The existing PROW would be fenced.

A canopied gated access would be formed at the access to the site which would reflect the design, appearance and scale of the existing gated access to the adjacent cemetery to the east. This would have a maximum height of circa 4.5m, a width of 4.7m and depth of 4.9m. The gates would be solid wood with a height of 1.3m.

The application has been assessed on the basis of:-

- Proposed Site Plan drg. no. 244 2016 02
- Proposed Entrance canopy drg. no. 244 2016 03
- Revised site location Plan deposited 20.12.16
- Revised PROW Plan deposited 20.12.16
- Ecological Appraisal (Peak Ecology Consultants dated 26.09.16)
- Flood Risk assessment (FRA) (envireau water dated November 2016)
- Heritage Desk Based Assessment (Cotswold Archaeology dated October 2016 part 1 and part 2)
- Planning Support Statement (November 2016)
- Transport assessment (AECOM dated October 20116)
- Revised Applications form deposited 20.12.16

Departure/Public Advertisement Procedure

Occupiers of 37 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

Southwell Neighbourhood Plan (2015-2026)

Policy SD1 – Delivering Sustainable Development
Policy E3 – Green Infrastructure and Biodiversity
Policy TA4 – Parking Standards
Policy CF1 – Identified Assets
Policy CF2 – Green and Open Spaces and Burial Grounds

Newark and Sherwood Core Strategy DPD (adopted March 2019)

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

Southwell Town Council - Comments received 12.01.17 - Support the proposal

Comments received 08.12.16 - Support the proposal

Southwell Civic Society - Comments received 03.01.17

We have no objection to this application subject to there being a full archaeological survey.

NSDC Conservation - Comments received 15.12.16

The site identified for a potential extension to the burial grounds is directly adjacent, but not in, the Southwell Conservation Area. It abuts the Minster Character Area, as identified in the Southwell Conservation Area Character Appraisal.

Development in this area has the potential to affect the setting of the Conservation Area as well the landmark listed structures of Holy Trinity Church and the Minster. Having visited the site and looked at the Southwell Landscape Setting Study, in conjunction with the nature of the development proposed, I do not believe the proposed development is likely to affect the setting of the Archbishop's Palace, the Workhouse or any other listed building.

The site sits between the existing cemetery and the playing fields of the Minster School. The land slopes gently uphill away from the town and has a quite strong green boundary around it. The site is historically located within land once comprising the Archbishop's medieval hunting park. This is expressed today within the large amount of open land in this area in the form of public parks, the school grounds and the fields leading up to Brackenhurst.

The contribution of the field to the setting of the Conservation Area and main heritage assets is as a part of the general greenery and open land which surrounds Southwell and forms part of its important landscape setting. Running through the site is a footpath which provides attractive views back towards the town and its main heritage assets. The importance of this viewpoint has been identified in the Southwell Landscape Setting Study (Nov 2013) and is identified as View 4 on Figure 8 in this report. From this path views are offered in one direction towards the spire of Holy Trinity with the Minster School in the foreground, and in another direction towards the tower and spires of the Minster. The significance of Southwell Minster in this view is identified as its central position within Southwell, its dominance within the landscape and the contribution of the former

deer park within the wider setting of the Minster. Similarly I would also identify that the importance of Holy Trinity in this view as being its dominance over the surrounding townscape. There are also attractive views back to the heritage assets of Southwell from Crink Lane, which may well take in the proposal site in the foreground.

The existing burial ground directly adjacent gives a reasonable impression of what this site would look like if developed for a burial ground. The adjacent site has retained a strong green border and despite repeated graves has a largely green, open and informal character, although it is accepted that the whole area probably greens over with time.

I think if these qualities were replicated at the adjacent site there would be no harm to the setting of the Conservation Area or any of the identified designated heritage assets by this proposal. In height the development would be so low that it would not create structures to rival or block the landmark structures and they would retain their dominance in the views. If the site remained predominantly green in general ground cover and borders then the sense of open land relating to the former deer park would also be retained. The overall sense of the rural setting of Southwell and its heritage assets would also be maintained. In this respect I believe the proposal will comply with the So/PV policy specific to Southwell views.

I have also considered the proposed new entrance canopy; as this is a largely permeable, mostly open structure and to be located on lower land at the town end of the site, it will not urbanise the site in any way. If this mirrored the appearance of the canopy of the existing cemetery this would be acceptable.

