

APPLICATION REFERENCE: PL/2015/52827/PPFL**Site Address:** Cemetery, Temple Lane, Temple Balsall, Solihull

Proposal:	Change of use from agriculture to a green burial cemetery including access, car park, landscaping and associated works.
Web link to Plans:	Full details of the proposal and statutory consultee responses can be found by using the above planning application reference number at: http://publicaccess.solihull.gov.uk

Reason for Referral to Planning Committee:	Head of Service request
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Recommendation:	APPROVE SUBJECT TO CONDITIONS
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EXECUTIVE SUMMARY

The proposed change of use constitutes inappropriate development in the Green Belt which would have a limited detrimental impact on openness and visual amenity in this rural landscape. The visual impact is purely limited to specific aspects of the scheme such as the formation of hardstanding to provide access, car parking and alterations to the existing vehicle access and highway. Nevertheless, any harm caused by reason of inappropriateness and any other harm within the Green Belt carries substantial weight in the determination of the application.

In order to overcome the inappropriateness of the proposal the applicant has advanced Very Special Circumstances in support of the proposals, to justify the inappropriate development in the form of economic, social and environmental benefits associated with the development. It is considered that the very special circumstances put forward by the applicant clearly outweigh the significant harm by reason of inappropriateness and other harm to the openness of the Green Belt and to the landscape arising from it, such as to justify the development on the basis of very special circumstances.

KEY PLANNING ISSUES

The following key planning issues are material to the determination of this application:

- Principle of development
- Green Belt
- Impact on neighbour amenity

- Loss of agricultural land
- Landscape and visual amenity
- Ecology
- Archaeology
- Heritage Assets
- Drainage
- Highways
- The balancing exercise
- Other issues

CONSULTATION RESPONSES

Statutory Consultees

The following Statutory Consultee responses have been received:

Environment Agency – No objection

Natural England – No objection

Non Statutory Consultees

The following Non-Statutory Consultee responses have been received:

Balsall Parish Council – Objection Raised:

- Inappropriate Development of the Green Belt. Exceptional circumstances have not been established. Harm to the character and openness of the area.
- Need for Green Burials questioned given that the Parish Council Cemetery is situated opposite this proposed development. Parish Council can offer this service but no request has been made. There is sufficient capacity to meet the needs in the existing Cemetery that is available to residents and non-residents and all faiths.
- Concern over flood risk to neighbouring properties and Cemetery. This is a high flood risk area with the location of the site and proximity to open water.
- Contrary to Policy P17. Would result in the loss of versatile agricultural ground and provide a Cemetery that a need has not been demonstrated for.
- Insufficient parking provision. Temple Lane is a narrow single track lane. The provisions made are insufficient given the size of the plot and future users/visitors to the site. This will create dangerous parking on the narrow lane.
- The development would impact on local/neighbour amenities and therefore is in breach of planning policy.

Chadwick End Parish Council – No response

Severn Trent Water – No objection subject to conditions

SMBC Drainage – No objection

SMBC Ecology – No objection, subject to conditions

SMBC Heritage Assets – No objection, subject to conditions

SMBC Highways – No objection, subject to conditions

SMBC Landscape – No objection, subject to conditions

SMBC Policy and Spatial Plans – No objection

SMBC Public Protection – No objection

SMBC Public Rights of Way Officer – No objection

SMBC Bereavement Services Officer – No objection

Warwickshire County Council Archaeology – Views awaited

Warwickshire Wildlife Trust – No objection, subject to conditions

PUBLICITY

The application was advertised in accordance with the provisions set down in the Town and Country Planning (General Development Procedure) Order 2015.

1 letter of comment was received. All correspondence has been reviewed and the main issues raised are summarised below (Planning Committee Members have access to all third party correspondence received):

- An application was made some years ago but rejected due to issues related to close proximity to the river.

PLANNING ASSESSMENT

This report considers the proposal against the relevant policies of the National Planning Policy Framework (“NPPF”) 2013, the National Planning Practice Guidance and the adopted planning policies of Solihull Council. The policies of the Solihull Local Plan “SLP” 2013 that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations.

