

Land adjacent Hardwick Hill cemetery, 15/01194/F Southam Rd.Banbury

Ward: Banbury Grimsbury and Castle

District Councillor: Cllrs. Beere, Bell
and Hussain

Case Officer: Bob Duxbury **Recommendation:** Approval

Applicant: Banbury Town Council

Application Description: Change of use from agricultural land to cemetery land

Committee Referral: Major application **Committee Date:** 29 October 2015

1. Site Description and Proposed Development

- 1.1 The application relates to 3 hectares of land to the west of Southam Road (A423) to the north of the existing cemetery. It has a frontage to Southam Road of 140 metres and wraps around the northern and western side of the residential curtilage of Hardwick Hill House. The roadside boundary is partly formed by trees and is partly open. It is separated from arable land to the north by a row of trees, whilst that to the west is a broken set of trees and low hedging. There is solid tree line separating the land from the existing cemetery. The boundary to Hardwick Hill House is a mixture of conifer trees hedgerow and fencing.
- 1.2 The application site is currently grassland divided into one larger field and two much smaller parcels nearest to the main road. The land is mainly Grade 3a with small sections of Grade 2 and Grade 3b. It is currently tenanted
- 1.3 The proposal is to expand the Hardwick Hill cemetery into this adjacent land to meet the future burial needs of the town. Plans contained in the Design and Access statement show an access road created from the existing cemetery through the hedgerow on the south side of this site. It is also intended to form a small car park in the south-east corner of the site with a pedestrian access through the hedgeline and a further service access through as well
- 1.4 The application is accompanied by a Design and Access statement; a traffic movement survey; and a cemetery development services report, No ecology report is submitted, but it is explained that this is because the existing owners will not allow access for these purposes

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 21 August 2015
- 2.2 Two letters of objection have been received

The first is from solicitors acting for one of the freehold owners indicating that the applicant has already acquired land from his client to the west of the existing cemetery but that has not been used to expand the burial ground. They say it is not necessary for us to consider the need for further burial space whilst there is a substantial unused parcel of land within the applicants control. They also consider that the application is premature as it predates the Local Plan Part 2 . They would prefer any decision to be deferred until that Plan is more advanced. They note that the application is without a ecological survey, and suggest that a decision cannot be made until such a survey is provided. They request that we refuse this application as unproven, premature and incomplete

The second is on behalf of the owners of Hardwick Hill House. They object to the proposal on the following grounds

- Proposal will completely surround their property affecting its value and render it unsellable
- Other land may be available to the west of the crematorium which would be acceptable
- High water table with three wells adjacent
- Concern about the adequacy of the ground evaluation
- Urban infill taking the boundaries of Banbury to the M40 motorway
- Suggesting alternative of meeting the need in smaller areas of land on periphery of villages
- Lack of screening
- Loss of open view of the countryside
- Land not used for grazing for some years and now a proliferation of flora and fauna on site
- Querying extent of the need – consider it has been overestimated by a considerable margin
- Intrusive and excessive development and totally unsuitable land use

2.3 In response to these comments the Town Council has responded as follows

Banbury Town Council owns and maintains the existing cemetery fields however, the fields to the) are not in the ownership of Banbury Town Council. Those fields were transferred from Cherwell District Council to the London Crematorium Company in 1997, who have subsequently maintained and managed the site. This transfer took place before Banbury Town Council was set up and the Council has had no involvement in the running of the facility.

In addition, the field which Mr Sturt refers to is too small for the needs of the Council. Carrying out a basic search on the Town Council's GIS software, the field marked is a total of 3,503sq/m (or 0.35Ha) – 1/10 of the size of the application site.

Access to this site and the fields beyond is not considered adequate. The road which forks to the north of the crematorium building is a single track and only serves the facility at this time. To extend this road to the area of land which Mr Sturt refers to and the fields beyond, would not be possible due to a drainage ditch running through the adjoining field.