The potential for archaeological remains have been flagged up in the Heritage Statement and hopefully the County Council can provide comments in relation to archaeology.

Subject to conditions securing the low scale of grave structures (unless this is already secured under permitted development rights?), an overall green and natural surface treatment, a green and natural boundary treatment and a similar treatment of the proposed canopy to that existing on the adjacent site, then I have no objection to this application, which I think will preserve the setting of the various heritage assets of Southwell.

Natural England- Comments received 10.01.17

Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision

making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at

<https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

Nottinghamshire Wildlife Trust- Comments received 24.01.17

We'd recommend that the required Great Crested Newts survey work is undertaken prior to determination, in accordance with circular 06/05 this will help to inform any necessary mitigation to avoid impacts during works.

Comments received 25.01.17:

Regarding GCN, full standard survey methodology includes six survey visits mid-March to mid-June, with half of the surveys completed between mid-April and mid-May. If the applicant decides to start with eDNA sampling (a positive result would mean additional survey work would then be required), the survey window is mid-April - end June as Government advice regarding timing for eDNA surveys is as follows:

Environmental DNA surveys

You can use eDNA surveys to find out if newts are present and whether to conduct population size class surveys on ponds and other waterbodies.

Make one visit in the daytime, during the period when the newts are likely to be present (this depends on location and conditions like the weather). Natural England will only accept eDNA survey results from samples collected between 15 April and 30 June each year. Follow the methods in the technical report that accompanies Defras research project into eDNA, and use quantitative polymerase chain reaction testing

More detail can be found at <https://www.gov.uk/guidance/great-crested-newts-surveys-and-mitigationfor-development-projects>

NSDC Environmental Health (contaminated land)

Comments received 03.01.17 - No additional comments in relation to this latest consultation. Please refer to my comments 16.11.16

Comments received 16.11.16:

This application falls outside the scope of Environmental Health and protection of human health. However there are potential risks to the water environment from burial grounds and cemeteries, I would therefore refer the planning officer and future operator of the site to the Environment Agency publication on this subject which is available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290462/scho04_04bg_la-e-e.pdf

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.

Archeological Advisor - Comments received 03.01.17:

I am pleased to see that the archaeological issues are understood and taken seriously. I am aware of the need for the development and I also appreciate the current state of the site. The agent has suggested geophysical survey followed by trial trenching. Trial trenching is a technique for evaluating buried archaeological remains, not for mitigating the impact of a development on those remains. So, if we are to sort the archaeological issues out post determination I would recommend we specify that there will be evaluation followed by suitable mitigation measures. Gedling have used this condition to achieve the necessary;

“No development shall take place within any phase of the site until the applicant has secured the implementation of a programme of archaeological work for the relevant part in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The WSI shall include:

- the results of a geophysical survey
- the statement of significance and research objectives
- the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- the programme for further mitigation, post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material.”

Comments received 20.12.16:

The site is a relatively short distance away from the substantial Roman buildings which underlay the old Minster School. This is recognised by the Heritage assessment. So although no archaeological remains are currently known from the application site, this does not mean the site has no archaeological potential. Accordingly I recommend that the applicants be requested to provide additional information before the application is determined, in the form of a geophysical survey of the site. This is a cost effective way of assessing the site’s potential, and the work may demonstrate that an archaeological field evaluation in the form of trial trenching is required, which again may need to be completed in advance of a planning determination.

Nottinghamshire County Council Lead Local Flood Authority - Comments received 11.06.19

I cannot see any issues for surface water flooding from these proposals at all.

Environment Agency - Comments received 03.01.17

I have no further no comments to add to my letter dated 28 November 2016.

Comments received 28.11.16:

I refer to the above application which was received on the 15 November 2016.

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

The site is underlain by superficial geology of Glaciolacustrine deposits (clays and silts) classified by the Environment Agency as a Secondary (undifferentiated aquifer) which are in turn underlain by solid geology of the Radcliffe Member (mudstone) classified as a Secondary (B) aquifer. There are no groundwater receptors in the vicinity of the proposed site.

The Potwell Dyke lies immediately to the north of the site. As such we would like to provide the following information to the applicant.