Principle of Development

The proposed change of use from agriculture to green burial site constitutes inappropriate development in the Green Belt which is harmful by definition (NPPF and Policy P17 of the SLP). The proposal is therefore a departure from the SLP. The proposal would also involve the construction of hardstanding in the form of car parking, access link from Temple Lane to the car park on the site and reconfiguration of the highway junction at Temple Lane and Kenilworth Road. These associated

engineering operations would inevitably have a detrimental impact (albeit relatively modest) on the openness of the Green Belt (one of its most important attributes). Paragraph 88 of the NPPF states that substantial weight should be given to any harm to the Green Belt. Very special circumstances need to be demonstrated to justify such inappropriate development and to outweigh the harm caused to the openness of the Green Belt (and any other harm) by such inappropriateness. The assessment of very special circumstances will be addressed later in this report.

Other material planning considerations are also relevant in the determination of the application, in the form of compliance all other relevant SLP policies. The impact of the proposal is discussed under the remaining headings as listed within the Key Planning Issues section of this report.

Green Belt

As already noted, the proposed development constitutes inappropriate development in the Green Belt which is harmful by definition as such paragraph 88 of the NPPF states that substantial weight should be given to any harm to the Green Belt.

There is no definition of openness in the NPPF, or other policy. It can best be described as an absence of visible urbanising development. Any features that appear as man-made impositions on the landscape are in principle likely to result in the openness being eroded. The magnitude of this impact will be dependent upon their physical extent and size, irrespective of whether or not they are publicly visible.

In this instance the development would cover a wide area. In visual terms, there would be no headstones or any other physical markings to indicate the presence of individual graves, no new means of enclosure (existing hedgerows etc. will be relied upon to enclose the site) and no man made pathways etc. within the site (mown grass pathways are proposed). The visible features would be at ground level in the form of small a hardstanding to provide parking provision with its associated access track to the highway (approx. 30m long). Some of these features (e.g. the car park) would facilitate other structures (e.g. parked cars) which although transient would still impact on openness, albeit on a relatively small scale.

Having regard to this proposal the openness of the Green Belt would be affected by 'harm by definition'. In terms of demonstrable harm, the introduction of hardstanding and access ways into the site would create some level of urbanising development where there is currently none. While such development may be relatively innocuous in its effect upon openness, there is, nonetheless, some effect.

The starting point with this application is, therefore, that the proposal constitutes inappropriate development and accordingly, in Green belt terms, the proposal may only be appropriate if very special circumstances (VSCs) can be demonstrated which outweigh the harm by way of its inappropriateness and any other harm. The issue of VSCs will be explored later within this report.

Neighbour amenity

The nearest neighbouring property lies some 80m distance away from the site boundary to the north east.

Having regard to this separation distance the proposal will not result in any undue harm to amenity in terms of loss of outlook, overbearing impact or loss of privacy from any of the proposed forms of development that form this application.

However, it is noted that the proposal will, by its very nature, result in an intensification of the use of the access track that serves the site from Temple Lane, off Kenilworth Road, and the nature of the use of the existing field will also change. The result will inevitably lead to more comings and goings to and from the site and more activity within the site itself. The impact of the proposal upon potential noise nuisance must therefore be carefully considered.

There is already an established cemetery directly opposite the application site, on the other side of Temple Lane. This attracts its own comings and goings. The nature of the proposed use is similar in terms of the types of comings and goings associated with a cemetery use. The proposed burial ground proposes to conduct a maximum of 10 burials per year. The associated car park can accommodate up to 6 vehicles. It is anticipated that each burial would take around 1 hour. Consequently, this activity would only take place for a limited period of time. At other times, there would be some activity from visitors and staff, including those staff digging graves, but this would be dispersed across the site and would be unlikely to involve significant numbers of people. It is not considered that any increase in noise and disturbance from activities associated with the proposed use would be materially harmful, over and above that which is already experienced via the use of the existing cemetery, which lies in close proximity. SMBC Public Protection Officers raise no objection to the proposal, which is considered to be reasonable given the significant distance of the site from the nearest neighbours. The proposal is not considered to be at odds with SLP Policy P14. This issue carries neutral weight in the planning balance.