Mr Sturt later refers to the lack of an ecological survey on the 'Application Site'. As you may be aware, Banbury Town Council had approached the

land owners of the site to request that access be granted so that the survey could be completed. This was refused by the landowners on 17 July 2015 (I have attached a copy of their email). Banbury Town Council would, therefore, request that conducting an ecological survey be imposed as part of the conditions to any planning permissions which may be granted.

Further, Banbury Town Council would strongly refute Mr Sturt's conclusion that the Town Council has an unproven need for cemetery space. As set out in the Design and Access Statement, Banbury Town Council has identified that by 2024 there will be no more burial plots remaining (based on current burial rates and a growing population). In addition, the inspector of the Local Plan enquiry identified that the 'evidence of need is unquestioned'.

Banbury Town Council would urge Cherwell District Council Members and Officers to discount Mr Sturt's objections based on the reasons state above.

3. Consultations

3.1 Banbury Town Council: No comments received

3.2 Cherwell District Council Consultees

Environmental Protection no objections

Planning Policy

The NPPF does not specifically refer to cemetery provision but stresses the importance of planning positively for the provision of community facilities. The NPPG provides advice on assessing the potential impact of development on water quality and encourages early engagement with the Environment Agency. Sufficient information needs to be provided with applications to be able to identify the likely impacts on water quality.

The adopted Cherwell Local Plan Part 1 acknowledges the need for additional cemetery provision at Banbury during the Plan period (paragraphs C.125, C.190 and Policy Banbury13). Policy Banbury 13 recognises the need for an extension to the existing cemetery, and indicates that developer contributions will be sought towards its establishment. The policy also indicates that detailed investigations will be required to determine the suitability of ground conditions for cemetery use. However the Plan does not allocate a site for an extension; Paragraph C.190 of the Plan indicated that as the increase in burial capacity did not require a strategic land allocation, it would be progressed through Local Plan Part 2.

This application is proposing a change of use to cemetery use for a site ahead of the Local Plan Part 2 process, and government guidance on prematurity

therefore has to be taken into account. However it would be difficult to consider the application premature bearing in mind government advice in the NPPG, firstly due to the scale of the proposal (being non-strategic) and the

limited alternative locations for extending the cemetery, and secondly as work has only just commenced on Local Plan Part 2, and that Plan cannot therefore be considered to be at an advanced stage. Therefore the main issues for consideration are the need for the additional cemetery space versus the harm that would be caused, and the presumption in favour of sustainable development, as set out in adopted Policy PSD1.

In terms of need, the Inspector appointed to examine the submission Cherwell Local Plan as modified, in his report (paragraph 197), observed in relation to plan policy Banbury 13, that:

“This policy confirms the local requirement for new burial site provision in Banbury with contributions from major new housing schemes to provide funding to facilitate an extension to the existing cemetery, subject to suitable ground conditions being demonstrated. The evidence of need is unquestioned and therefore the policy is soundly based and requires no modification.”

The Design and Access Statement accompanying the application indicates that in view of development proposed at the town in the adopted local plan, it is anticipated that existing burial space will have run out by 2024. Additional provision therefore needs to be made, as recognised in Local Plan Part 1 and by the Local Plan Inspector in making his report. The application does not seem to indicate the estimated number of burial plots that the proposed extension would accommodate or an indication of the time period this is expected to serve, and it is therefore difficult to assess the extent to which the 3 hectares of land will meet the identified need.

The planning application is accompanied by a groundwater audit report and the Environment Agency has confirmed that it has no objections to cemetery use of the application site in terms of water quality.

The application site has the potential to contain BAP Priority habitat but is not accompanied by an ecological survey, although it is noted that one has been requested.

The proposed extension to the cemetery is well located in relation to the community it will serve, being situated just to the north of Banbury. Whilst the application site lies beyond the built up limits of the town, it is located immediately adjacent to the existing crematorium and cemetery. The site is located on the top of the hill, and the potential visual impact of the proposals will need to be taken into account. However, no buildings are proposed and the site is afforded some screening from existing vegetation, which will limit any visual impact. The extent of the application site and the proposed development would however, result in Hardwick Hill House being surrounded on three sides by cemetery use, and the detailed layout of the proposed extension would therefore need to take into account the potential impact on the amenity of the adjacent residential property, including the intended location of the additional parking area.