- No burials shall take place within 30 metres of any spring, ditch or watercourse.
- No burials shall take place within 250 metres of any well, borehole or spring used for potable supply. The applicant will need to satisfy themselves that there are no private water supplies within 250m of the proposed burial ground. The local authority environmental health department should have up to date information on this.
- No burials shall take place in saturated ground.

Trent Valley Internal Drainage Board - Comments received 06.01.17

No further observations further to our letter dated 1st December 2016.

Comments received 01.12.16:

The site is outside of the Board's district but within the extended catchment area.

There are no Board maintained watercourses in close proximity to the site.

The Board are aware of substantial flooding in Southwell in recent years which should be considered by your Authority and the Lead Local Flood Authority when determining the application.

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

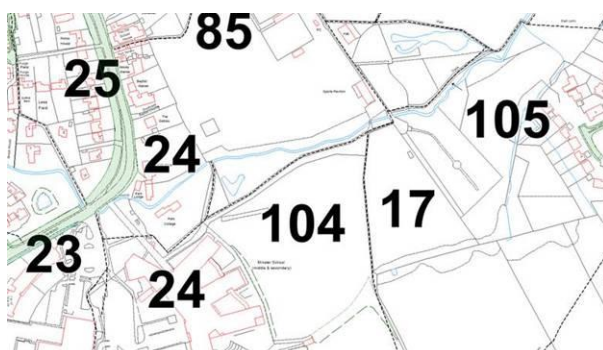
NCC Highways - Comments received 11.06.19

This application is for the provision of a burial ground off Memorial Drive adjacent the existing cemetery. This is a private drive off Bishops Drive and is a Public Right of Way (footpath). The Transport Statement submitted states that an average of 30 burials per year are expected (Paragraph 2.6). There is an existing car park approx. 100m from the application site which can accommodate approx. 30 vehicles and is used jointly by Southwell Memorial Park, Southwell Scouts and visitors to the existing cemetery.

Taking into account the expected low number of vehicles expected for this proposal, the Highway Authority would not wish to raise objection. It is strongly recommended that the Rights of Way Officer for VIA/NCC be consulted for advice/approval prior to any permission being granted.

NCC Rights of Way - comments received 13.06.19

There is lots of confusion but the path was diverted by NSDC under a TCPA for Southwell Minster for new playing fields which have never been built. The order was ultra vires (not completed properly) as the owners of the land had not been consulted and NSDC have diverted it back to the original line which is as per the plan below and takes the footpath outside of the application site. The order has been recently confirmed by your legal team. As it is not in the application site we do not have any comments to make.



Comments received 25.11.16:

The line of Southwell Footpath No. 17 is incorrectly shown on the application plan. Please contact Nottinghamshire County Council Rights of Way Section for a plan showing the correct route.

Comments received 23.11.16 and 02.12.16:

Southwell public footpath 17 runs in an East-West direction towards the Southern boundary of the site. Unrestricted public access should be maintained at all times. The applicant should consult the Rights of Way team to establish the exact line of the path and discuss any restrictions prior to planning the layout of the site.

Nottinghamshire Ramblers - Comments received 20.01.17

Our comments on this application remain as those made in our previous submission dated 03/12/16. Also, may we draw your attention to the comments made by the Rights of Way Section at NCC dated 25/11/16 pointing out the line of Southwell Footpath No.17 is incorrectly shown on the application.

Comments received 03.12.16:

This site is crossed by Southwell Footpath 17 which was blocked earlier in the year with fencing and barbed wire. An unauthorised diversion was set up but the path was restored to its correct line after local residents alerted Nottinghamshire County Council.

It is reassuring that the application acknowledges the existence of this right of way but is essential that during and after any development unrestricted access is maintained to Southwell FP 17. Any

fencing of the footpath to separate it from the cemetery must be carried out to the satisfaction of NCC's Rights of Way Team.

Nottinghamshire County Council Policy - Comments received 20.12.16:

Thank you for your letter dated 6th December 2016 concerning the revisions as set out above. I have consulted with my colleagues across relevant divisions of the County Council and have the following comments to make specifically on the change, in addition to those made by the County Council at previous stages. Unless otherwise stated, comments made during previously still stand. These comments have been agreed with the Chairman of Environment and Sustainability Committee.