Loss of agricultural land

Policy P17 of the SLP advises that the Council will safeguard the best and most versatile land in the Borough and encourage the use of the remaining land for farming. The application proposes a change of use from agriculture to burial ground and currently comprises an improved grassland field, with scrub, tall ruderal vegetation and hedgerows. It is not currently used either for grazing or any other agricultural purpose. According to Natural England's Regional Agricultural Land Classification Map, the land is not "best and most versatile" agricultural land and its loss to that associated with the use of the land to a green burial cemetery would not prejudice SLP Policy P17 or national policy in relation to the retention of prime agricultural land. Accordingly, neutral weight is afforded to this issue in the planning balance.

Landscape and visual amenity

The application site currently forms an improved grassland field with scrub, tall ruderal vegetation and hedgerows. River Blythe Site of Special Scientific Interest

(SSSI) lies 270m to the east and is fed by Cuttle Brook which bounds the site to the west.

The application seeks to change the use of the 0.72 ha agricultural field to a natural burial ground with vehicular access, car parking and landscaping. The application is supported by a landscaping scheme. There is no requirement to erect fences around the site boundary. No field boundaries are to be removed. Existing boundary vegetation will be enhanced by landscaping. As such, the physical shape and form of the site will remain unchanged. No buildings are proposed to be erected on site. The graves will not be marked by any structure. There will be the option of marking individual graves by the planting of indigenous trees.

It is considered that the amount of development is relatively limited in the context of the nature of development and overall site area. The burial plots themselves are likely to blend in with the natural landscape, given the absence of headstones. A suitably worded condition could secure prevention of the demarcation of burial plots by manmade artefacts (condition 12 refers). Car parking and highway works would be confined to a relatively small area of the site to the north eastern corner, close to the junction with Temple Lane and Kenilworth Road. The proposed development would retain a largely open and well landscaped appearance and would not result in an unrestricted sprawl of a large built up area. The degree of encroachment into the countryside would be slight.

It is also noted that the application boundary to the south does not extend beyond that of the existing cemetery on the opposite side of Temple Lane, which itself has been extended with the benefit of planning permission (PA ref PL/2006/01520), which included formation of cellular grassed paving to form car parking area to its southern section.

Lighting at the site should be avoided to prevent new urbanising impacts upon the rural area at night and a condition is suggested to prevent the installation of external lighting without prior agreement with the Local Planning Authority (condition 14 refers).

It is acknowledged that should planning permission be granted for this proposal, future applications may seek the erection of associated buildings on site. Such buildings may be considered as appropriate development in the green belt, yet could erode the open character that would prevail under the current proposals. It is important to note that any acceptance of the limited harm to openness caused under the current proposals are not intended to set a precedent for future development of the site and, in any case, having regard to the limited size of the site and the small amount of burials to be undertaken per annum, it is accepted that in this instance future buildings are unlikely to be required.

The applicants also assert that the proposal would increase indigenous tree planting and landscaping across the site for the benefit of bio-diversity and ecology. This could be achieved via the imposition of suitably worded conditions should permission be granted, such as the requirement for the use of Arden Landscape trees. (condition 9 refers). It is proposed that the site would be managed in accordance with a Management Plan and Maintenance Operations Document. The Management

Plan would include provisions designed to secure the management of the site in accordance with the design approach contained within the submitted landscape strategy. The approach will be binding on all those who purchase leases or licences for plots within the site. This can be secured via condition (condition 8 refers).

Appropriate surface treatment for the proposed areas of hardstanding can lessen the visual and environmental impact of the proposal. This can be secured via the imposition of a suitably worded condition (condition 3 refers).

On the basis of the above, your landscape architects raise no objection to the proposals. The proposals accord with Policy P10 of the SLP. The additional landscaping will not result in any material harm to the character of the area and this carries neutral weight in the planning balance.

