

<b>Application No:</b> 10/01346/F	<b>Ward:</b> Yarnton, Gosford and Water Eaton	<b>Date Valid:</b> 02/09/10
<b>Applicant:</b>	Kidlington Parish Council	
<b>Site Address:</b>	Land off Bicester Road A43, Gosford,	

**Proposal:** New burial ground

## 1. Site Description and Proposal

- 1.1 Located within the Oxford Green Belt and beyond the built limits of Gosford and Water Eaton, the application site takes up part of a large field sandwiched between the A43 Bicester Road and Water Eaton Lane. The field, which is currently being used for grazing livestock, is known locally as Middle Field. Abutting the Bicester Road on its western edge and the tree lined boundary with another field to the north, the site, which is adjacent to the highway verge, is approximately 1.1 hectares in size and roughly rectangular in shape.
- 1.2 This proposal seeks permission to use the site as a burial ground, which would meet the needs of the local population for approximately 80 years (50 burials a year). Kidlington's current cemetery is to the immediate north and west of St. Mary's Church and has almost exhausted the available space for new interments. St Mary's Church is approximately 2km to the north of the application site.
- 1.3 Aside from the burial area itself which will be interwoven with footpaths, the cemetery will require the erection of a wooden clad maintenance building, a parking area and the formation of a new access on to the main road. A new footpath will link the site to a pedestrian crossing point.

## 2. Application Publicity

- 2.1 The application has been advertised by way of press notice and neighbour letter. The final date for comment was the 22<sup>nd</sup> October 2010.

Letters have been received from six of the neighbouring residence. The following issues were raised:

Material planning comments:

- Possible contamination of water sources
- Highway safety - people walking to the site would have to cross a busy road
- Insufficient parking
- No viable public transport links
- Traffic noise
- Proximity to housing
- Difficult to keep the site secure
- Absence of professional ecological advice
- Proposal lacks appropriate amenities

Non material comments:

- Other sites and options have not been fully explored
- Site selection at odds with advise from Cluttons desk top survey conducted 8 years ago
- Site selection based on affordability not suitability
- The Parish Council has already acquired the site
- Strategy for burial grounds at odds with Banbury and Bicester Town Councils
- Impact of possible further expansion
- Lack of public consultation by Kidlington Parish Council and Gosford and Water Eaton Parish Council
- Parish Councils have also failed in their duty to protect the environment and conduct their business in an open, efficient and considerate way
- Neighbour notifications for the application should have covered wider area

### 3. Consultations

3.1 Gosford and Water Eaton Parish Council declare an interest in the proposal - the application was prepared by the Clerk of the Council.

3.2 The Environmental Protection Officer provided the following comments:

“I have looked into this further, spoken to a concerned local resident, spoken to the Environment Agency and seen some more information relating to ground conditions on the site. After reviewing this information and information from the World Health Organisation on the impact of cemeteries on the environment and public health, this development is very unlikely to pose a risk to the human health of nearby residents, regardless of the presence of a land drain (which has not been identified in any site investigations submitted to date) in this field or not.

“My assessment of the risk to human health from previous land uses is as my response to the planning consultation i.e. does not require further assessment.

“My assessment of the risk to human health under Part 2A of the Environment Protection Act 1990 would be that this development would not represent a significant possibility of significant harm.

“I have spoken with the EA who have concluded that it is not a risk to controlled waters and that the ditch adjacent to this development isn't a controlled surface water feature as there is no underlying aquifer or surface water feature which is in connected with a river or stream. Having spoken to a resident of Water Eaton Lane, they had expressed concern regarding bacterial contamination being transported by groundwater and posing a risk to human health by being in occasional surface water flooding (following heavy rainfall) in some of the gardens and road on Water Eaton Lane.

“I have also queried the EA's 2005 advice as it seems to contradict itself by recommending a likely condition of no burials within 10 metres of a field drain and then more recently responding to the planning consultation with a low risk to controlled waters and no conditions although the site is within 10 metres of a ditch.