Minerals and Waste

The adopted Nottinghamshire and Nottingham Waste Core Strategy (adopted 10 December 2013) (full title Nottinghamshire and Nottingham Replacement Waste Local Plan, Part 1: Waste Core Strategy) and the saved, non-replaced policies of the Nottinghamshire and Nottingham Waste Local Plan (adopted 2002), along with the Nottinghamshire Minerals Local Plan (adopted 2005) (and emerging replacement plan) form part of the development plan for the area. As such relevant policies in these plans need to be considered.

In relation to the Minerals Local Plan, the proposed site is not in close proximity to any existing or proposed mineral extraction allocation sites. However, the site lies within a Mineral Safeguarding and Consultation Area for brick clay. In line with the National Planning Policy Framework (paragraph 143) the Minerals Local Plan (Submission Draft, consultation Feb 2016) sets out a policy (DM13) concerning these areas. Although not yet adopted, its provisions should be given some weight as a material consideration (in line with NPPF paragraph 216) as the plan is at a fairly advanced stage. As it currently stands, DM13 requires that applicants for planning permission to demonstrate that the non-minerals development will not unnecessarily sterilise the mineral resource in the area. Where this cannot be demonstrated, or where the need for the non-mineral development is clear and demonstrable, the County Council would require that the practicality of prior extraction be fully investigated.

There are two brick works within the County, at Kirton and Dorket Head (Arnold). A recently permitted extension to Dorket Head means that the site now has reserves sufficient until 2034. This does not provide the 25 year landbank as set out in the National Planning Policy Framework, however, the operator has not identified any further reserves for allocation as part of the development of the Minerals Local Plan. An extension to Kirton is allocated in the Minerals Local Plan Submission Draft which provides reserves sufficient to provide more than a 25 year landbank.

Given the location of the development, close to existing residential properties and the current situation at the two existing brick Works, the County Council is of the opinion that the proposed non-minerals development would not be inappropriate in this location providing there is a sound argument that identifies a clear and demonstrable need for the non-minerals development. However, the County Council would expect the applicant to demonstrate that they have considered the practicality of prior extraction. This is particularly pertinent in this instance given the nature of the mineral. Guidance on this can be given through contact with the Planning Policy Team at the County Council (development.planning@nottsc.gov.uk). The prior extraction of the brick clay has the potential to not only prevent the sterilisation of the mineral, but may also be of benefit to the developer.

In terms of the Waste Core Strategy, there are no existing waste management facilities in close proximity of the proposed development to raise any issues in terms of safeguarding our existing waste management facilities (as per Policy WCS10 of the Waste Core Strategy). The County Council would be keen to see the best practice of waste management for the development. As set out in Policy WCS2 of the Waste Core Strategy, the development should be 'designed, constructed and implemented to minimise the creation of waste, maximise the use of recycled materials and assist the collection, separation, sorting, recycling and recovery of waste arising from the development.'

Transport and Flood Risk Management

The County Council as Highway Authority and Local Lead Flood Authority is a statutory consultee to Local Planning Authorities and therefore makes separate responses on the relevant highway and flood risk technical aspects for planning applications. In dealing with planning applications the Highway Authority and Local Lead Flood Authority will evaluate the applicants proposals specifically related to highway and flood risk matters only. As a consequence developers may in cases where their initial proposal raise concern or are unacceptable amend their initial plans to incorporate revisions to the highway and flood risk measures that they propose. The process behind this can be lengthy and therefore any initial comments on these matters may eventually be different to those finally made to the Local Planning Authority. In view of this and to avoid misleading information comments on planning applications made by the Highway Authority and Local Lead Flood Authority will not be incorporated into this letter. However should further information on the highway and flood risk elements be required contact should be made directly with the Highway Development Control Team and the Flood Risk Management Team to discuss this matter further with the relevant officers dealing with the application.

Archaeology

The site is a relatively short distance away from the substantial Roman buildings which underlay the old Minster School. This is recognised by the Heritage assessment. So although no archaeological remains are currently known from the application site, this does not mean the site has no archaeological potential. Accordingly NCC recommend that the applicants be requested to provide additional information before the application is determined, in the form of a geophysical survey of the site. This is a cost effective way of assessing the site's potential, and the work may demonstrate that an archaeological field evaluation in the form of trial trenching is required, which again may need to be completed in advance of a planning determination.