The Qualitative Standards of provision set out under adopted Local Plan policy BSC11 indicate that cemeteries should comprise the following:

“A well maintained, clean and safe site with the provision of seating areas, clear footpaths and car parking either on the site or nearby. The site will encourage biodiversity by providing varied vegetation and aim to be an oasis for quiet contemplation.”

This would need to be taken into account in the design of the proposed extension

On balance, from a planning policy perspective, it is considered that the recognised need for additional cemetery provision and the benefits of this proposal outweigh the adverse impacts, when assessed against government advice and local planning policy. As such, no objection is raised in planning policy terms to the proposed change of use of the application site to cemetery use for the reasons stated above. However, the potential visual, traffic and biodiversity impact will need to be appraised in detail and the amenity of the adjacent residential property and the Council's qualitative standards of provision should be taken into account in the design of the proposed extension.

Ecology Officer

Prior to registration I recommended a walkover survey for this site as it is potentially botanically interesting as grazing has ceased and our database has it as potentially BAP/Priority grassland. The hedgerows on site are also likely to be BAP habitat and there is also a possibility of suitability for reptiles. I see no ecological information has been submitted however

Oxfordshire County Council Consultees

3.3 Highways Liaison Officer: Have no objections

County Archaeologist

The site is located in an area of archaeological interest 200m north west of an area where prehistoric features have been recorded. These features consisted of ditches and pits dated to the Neolithic through to the Iron Age. Further pits and ditches along with a prehistoric cremation were recorded during an archaeological evaluation 150m south of the proposed cemetery extension. Neolithic pits and a linear feature were also recorded 800m east of the proposal area during the Banbury Flood Scheme.

It is therefore possible that this site could contain further archaeological deposits related to these features including further Neolithic and Bronze Age features and burials.

In accordance with the National Planning Policy Framework (NPPF), we would therefore recommend that, prior to the determination of this application the applicant should therefore be responsible for the implementation of an archaeological field evaluation. This must be carried out by a professionally qualified archaeological organisation and should aim to define the character and extent of the archaeological remains within the application area, and thus indicate the weight which should be attached to their preservation. This information can be carried out by a professionally qualified archaeological organisation and should aim to define the character and extent of the archaeological remains within the application area, and thus indicate the weight which should be attached to their preservation. This information can be used for identifying potential options for minimising or avoiding damage to the archaeology and on this basis, an informed and reasonable decision can be taken

Other Consultees

3.4 Environment Agency

We have **no objection** to the above proposals.

The groundwater risk assessment carried out in the submitted site condition report concluded that the majority of the risks are low or very low (with the exception of depth of drift deposits). In particular we note that the site is entirely located in geology designated as "Unproductive Strata". There are no registered groundwater abstraction within the vicinity. Neither is there any surface watercourses in the immediate vicinity.

As such we would not regard the proposed cemetery development as being particularly high risk from a groundwater perspective. The risks to controlled water as a whole are not likely to be dissimilar from the existing cemetery.

As noted some isolated perched water may be present in the more sandy areas of the overlying dyrham formation and superficial deposits. This is likely to be relatively isolated, groundwater movement is likely to be from east to west and significant movement of perched water is unlikely. As per standard requirement we would not want to see any burials in areas of standing groundwater (if present).

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Cherwell Local Plan 2011-2031 relevant policies

Policy PSD1 Sustainable development

Policy ESD6 Sustainable Flood Risk Management

Policy ESD8 Water Resources

Policy ESD10 Protection of Natural Environment

Policy ESD13 Local Landscape Protection

Policy Banbury 13 Burial site provision in Banbury

Policy Banbury 13: Burial Site Provision in Banbury

An extension to the existing cemetery is required to meet the needs of both the existing population and future development in the town. As such developer contributions will be sought from new development in the town towards the establishment of the facility. Further details will be contained in the Developer Contributions SPD.