“I have not currently received a response from the EA but research into this matter has shown that this recommendation may have come from a World Health Organisation document (attached) on the impact of cemeteries on the environment and public health. This document includes the recommended 10 metre stand off

from a field drain following the conclusion that:

*In cemeteries, human corpses may cause groundwater pollution not because of any specific toxicity they possess, but by increasing the concentrations of naturally occurring organic and inorganic substances to a level sufficient to render groundwaters unusable or unpotable. Viruses are fixed to soil particles more easily than bacteria and they are not carried into groundwaters in large numbers. Nevertheless, pathogenic organisms are largely retained at or near the soil surface. Because of these features, the risk of pollution would seem to be greatest for users of wells, which access a shallow water-bearing stratum.*

“As this site is not likely to impact controlled waters i.e. groundwaters or surface waters, due to its low sensitivity (as concluded in recent EA correspondence) and it is 120 metres from the nearest garden on Water Eaton Lane (which does not draw its drinking water supply from the groundwater) this development does not represent a significant risk to human health from pathogens carried in water, regardless of the presence, or absence, of land drains within 10 metres of the development.”

- 3.3 The Environment Agency initially concluded in a short statement that the development presented a low environmental risk. Following objections from the neighbouring residents the Environment Agency conducted a thorough review of the case and provided the following comments:

“Further to our previous letter of 19 October 2010 we have reviewed the details of this planning application again following the notification of concerns from local residents that this proposal may cause pollution.

“Reference has been made to the possible presence of land drains on the site. Having reviewed the site investigations again, it is clear that five boreholes were drilled in the vicinity of the site (the wider 10 acre field) and one within the site boundary itself. This verified that there was 15cm of topsoil over at least 4 metres of clay. The British Geological Survey map of this area confirms this is Oxford Clay.

“Further soil sampling was carried out for Kidlington Parish Council in which 6 trial trenches and two trial graves were dug on site. This again confirmed the presence of clay soils and low infiltration rates. Neither of these investigations found evidence of any field drains within the site.

“A local resident has sent us a photograph of field drain taken from a neighbour’s property, but this alone does not give any direct information about the site. If there were drains on site we would have expected them to have been uncovered when trial trenches were dug.

“Water moves through Oxford Clay at extremely slow rates and inhibits the flow of contaminants related to burials making this a suitable site for this use. It is commonly used to line landfill sites for the same reason and will also be the reason the field is prone to becoming waterlogged. Therefore, it is our professional opinion that this site presents little risk of pollution from burials.”

- 3.4 Thames Water has no objections to the scheme.

- 3.5 The OCC Highways Authority provided the following comments:

“The submitted application is for the construction of a burial ground located within the Parish of Gosford & Water Eaton, off the Bicester Road. The burial ground will

be served by a new vehicle access, car parking etc. The site is located within reasonable walking distance of the built up areas of Gosford and Kidlington, which has good public transport links.

“There is an existing footway and cycle link opposite the site which runs the majority of the Bicester Road and links up with the rest of network in the surrounding area.

“Street lighting is provided along the Bicester Road.

“Accident data has been reviewed within the area, two reported accidents causing personal injury have been recorded – however these were down to driver error rather than the characteristics of the Bicester Road.

“Traffic generation – it is estimated that a burial ground will receive around 70 funeral events a year, which works out around 6 burials a month. Associated traffic movements with these events do vary i.e. around 10 – 15 vehicles per funeral. However it is my opinion such movements are not considered significant to justify a refusal on highway safety grounds when funerals generally take place outside the usual peak hours of traffic times.

“Due to the traffic expected to be generated by the proposed burial ground a right turn lane is not considered appropriate at this time.

“Access arrangements – the proposed access meets the required visibility standards of 4.5m x 120m for a 40mph speed limit. Vegetation within the required visibility splays (both ways) will require cutting back and maintained. The proposed geometry (radii) of the access will need to be a minimum of 8m rather than the 7.5m shown on the submitted plan.

“The access into the site is to be gated – such a gate is to be set back a minimum of 10m from the back-edge of the carriageway of the Bicester Road to prevent maintenance vehicles with trailers causing an obstruction (or other vehicles).

“A crossing point from the existing footway network opposite the site and a new section of footway into the site is to be provided – this has been assessed acceptable; however consideration in the design of these works must be given to partially sighted pedestrian etc.

“The crossing point, additional footway and new access works will require the applicant to enter into a S278 Agreement with Oxfordshire County Council – these works must be completed prior to the first use of the site.