Travel and Transport

Due to the nature of the planning application and the closest bus stops being within a sensitive conservation area it is unlikely that we would be able to carry out any improvements. The bus stops (NS0162 and NS0763) are in an area very close to the Minster and are set on a narrow footway fronting dwellings which have limited or no off street parking. With this in mind Transport and Travel Services will not request any improvements at this time.

Developer Contributions

Should the application proceed, the County Council will seek developer contributions in relation to its responsibilities in line with the Council's adopted Planning Obligations Strategy and the Developer Contributions Team will continue to work with the applicant and the Local Planning Authority to ensure all requirements are met.

It should be noted that all comments contained above could be subject to change, as a result of ongoing negotiations between the County Council, the Local Planning Authority and the

applicants. These comments are based on the information supplied and are without prejudice to any comments the County Council may make on any future planning applications submitted for this site.

NSDC Access and Equalities Officer - Comments received 05.01.17:

There are no further observations beyond those previously advised.

Comments received 29.11.16:

It is recommended that the developer be advised to give consideration to inclusive access and facilities all people, with particular reference to disabled people as part of the proposals. Independent access from the edge of the site and around the cemetery should be carefully considered together with provision of suitable facilities which are accessible and can be used by all people. (e.g. gates that are easy to open and negotiate, carefully designed seating with arms to allow visitors to sit and rest, space for wheelchair users alongside and baby buggies etc.) It is further suggested that any pathways be of an adequate width and surfaced using a suitable material that is compact/firm, stable, non-slip and obstacle free to permit inclusive access around the site. It is recommended that any parking arrangement include provision for disabled motorists. It is further advised that the developer's attention be mindful of the provisions of the Equality Act.

Five letters of representation have been received from local residents/interested parties which raise the following concerns:-

- Acknowledgment of the need for burial space in Southwell is made;
- Impact on protected species - There are badger setts and substantial badger activity on this site and in the area – local authorities are not obliged to provide burial facilities;
- A license would be required for removal of any setts – no mention is made of this in the application. NWT and other such organisations should be notified before any consideration is given. Relocation and maintenance would be extremely difficult to achieve or maintain;
- There are errors in the technical survey carried out by Envireau Water deposited with the application in terms of geology;
- There are also defects in the Cotswold Archaeology's Heritage Desk Based Assessment – no reference is made to the Potwell Dyke Flood Plain;
- There is fly tipping in the area;
- This is an unsuitable site – alternative sites have not been objectively evaluated;
- Concern over water pollution;
- Guidance from the EA would not have favored the existing cemetery had it been available at the time – not sensible in terms of rotting corpses/cadavers to be placed in waterlogged ground;
- Details of land registry titles and land ownership have been forwarded to the Council.

Comments of the Business Manager

Principle of Development

The NPPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types

of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 11th October 2016 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.

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.

The site falls to the southern edge of the built up area of the settlement with open countryside to the south, south-east and south-west. As such it is considered that it falls within open countryside and therefore the proposal is assessed against Policy DM8 of the Development Management DPD. 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 additional burial ground to that which exists on an adjacent site. It is noted that the SNP identifies a need for the additional space in order to meet the needs of the settlement and as such this would be a benefit to the community. Indeed Policy CF2 of the SNP states that in a general sense *'Development proposals and/or schemes which help address the deficiency of burial ground facilities within the ecclesiastical parish of Southwell will also be looked upon favourably.'*

The site falls within an identified Main Open Area of Southwell as identified by Policy So/MOA in the ADMDPD. As such this site specific policy provides that planning permission would not normally be granted for built development in this location. The site also falls within an identified Strategic Landscape Buffer which provides a landscape transition between the built up area of the settlement and the open countryside to the south. However, officers are mindful of the subtext of Policy CF2 of the Southwell Neighbourhood Plan which although acknowledges the importance of maintaining green open space within the town also identifies the need to encourage the provision of an additional burial ground in the settlement.

On the basis of the above discussion, when taking a pragmatic approach to the wording of Policy SP8, DM8 and CF2, the principle of the proposal is considered to conform to the policy and constitute an appropriate form of development.

Impact on Character including Heritage Setting

In accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'), special regard must be given to the desirability of preserving the special architectural and historic interest of listed buildings, including their setting. In this context, the objective of preservation means to cause no harm, and is a matter of paramount concern in the decision making process.

Paragraph 193 of the NPPF provides that 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, and the more important the asset, the greater the weight should be.

Paragraph 194 of this document adds that any harm to or loss of a designated heritage asset would require clear and convincing justification.