Detailed investigations will be required

C.190 As indicated above, additional burial site provision will be required during the Local Plan period to meet the needs of the town. The Town Council has carried out initial investigations and has requested that land be allocated to provide increased burial capacity. However, this does not require a strategic land allocation to be made in the Local Plan and will therefore be progressed as part of the Local Plan Part 2.

Adopted Cherwell Local Plan (Saved Policies)

Policy C8 Sporadic development in open countryside

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Planning Practice Guidance

5. Appraisal

5.1 The key issues for consideration in this application are:

- Principle of Development
- Landscape impact
- Residential impact
- Ecology
- Access and parking
- Water environment
- Archaeology

Principle of Development

- 5.2 As noted in the Planning Policy consultee response the National Planning Policy Framework does not specifically refer to cemetery provision, but it does stress the importance of planning positively for the provision of community facilities.
- 5.3 The applicant has included in the supporting documentation information about current burial rates at both Hardwick Hill and Southam Road. It is explained that Southam Road is no effectively full and all new burials will be at Hardwick Hill Cemetery. Having exclude specific areas to be set aside for childrens remains, Muslim burials, and cremated remains there are estimated to be 450 plots remaining for general lawn area burials. The plots are currently being used at a rate of 44.75 per annum on average; it is anticipated that this will increase e due to the expanding population of Banbury. Taking assumptions about the rate of growth into account it is estimated that the current facilities will be exhausted by 2024.
- 5.4 The newly adopted Cherwell Local Plan acknowledges the need for additional cemetery provision for Banbury – see Policy Banbury 13 and explanatory paragraph C.190 set out 4.1 above. It will be noted that the Policy does not however allocate a specific site for an extension, but that it was intended to progress this through Local Plan Part Two.
- 5.5 In terms of need, the Inspector appointed to examine the submission Cherwell Local Plan as modified, in his report (paragraph 197), observed in relation to plan policy Banbury 13, that:
“This policy confirms the local requirement for new burial site provision in Banbury with contributions from major new housing schemes to provide

funding to facilitate an extension to the existing cemetery, subject to suitable ground conditions being demonstrated. The evidence of need is unquestioned and therefore the policy is soundly based and requires no modification.”

- 5.6 Consideration has been given to whether this proposal could or should be resisted at this time as being premature to the work necessary for Local Plan Part Two. This is considered by the Policy team to be an unreasonable stance as the scale of development is not great and there will be limited alternative locations. As the work on Part Two has only just begun it is not possible to argue that the Plan is at an advanced stage. Therefore the main issue is the need for the cemetery space versus the harm that will be caused, and the presumption in favour of sustainable development.
- 5.7 The proposed extension to the cemetery is well located in relation to the community it will serve, being situated just to the north of Banbury. Whilst the application site lies beyond the built up limits of the town, it is located immediately adjacent to the existing crematorium and cemetery. From a planning policy point of view the scheme is considered acceptable, but clearly the potential harm caused to interests of acknowledged importance has to be assessed

Landscape Impact

- 5.8 The site is situated at the top of this hill and therefore an assessment is necessary of where the proposal will be seen from. This land use is relatively innocuous in the countryside being predominantly a greenfield use with no major buildings or other structures that draw the viewer's eye. The land is relatively well screened from the main road, albeit that there are some gaps in the hedge/tree line that would be sensible to be filled. The site cannot be seen from the motorway as the M40 is in cutting to the north of the site. Views from the west are long range, and in our view the use will not be prominent. Overall the conclusion is that the proposal will not be harmful to the character or appearance of the countryside.