Ecology

The applicants have submitted an Ecological Impact Assessment which did not identify any significant impacts to noteworthy habitats or species in the vicinity of the site during either the construction or operational phases of the development. The proposal would increase indigenous tree planting and landscaping within the site which will lead to enhanced bio-diversity and ecological benefits and improvements.

SMBC Ecologists have considered the proposals. In order to ensure that there is no impact on groundwater or surface water quality which may have a negative impact on the River Blythe SSSI which is located approximately 200m downstream of the Cuttle Brook, which runs adjacent to the site, a condition is recommended to require the submission, approval and implementation of a Construction Ecological Management Plan to appropriate working practices and safeguards for wildlife that are to be employed whilst works are taking place on site (condition 7 refers).

The proposal will not have any negative impacts on designated sites and protected species and a net gain to biodiversity is shown as a result of the measure proposed to be implemented as part of the application. SMBC Ecology and Natural England raise no objection to the proposals. The proposal is in compliance with the Policy P10 of the SLP and this carries positive weight in favour of the application.

Archaeology

The comments from Warwickshire County Council Archaeology are awaited at the time of writing this report. Given that nature of the development, which involves disturbance to the ground over a relatively wide area as the site is developed through the provision of burial plots, in a location close to designated heritage assets, it is considered reasonable and necessary, as a precautionary measure, to require the addition of a suitably worded condition to secure implementation of an agreed programme of archaeological work. Condition (15) refers. On this basis, the proposal would comply with Policy P16 of the SLP. This carries neutral weight in the consideration of the application.

Heritage Assets

The site is within the wider setting of the nationally significant group of designated and undesignated heritage assets at Temple Balsall. These include the conservation area, church of St. Mary, Templars Hall, Temple House and the hospital and school of Lady Katherine Leveson. The significance of the hall, other buildings and buried remains and the overall Scheduled Ancient Monuments in the history of the Knights Templar in Britain and as the only Warwickshire preceptory mean that the group is arguably of wider than national significance. The scheduling notes that the preceptory may have appeared as a partly moated site due to the presence of ponds, pools and brooks and the significance of that landscape element remains evident particularly to anyone on foot including users of the popular public footpaths.

The site lies immediately to the west of the conservation area boundary. The preceptory was reliant on farming, fish ponds and milling for provisions and income and the fish ponds are heritage assets to the north of and below this site. The wider setting of the hamlet therefore includes this field and, below it, the Cuttle Brook that feeds the fish ponds and flows in to the Blythe. They are important in understanding the development and history of this site. Although they are not visible from the Old Hall they are nevertheless an important part of understanding life at the preceptory and following its closure.

The construction of the car park and parking of vehicles upon it and above the steep bank down to Kenilworth Road needs to be achieved without detriment to bank stability or the fitment of an obtrusive safety barrier to prevent vehicles or visitors passing the edge. Either would be detrimental to the appearance of the site in views into and out of the conservation area. To mitigate against this, new planting should be required by condition at this edge as well as along Temple Lane for visual reasons, and a scheme of planting to stabilise the bank would ideally be investigated. The maintenance of a modest hedge height to Temple Lane would be ideal to permit continued views of the sinuous tree line along the brook from the lane and parish cemetery. (Condition 9 refers)

For the above reasons, at the low annual rate of burials proposed and with less capacity than the opposite parish cemetery for generating visitors to the site outside those instances the proposed use would not, in the opinion of SMBC Heritage Assets Officer, cause harm to the significance of nearby designated and undesignated heritage assets. The proposals accord with Policy P16 of the SLP and this issue carries neutral weight in the planning balance.

Drainage

There are several watercourses identified within close proximity of the site. The closest is the Cuttle Brook, located approximately 10m from the site.

The Environment Agency online flood map indicates the site is located in Flood Zone 1 and therefore has a low chance of flooding from surface water.

The applicants have submitted a drainage strategy in support of the application to assess the existing and proposed surface water regime including run off for the site and existing outfalls and to provide a suitable surface water strategy which ensures the discharge from the site is not increased by the development. The report

concludes that surface water discharge as a result of the proposals would be negligible, with no increased flood risk. SMBC Drainage Engineers, Severn Trent Water and Environment Agency do not object to the proposals, subject to a condition requiring the provision and implementation of details which satisfactorily manage surface water run off. (condition 6 refers). On this basis, the proposals are considered to comply with Policy P11 of the SLP. This carries neutral weight in the planning balance.