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. This 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 and open character to the site. It is noted that a gateway entrance is proposed at the entrance to the burial ground, which would reflect the existing gateway at the entrance to the adjacent burial ground which is modest in scale and of appropriate design for its heritage setting. Although it is likely that the site will feature gravestones to mark the individual plots these would be modest in their size (which can be secured by condition) and would reflect the character of the adjacent burial ground

The 3rd party comments received from a local resident in relation to archaeological interests are noted. As is referenced within 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 the substantial Roman buildings which underlay the old Minster School. The Heritage Statement deposited with the application concludes that no heritage assets were recorded within the site. However given that the site formed part of the wider estate of the roman villa to the north east there is potential for buried agricultural remains which could be of local or regional significance.

Although no archaeological remains are currently known from the application site, the archaeological consultant is of the view that this does not mean that the site has no archaeological potential and has recommended that a geophysical survey of the site is undertaken and the results are submitted to the Local Planning Authority for consideration. The latest comments received advise that this could be secured by condition should permission be granted which is considered a reasonable approach.

Subject to condition, the proposal is therefore considered to comply with policies CP14 of the

Amended Core Strategy, policies DM9 and DM5 of the AMDDPD and DH3 of the Southwell Neighbourhood Plan.

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). This is reflected in the Development Plan, including DM5. However, paragraph 164 of the NPPF states that applications for minor development or changes of use (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 Lead local Flood Authority has raised no issues with regards to surface water flooding. The Environment Agency has advised that the proposed use as a burial ground would fall within a less vulnerable use within the Flood Risk Vulnerability Classification.

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, restrictions in terms of the location of burials. There is also 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.

In conclusion there are no grounds for refusal in terms of flood risk.

Ecological Impact

Policy E3 of the SNP requires that development proposals must aim to protect and enhance sites as well as complying with Natural England Standing Advice for Protected Species. It goes on to say that 'Where it is apparent or becomes apparent during the course of a planning application that a site has significant ecological value, development proposals must include a base line assessment of the habitats, species and overall biodiversity value for the site, where appropriate, expressed in terms of the biodiversity accounting offsetting metric, advocated by the Department for the Environment, Food and Rural Affairs (Defra), proportionate to the size of the development. The assessment must demonstrate how biodiversity will be conserved and enhanced by the development...Where the loss of habitat cannot be avoided, the proposal should include appropriate offsetting to create a compensatory habitat to ensure that there is no loss of biodiversity...Development proposals that fail to mitigate or compensate for loss of important habitat for wildlife species will not normally be granted planning permission....As part of development proposals, provision should be made for the long term maintenance of any retained or created habitats, existing historic landscape or ecologically valuable vegetation and buffer strip provisions.'

Core Policy 12 states that the Council will seek to conserve and enhance the biodiversity of the

District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Policy DM7 supports the requirements of Core Policy 12 and states that development proposals affecting sites of ecological importance should be supported by an up to date ecological assessment.

The NPPF incorporates measures to conserve and enhance the natural and local environment, including through Chapter 15. Paragraph 175 of the NPPF requires that in determining planning applications LPA's should apply principles relating to, amongst other matters, appropriate mitigation and opportunities to conserve or enhance biodiversity.

The site currently comprises trees, hedgerow, scrub and improved grassland. A Preliminary Ecological Survey has been undertaken in 2016 and deposited with the application. This found evidence of some protected species on the site. Impact on badgers has been assessed and the Survey notes that measures must be put in place to ensure legal compliance with the Wildlife and Countryside Act (1981) and the Protection of Badgers Act (1992). A number of recommendations have been made in the applicants own surveys including the requirement for some additional surveys of badgers and greater crested newts. Mitigation measures noted within the Survey include tree protection, clearance of invasive non-native species, avoidance of vegetation clearance during bird breeding season, the provision of a dark corridors for bats, the undertaking of good working practices in relation to hedgehogs and the implementation of a management plan to aid and enhance the site for wildlife.

The comments of the Wildlife Trust are noted with regards to Great Crested Newts (GCN) in that they requested that the required GCN survey work should be undertaken prior to determination of the application in accordance with Circular 06/05 in order to identify any necessary mitigation required to avoid impacts during works.

Additional surveys have been repeatedly requested from both the agent and the applicant on numerous occasions during the lifetime of this application but these have never been nor appear likely to be forthcoming.