“Car parking – the proposed levels of 18 spaces + overspill spaces when required is acceptable. A space for a maintenance vehicle, 2 x motorcycles is acceptable. Disabled park space being provided meets the required standard.

“I note no cycle parking is being provided; I suggest 5 Sheffield stands are to be provided for visitors to the site. Cycle parking facilities need to be sheltered and secure.

“Drainage Comments – OCC’s drainage team has the following comments:

1. Applicant is to provide detailed design for swale i.e. such as depth of soil;
2. Side slopes of swale should be 1 in 4 – amended plan required;
3. Applicant is to provide detailed design for infiltration drain – and needs to specify type of materials to be used;

4. Porous pipe in filter drain must be a minimum 150mm diameter;
5. Culvert under the access road near Bicester Road must be minimum of 450mm diameter ;
6. For further information on SUDS applicant can refer to C697 – The SUDS Manual, Author CIRIA.

*\* the above drainage details can be secured via planning condition being imposed for a scheme to be approved by the LPA prior to work commencing on site.*

“Taking the above into account it is my opinion that recommending a refusal on highway safety grounds would not be appropriate or sustainable at appeal.”

3.6 The Ecologist raises no objections to the proposal subject to condition

3.7 The Council’s Arboriculturalist provided the following comments:

“The open ridge and furrow site is bordered by an existing mixed blackthorn and hawthorn hedgerow containing individual maturing trees of predominantly oak, ash, maple and poplar.

“A survey has been provided by applicant but was not undertaken or presented in accordance with BS5837:2005. Therefore a significant amount of information regarding the dimensions and condition of the trees included is absent from the document.

“A section of hedgerow is proposed for removal to accommodate access from the main Bicester Road, this is acceptable and the loss of species should be mitigated in the landscaping proposal. Some basic information has been provided by the applicant regarding landscaping proposals however, more detailed information is required regarding species, quantities, planting specifications and management proposals etc.

“Generally, I no arboricultural objections to the proposed burial site providing all precautionary measures are taken to ensure the retained hedgerows and trees are adequately protected.”

3.7 The Mineral Planning Authority does not object to the application on the grounds of mineral sterilisation.

3.8 CPRE accept the principle of the development but query the need for a large tool shed near the road and likely traffic implications. CPRE would like to see conditions promoting wildlife enhancement. The perceived lack of consultation with local residents has also been queried.

3.9 County Archaeological Officer raises no objections subject to informative.

## **4. Relevant Planning Policies**

- 4.1 PPS1: Delivering Sustainable Development  
PPG2: Green Belts  
PPS9: Biodiversity and Geological Conservation  
PPG13: Transport  
PPS23 Planning and Pollution Control  
PPS25: Development and Flood Risk

- 4.2 Policies CO4, S6, T4, NRM4 and BE1 of the South East Plan 2009
- 4.3 Saved Policies GB1, ENV1, ENV12, H5, H15, C2, C4, C27 and C28 and C31 of the adopted Cherwell Local Plan

## 5. Appraisal

### 5.1 The Principle

There is no specific Government guidance or Local/Regional Plan Policy relating to the siting of new burial grounds. However, although only a material consideration, Policy R11 of the Non-Statutory Cherwell Local Plan does set out generic criteria against which all new community facilities should be considered. Aside from the usual siting and design issues, it requires that such development should be accessible to the population for which it is intended. The SDPHE has concluded that the proposed development complies with this policy as will be become apparent later on in the report.

- 5.2 The application site is located within the Oxford Green Belt and the proposal therefore has to accord with the relevant green belt policy and guidance. Cemeteries are one of the few types of development that are deemed to be appropriate in such sensitive locations and are specifically referred to in both PPG2 and Policy GB1 of the adopted Cherwell local Plan.

- 5.3 Whilst recognising this point the CPRE questioned the impact of the maintenance building on the openness of the green belt, arguing that it will be disproportionately large (footprint of approx. 26m<sup>2</sup>). A cemetery on a plot size of 1.1 hectares will however need a significant amount of equipment to be maintain the site properly (the building is not too dissimilar in size to the one used to maintain the existing cemetery). At a height of just 2.5m the building, which abuts the boundary with the road, will be largely obscured from the passing public by the existing hedging/trees and once the rest of the planting is established should not be visible from outside the site. The SDPHE is therefore satisfied that the scheme does not conflict with the aims and objectives for the Oxford Green Belt.