Residential Amenity

- 5.9 The site wraps around the west and north sides of Hardwick Hill House. Whilst part of the boundary is a good screening hedgerow, other sections are open. It has to be accepted that some people would have reservations about such a relationship to a domestic dwelling, but this is a wholly subjective matter. This perceived impact will need to be assessed against the acknowledged need for the facility
- 5.10 Approximately 100 metres north of the northern boundary of the application site lies Sunview Farm. The farmhouse of that farm has a clear view southwards towards the site, but the northern boundary is an almost complete tree line/hedgerow. It is not considered that this property will have any significant impact upon its residential amenities

Ecology

- 5.11 The applicant has been unable to submit the usual ecological survey information as the current land-owner has not allowed them access to do so. This is an unusual situation but the Council will have to proceed with a careful approach. It will be noted above that our Ecology Officer notes that both the grassland and the hedgerows may be BAP priority habitats. It is recommended that in these circumstances the Council has little option but to proceed to apply a condition requiring an ecological survey to be undertaken prior to the commencement of any development. It may be necessary for the applicant to recognise that some parts of the site may not be able to be used for the intended purpose, depending of course on the survey results and the mitigation that may be possible.

Highways and Parking

- 5.12 No change is proposed to the access arrangements to the cemetery. This development will not cause any increase in the rate of burials or therefore on daily average traffic flows, merely extending the period into the future over which the use will be able to continue. As a consequence the Highways Authority quite rightly raise no objections.
- 5.13 The indicative layout plan included in the Design and Access statement shows a small additional car park within the application site. The current provision is for 46 spaces, but as above there is no proposal to increase the level of internments and therefore the car parking proposed is not required as a function of this proposal as such. Members may themselves have experienced some parking congestion on this site with big funerals, and therefore the additional car parking proposed is to be welcomed. However, the location shown for this new facility, to the immediate west of Hardwick Hill House is considered to be unneighbourly and therefore it is proposed to agree the siting of the car park at a later date by condition.

Other Matters

- 5.14 The water environment is a crucial aspect of deciding upon the acceptability of a cemetery, to ensure that the site does not flood and that water catchment areas are not polluted. These considerations rule out many of areas of land from being considered acceptable by the Environment Agency. It will be noted that at para.3.4 above the EA raise no objections
- 5.15 At para. 3.3 above it will be noted that the County Archaeologist recommends that prior to determination an archaeological field evaluation is undertaken prior to determination. The applicant is unable to do this as access to the site is being denied to them. As with the ecology position above the Council must consider if this can be done with by the imposition of a condition that requires clearance prior to development occurring. Whilst this is not desirable, and may again lead to areas of the site potentially not being usable for the approved use, in the circumstances this is considered a tolerable way forward

6. Recommendation

APPROVE subject to the following conditions

- 1 The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission..

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, site location plan and Design and Access Statement

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework

3. Prior to the commencement of development hereby approved, a phasing plan covering the entire site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter each reserved matters application shall refer to a phase, phases, or part thereof identified in the phasing plan

Reason: To ensure the proper phased implementation of the development and to minimise the harm upon the residential amenities of the adjoining property

4. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

6. Prior to the commencement of the development and notwithstanding the submitted details, an arboricultural survey, undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority

Reason - In the interests of identifying and retaining important trees on the site in accordance with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

8. The development hereby approved shall be carried out strictly in accordance with the recommendations and specifications set out in the Arboricultural Method Statement (AMS)

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

9. The existing hedgerows along all boundaries of the site shall be retained and properly maintained at a height of not less than 3 metres, and if any hedgerow plant dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

10. Notwithstanding the illustrative details shown in the Design and access statement prior to the commencement of the development hereby approved, full specification details (including siting, construction, layout, surfacing and drainage) of the turning area and additional parking spaces within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework

11. Prior to the commencement of the development hereby approved a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework.

12. Prior the commencement of the development hereby approved, and following the approval of the Written Scheme of Investigation referred to in condition 11, a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with Government guidance contained within the National Planning Policy Framework.

13. Prior to the commencement of development a detailed ecological survey of the site shall be undertaken by reputable ecological specialist. The survey results, and any necessary and appropriate mitigation measures, shall be

submitted to and approved by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

Statement of Engagement

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.