Furthermore I am mindful that the Ecology Survey deposited with the application was produced in 2016 and would now be considered to be out of date given the length of time that has elapsed whilst awaiting the additional surveys.

The NPPF states at paragraph 175 that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Equally I am note that paragraph 99 of Government Circular 06/2005 states that:

"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances..."

Being mindful of the status of the ecology survey submitted with the application and in the absence of appropriate additional survey works prior to the determination of the application on protected species (including the Greater Crested Newt, a European protected species) which are

protected by law, officers are not able to properly evaluate ecological impact (and by the applicants own submission suggests there is likely to be one) and this is not considered to be a matter that could be left to a pre-commencement planning condition.

As such the proposal fails to demonstrate that the impacts on the ecological value of the site would be acceptable and is unable to demonstrate that the impact can be mitigated or compensated for, contrary to the Development Plan and to material planning considerations.

Impact on Highways

Policy TA4 states that non-residential development must take into consideration accessibility, the type of development, availability of public transport and the number of visitors at peak times in determining the acceptability of proposed parking. It goes on to say that all new parking must be designed to ensure that it is in keeping with the local character of Southwell. A mixture of different types of parking will be fully supported providing it is kept within the confines of the site and does not overspill onto neighbouring streets. 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.

A Transport Statement has been deposited with the application which outlines that it is expected that the proposed burial ground would accommodate approximately 30 services per year (less than 1 a week) and that the level of traffic generated would not significantly increase beyond that currently experienced. There is a car park some 120m from the site which provides 34 spaces (which includes 4 disabled spaces).

I note the comments of the Highway Authority. Given the proximity of the public car park to the north and the low number of vehicles expected to access the site it is not considered that the proposal would raise any highway safety issues.

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 residential properties to the site are along Bishop Drive some 270m to the north-west. Although there would be additional traffic using Bishops Drive 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.

Other Matters

Land ownership

I note the comments received with regards to land ownership. Although these raise no specific objections this would fall outside of the remit of the planning process. As such I am satisfied that determination of the application can be made.

Rights of Way

I note the comments received from the Rights of Way Officer and the Ramblers with regards to the inaccuracies of the site layout plan in terms of position of the Public Right Of Way (Southwell Footpath no. 17 confirmed in 2006). However since the original comments were made in 2016 the footpath has formally been diverted back to its original line as confirmed by an Order in July 2018 and it now falls outside of the application site and therefore would not be affected by the proposal.

Overall Planning Balance and Conclusion

The principle of the development is considered acceptable and no adverse harm has been identified in terms of heritage impact, highway safety or amenity.

The provision of an additional community burial ground is a public benefit which weighs in favour of the scheme and indeed is supported as a matter of principle in the Development Plan.

However, the applicant has failed to properly demonstrate through appropriate ecological surveys that the proposal would not have an adverse impact on the ecological value of the site and protected species. Indeed the initial ecological information suggests that there may well be harm unless this is adequately mitigated. The lack of appropriate assessment as required by Policies E3, CP12 and DM7 of the Development Plan and by paragraph 175 of the NPPF and Circular 06/2005 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:

Given the site's location in a rural area and that the site is currently overgrown with the presence of mature vegetation, hedgerows and trees there is a potential for the site to support protected species. A Preliminary Ecological Survey undertaken in 2016 deposited with the application found evidence of some protected species on the site and required further surveys to be undertaken which despite repeated requested have not been provided. In the opinion of the Local Planning Authority the application has failed to demonstrate the impact of the development upon the ecological value of this site and therefore it is not possible to adequately minimise, avoid or mitigate any harm. The application is therefore contrary to Policy E3 (Green Infrastructure and Biodiversity) of the Southwell Neighbourhood Plan (adopted 2016), Core Policy 12 (Biodiversity and Green Infrastructure) of the Newark and Sherwood Amended Core Strategy (2019) and Policy DM7 (Biodiversity and Green Infrastructure) of the Allocations and Development Management DPD (adopted 2013) which together form the relevant parts of the development plan as well as paragraph 99 of the NPPF and Government Circular 06/2005 both of which are material planning considerations.

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/

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 and no floor space would be created by this development.

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 Bev Pearson on ext. 5840.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Matt Lamb
Director Growth & Regeneration