### 5.4 Site Selection

The need for additional burial space in the Kidlington area has been on the Parish Council's agenda for sometime. Indeed, specific mention was made to the future shortfall in paragraph 7.69.1 of the Non-Statutory Cherwell Local Plan 2011. The first significant step taken by the Parish Council to identify a new site was made at the end of 2002 when they approached a firm of surveyors to undertake a desk top study of potential sites in and around the village. Using seven different 'material considerations', such as proximity to residential properties, the surveyor's report identified ten possible locations. Given the limitations of some of the sites, mainly relating to the geology and conflicting nearby land uses, the Parish Council was able to reduce the number of 'possibles' to just three.

- 5.5 Aside from the application site, an area of land to the west of the existing cemetery (the preferred site at this stage) and a field off Sandy Lane were forwarded to the Environment Agency for further scrutiny. The Environment Agency discounted an extension to the existing cemetery (shallow groundwater) and raised concerns regarding the Sandy Lane option. This left the application site as the preferred option. The only negative levelled against the site during the selection procedure was the disturbance, created by traffic travelling along the nearby A34, to those attending a future burial.

- 5.6 Notwithstanding the objections of some of the neighbouring residents regarding the scope and findings of the selection procedure, the SDPHE is satisfied that there are no obvious sites omitted from the original survey and that the analysis of the options available was sufficiently rigorous. It should be noted that the Parish Council having made their decision sought the advice of other agencies, such as the Local Highways Authority and an archaeological contractor, to highlight any other potential stumbling blocks before submitting an application.
- 5.7 Contamination  
The Parish Council, in contacting the Environment Agency (EA) at an early stage, recognised the importance of establishing whether there were likely to be any problems with ground and water contamination. Both the Council's Environmental Protection Officer (EPO) and the EA concluded at a very early stage in the application process, on the evidence available, that the proposed cemetery constituted a very low risk.
- 5.8 Two families who live on Water Eaton Lane disputed these findings and submitted a plethora of evidence querying the validity of the conclusions reached. Both the EA and EPO were asked to reappraise the application in the light of the evidence submitted by these local residents.
- 5.9 Following a detailed analysis of this information, both the EA and EPO confirmed their original findings. Whilst acknowledging that their advice would have altered if a drainage system had been found under the site, the EA is satisfied that as the 6 trial trenches, excavated in various locations within the site, provided no such evidence it is highly unlikely that any active drains will be found once people are interred into the ground. However, in the event that drains are found once graves start to be excavated, a condition is recommended requiring an appropriate mitigation strategy. The SDPHE therefore concludes that the development complies with Government guidance contained within PPS23.
- 5.10 Highway Safety and Access to the Site  
Despite concerns raised by some local residents, the OCC Highways Officer is happy that the new access will not pose a risk to highway safety. The vision splay, once some of the vegetation is cut back, will be appropriate for a road with a 40mph speed limit. Further, as the Highways Officer observes most movements to and from site will take place outside usual peak hours of traffic and therefore poses less of a risk - it should be noted that this stretch of the Bicester Road has a good safety record.
- 5.11 Likewise, local concerns over the number of parking spaces (18 plus an overspill area) are not shared by the Highways Officer who calculates that the space provided is adequate.
- 5.12 In order to improve pedestrian access to the site, a crossing point will be constructed to the south of the vehicular access. This will provide a link to the floodlit footpath and cycle way on the opposite side of the Bicester Road. The Highway Officer concludes that the site is within walking distance of both Kidlington's and Gosford built-up areas and that it would be within easy reach of the local bus network. Although it would be difficult to argue that the cemetery would be within easy walking distance to all parts of Kidlington, the SDPHE is nonetheless satisfied that the burial ground complies with Policy R11 of the Non-Statutory Cherwell Local Plan in that it is accessible to the population for which it is intended.
- 5.13 Neighbour Amenity

As the desktop study conducted by the firm of surveyors in 2002 reasoned, most people would object to a cemetery being opened in close proximity to their home. Notwithstanding the fact that it is in an accessible location, this site benefits from the fact that it will have a limited impact on the neighbouring residents, the closest of which live on Cromwell Way a minimum of 50m away on the opposite side of Bicester Road. The closest neighbours on the cemetery side of the road will be approximately 120m from the site's boundary. The SDPHE is satisfied that the new hedging and trees proposed for the southern and eastern boundaries and the strengthening of the existing boundaries will successfully mitigate any potential loss of amenity and that the development therefore complies with Policy C31 of the adopted Cherwell Local Plan.