Highways

The applicants have submitted a transport statement in support of the application which concludes that the proposals, which include off-site improvements to the highway junction at Temple Lane/Kenilworth Road, will have no adverse impact on the safety or operation of the surrounding road network.

In making this assertion, the applicants consider that the development will result in a small number of additional traffic movements to and from the site, although the volume of traffic would be insufficient to give rise to a material impact on the adjacent highway network.

The existing field access would be improved to facilitate access and egress from the site by allowing two-way passage of cars. 6 vehicle spaces are provided for on site. This is consistent with the provision for the adjacent site for the adjacent cemetery on the opposite side of Temple Lane, which under PA ref PL/2006/01520, proposed 8 spaces to serve an extension to it. At the time of consideration of that application, it was considered that 4 or 5 cars would be parked on site during funerals and Christmas periods. A condition is recommended to ensure the provision of access track and area for parking have been provide prior to the development being brought into use. (Condition 4 refers)

The proposed improvements to the highway junction are proposed in order to benefit all users of the highway, increasing forward visibility to vehicles negotiating right turns to access Temple Lane. Whilst no traffic accidents have been recorded within the immediate vicinity of the site, namely at the Temple Lane/Kenilworth Road Junction, the applicants Transport Statement does identify that a small number of drivers do not adapt their speed along Kenilworth Road to the prevailing conditions. The Council's highway engineer has considered the submitted proposals and agrees that the proposals would improve highway safety conditions to this junction. A condition is therefore recommended to secure such off-site highway works (condition 5 refers).

On this basis, your highway engineers raise no objection to the proposal, which are not considered to cause undue harm to highway safety or the free flow of traffic. The proposed highway improvements will improve the existing traffic conditions within the vicinity of the application site. The proposals accord with Policy P7 of the SLP and, for reason of highway improvements, this issue carries positive weight in the planning balance.

Other issues

The applicants have asserted that the proposal could provide an opportunity to link with the Nature Reserve to the west and join up with the Public Right of Way. Officers consider that this is not dependant on the provision of the inappropriate development proposed under this application, therefore, limited weight should be afforded to this very special circumstance in the planning balance.

Very Special Circumstances (VSCs)

The applicants have advanced the following VSC considerations in support of the development. They are summarised as follows:

1. The proposed green burial cemetery would not involve the use of formal gravestones; the amount of car parking and hardstanding is minimal. Due to the small scale of the associated works, the degree of harm to openness would be slight.
2. There is currently no specific provision for natural burial practices in the Borough. The proposal would allow for diversification of the type and number of burial plots within the Borough, while the provision of a privately owned burial site would not require the Council to provide such land at the public's expense. The site is available now and is deliverable;
3. The proposal would increase indigenous tree planting and landscaping within the site which could lead to enhanced bio-diversity and ecological benefits through implementation of a landscaping scheme;
4. The proposed development would provide the opportunity for enhanced footpath links, providing a link to the Nature Reserve to the west and join up the Public Right of Way known locally as The Breadwalk;
5. The proposal would secure improvements to the junction of Temple Lane/Kenilworth Road to the benefit of all users of the highway. The proposed improvements will increase forward visibility to right turner's accessing Temple Lane;

It must now be determined whether the above VSCs are of such significant weight to outweigh the Green Belt harm and any other harm as set out above.

Of the above points, it is considered points 2 and 5 (in relation to diversification of type and number of burial plots and improvements to the highway network) constitute VSCs that warrant further consideration as to whether those VSCs are of such sufficient weight to outweigh the Green Belt harm and any other harm. Points 1, 3 and 4 (in relation to openness, environmental and pedestrian access benefits) are considered to be material considerations rather than points worthy of consideration as VSCs.

In relation to the VSC point 2, related to diversification of the type and number of burial plots within the Borough through provision of a natural burial offer, SMBC Bereavement Services have been consulted on the proposals and raise no objection. They have confirmed that at present, some form of natural burials can be

accommodated within existing cemetery's within the Borough, such as that provided at Widney Manor Cemetery, however such burials would simply facilitate natural biodegrading, such as without the use of embalming methods and the use of cardboard coffins. Furthermore, burials can only take place within standard burial plots common to all burials within the Borough. There are no facilities at present within existing cemeteries within the Borough to accommodate burial plots that are not subject to a formal maintenance regime, such as grass cutting etc. as is proposed here. This could be at odds with the ethos of natural burials, such as that proposed under this application, which aims to provide elements of wild meadow and tree planting which could more readily blend in with the natural landscape. Similarly, whilst the Parish Council indicate they have additional capacity in their nearby cemetery to accommodate more burials, no indication has been given that any such burials would be in accordance with the natural burial service that is proposed for this site. It is therefore considered that there is no provision within the Borough for the type of burial service that is proposed by virtue of this application.

On the basis of the above, the proposals would present an opportunity for diversification of the type and number of burial plots within the Borough catering for natural burials in a manner that is currently not accommodated within the Borough in the manner proposed. It would also allow for diversification and economic growth in a rural area by attracting investment, in a relatively sustainable way. A condition is recommended to restrict the use of the site to natural burial ground in the manner proposed under this application, only (condition 13 refers).

In relation to point 5, the applicants assert that the proposed development would secure improvements to the junction of Temple Lane and Kenilworth Road to the benefit of all users of the highway, increasing forward visibility to vehicles negotiating right turns to access Temple Lane. Whilst no traffic accidents have been recorded within the immediate vicinity of the site, namely at the Temple Lane/Kenilworth Road Junction, the applicants Transport Statement does identify that a small number of drivers do not adapt their speed along Kenilworth Road to the prevailing conditions. Your highway engineer has considered the submitted proposals and agrees that the proposals would improve highway safety conditions to this junction.

Having considered all material issues relevant to this application it is considered that, on balance, the VSC's put forward by the applicant in support of the application, in relation to diversification of burial types on offer, together with highway improvements that the proposal will bring, are sufficient to justify the proposals against the Green Belt harm, by reason of inappropriateness, and any other harm. The proposals would not compromise the aims of policy P17 of the SLP.

CONCLUSION

The proposal represents inappropriate development in the Green Belt and this has substantial weight against it. There would be harm to the openness of the Green Belt, albeit that such harm would be of limited impact. What this application therefore turns upon is whether or not Very Special Circumstances (VSCs) exist that outweigh the harm of the proposal to the Green Belt by way of its inappropriateness.

In assessing this case, the issues of impact upon landscape, heritage assets, ecology, archaeology, environmental issues, neighbour amenity, highways, public rights of way and the use of agricultural land are all afforded neutral weight, with no harm identified to any.

Having considered all material issues relevant to this application it is considered that, on balance, the VSC's put forward by the applicant in support of the application, in relation to diversification of burial types on offer, together with highway improvements that the proposal will bring, clearly outweigh the presumption against inappropriate development and the extreme limited harm to openness as a result of the proposal.

RECOMMENDATION

Approval is recommended subject to the following précis of conditions:

1. Compliance with all plans (CS00)
2. Commencement – 3 years (CS05)
3. Submission and approval of materials to be used within areas of hardstanding prior to commencement of development.
4. Formation of car park and hardstanding prior to development being brought into use.
5. Provision of off-site highway works prior to development being brought into use.
6. Surface water drainage details compliant with SuDs prior to development commencement.
7. Construction and Ecological management plan prior to commencement.
8. Landscape and ecology maintenance/management plan prior to commencement.
9. Submission of landscaping scheme prior to commencement.
10. Implementation of landscaping scheme (CL06).
11. Replacement of trees/hedging that is lost (CL07).
12. No headstones or other man made artefacts to demarcate burial plots
13. Use restriction to natural burial ground only.
14. No external illumination of the site or car park.
15. Implementation of agreed programme archaeological work prior to commencement of development.