5.14 Ecology

PPS9: Biodiversity and Geological Conservation places a duty upon Local Planning Authorities to ensure that a protected species survey be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. PPS9 states that "It is essential that the presence or otherwise of a protected species, and the extent to 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."

5.15 Paragraph. 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that, "Local Planning Authorities should consult Natural England before granting planning permission" and paragraph 99 goes on to advise 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."

5.16 Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that "every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity" and;

5.17 Local Planning Authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that "a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions".

5.18 Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex IV(a) of the Habitats Directive within the whole territory of Member States to prohibit the deterioration or destruction of their breeding sites or resting places.

5.19 Under Regulation 41 of Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:

- 1) is the development needed for **public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature** (development).
- 2) Is there any **satisfactory alternative**?
- 3) Is there **adequate mitigation** being provided to maintain the favourable conservation status of the population of the species?

5.20 Therefore where planning permission is required and protected species are found to be present at the site or surrounding area, Regulation 9(5) of Conservation Regulations 2010 provides that local planning authorities must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions and also the derogation requirements (the 3 tests) might be met. Consequently a protected species survey must be undertaken and it is for the applicant to demonstrate to the Local Planning Authority that the 3 strict derogation tests can be met prior to the determination of the application. Following the consultation with Natural England and the Council's Ecologist advice given (or using their standing advice) must therefore be duly considered and recommendations followed, prior to the determination of the application.

5.21 In respect of planning applications and the Council discharging of its legal duties, case law has shown that:

- 1) if it is clear/perhaps very likely that **Natural England will not grant a licence** then the Council should refuse planning permission
- 2) if it is likely that **Natural England will grant the licence** then the Council may grant planning permission
- 3) if it is **unclear/uncertain** whether Natural England will grant a licence then the Council must refuse planning permission (Morge has clarified Woolley)

*[R (Morge) v Hampshire County Council – June 2010 Court of Appeal case]*  
*[R (Woolley) v Cheshire East Borough Council – May 2009 High Court case]*

**NB: Natural England will not consider a licence application until planning permission has been granted on a site, therefore if a criminal offence is likely to be committed; it is in the applicant's interest to deal with the 3 derogation tests at the planning application stage.**

5.22 In this case, following the submission of additional information by the Parish Council, the Council's Ecologist has not raised an objection to the proposed scheme. She has however sought further clarification in respect of how the development will mitigate any potential affects on the local reptile population as well as requiring a strategy for dealing with badger setts should any be found once works commence.

5.23 Consequently, it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The proposal therefore accords with PPS9 and policies C2 and C4 of the Adopted Cherwell Local Plan.

#### 5.24 Community Involvement

A number of the objectors including those most likely to be affected by the proposed burial ground are unhappy that they were not properly kept informed by either of the

Parish Councils involved in the proposal. Although it is argued by the Parish Councils that the process was open and transparent, it is nonetheless unfortunate that residents feel aggrieved about the perceived lack of consultation prior to the submission of the application. The Parish Council has since taken the time during the application process to appease some of the neighbouring residents by meeting with some of them and providing additional information and further clarification.

#### 5.25 Conclusion

As is true with all the sites considered, the application site does not tick every box; it is further away from the church than is desirable and will be exposed to some background noise from passing traffic. However, in respect of all the other key considerations, the site is considered to comply with Government guidance contained within PPS1: Delivering Sustainable Development, PPG2: Green Belts, PPS9: Biodiversity and Geological Conservation, PPG13: Transport, PPS23 Planning and Pollution Control and PPS25: Development and Flood Risk and Policies CO4, S6, T4, NRM4 and BE1 of the South East Plan 2009 and Policies GB1, ENV1, ENV12, H5, H15, C2, C4, C27 and C28 and C31 of the adopted Cherwell Local Plan. The SDPHE is therefore satisfied that approval be recommended for the proposed burial site.

## **6. Recommendation**

**Approved, subject to the following conditions:**

- 1. 1.4A - Full Permission: Duration Limit (3 years) (RC2)**
- 2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the approved plans and supporting documents received in the office on the 2<sup>nd</sup> September 2010.**

**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 with PPS: Delivering Sustainable Development and Policy BE1 of the South East Plan 2009.**

- 3. That prior to commencement of work on site the proposed means of access onto the Bicester Road (A43) is to be formed, laid out and to the approval of the Local Planning Authority and constructed strictly in accordance with the highway authority's specifications and that all ancillary works specified shall be undertaken.**

**Reason - In the interests of highway safety and to comply with Government advice contained in PPG13: Transport.**

- 4. Prior to the commencement of work on site vision splays measuring 4.5 metres x 120 metres shall be provided to each side of the access. These vision splays shall not be obstructed by any object, structure, planting or other material with a height exceeding or growing above 0.6metres as measured from carriageway level.**

**Reason - In the interests of highway safety and to comply with Government advice contained in PPG13: Transport.**

- 5. Before the development is first used the parking and manoeuvring areas shall be provided in accordance with the submitted plan hereby approved and shall**

be constructed, laid out, surfaced, drained (SUDS) and completed, and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times.

Reason - In the interests of highway safety and to comply with Government advice contained in PPG13: Transport.

6. Prior to the first use of the proposed development the new footway and crossing point along the Bicester Road (A43) shall be formed, laid out and to the approval of the Local Planning Authority and constructed strictly in accordance with the Highway Authority's specifications and that all ancillary works specified shall be undertaken.

Reason - In the interests of highway safety and to comply with Government advice contained in PPG13: Transport.

7. The gate hereby approved to be set back a minimum of 10m from the back-edge of the Bicester Road (A43).

Reason - In the interests of highway safety and to comply with Government advice contained in PPG13: Transport.

8. That no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which 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, pavements, pedestrian 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 C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

9. That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out 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; and that any trees 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 next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

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 C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

10. **Should any badger setts be found before or during the implementation of this permission all work must cease and advice must be sought from a qualified ecologist. All recommendations made by the ecologist shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved.**

**Reason - To ensure that the development will not cause harm to any protected species or its habitat in accordance with Policy C2 of the adopted Cherwell Local Plan.**

11. **That a method statement relating to the protection of reptiles shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The works shall be undertaken in accordance with the approved details.**

**Reason - To ensure that the development will not cause harm to any protected species or its habitat in accordance with Policy C2 of the adopted Cherwell Local Plan.**

12. **An arboricultural Method Statement and Tree Protection Plan, undertaken in accordance with section 7.0 of BS5837:2005, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The works shall be undertaken in accordance with the approved details.**

**Reason – To ensure the continued health of retained trees and in the interests of the visual amenity of the area, to ensure the integration of the development in to the existing landscape and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.**

13. **Should any evidence of a drainage system be found as a result of the works hereby approved or following the excavation of any of the graves, all work must cease and advice must be sought from the Local Planning Authority. A drainage scheme shall be submitted to and approved in writing by the Local Planning Authority before any further excavation on site can commence. The development shall be carried out in accordance with the details so approved.**

**Reason - To prevent pollution of groundwater and in order to comply with Government advice in PPS25: Development and Flood Risk, Policy NRM4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan.**

#### **Planning Notes**

1. **The County Archaeologist has indicated that the proposal does not appear to directly affect any presently known archaeological sites. However, the County Council's records do show the presence of known archaeological finds nearby and this should be borne in mind by the applicant. If archaeological finds do occur during development, the applicant is requested to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary. Please contact : County Archaeologist, Department of Leisure and Arts, Oxfordshire County Council, Central Library, Westgate, Oxford, OX1 1DJ (Telephone 01865 815749).**
2. **Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be**

necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 2501.

**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

The Council, as Local Planning Authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposed cemetery is appropriate and will not unduly impact on the neighbouring properties or compromise highway safety and public health. As such the proposal is in accordance with Government advice contained within PPS1: Delivering Sustainable Development, PPG2: Green Belts, PPS9: Biodiversity and Geological Conservation, PPG13: Transport, PPS23 Planning and Pollution Control and PPS25: Development and Flood Risk and Policies CO4, S6, T4, NRM4 and BE1 of the South East Plan 2009 and Policies GB1, ENV1, ENV12, H5, H15, C2, C4, C27 and C28 and C31 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

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