



Economy and Environment, Development Management

Planning Committee

Report of Head of Planning, Engineering and Transportation on 04-Feb-2016

Plans List Item Number: 4.

Reason for bringing to committee: Major application

Location: LAND ADJACENT TO WILLENHALL LAWN CEMETERY, BENTLEY LANE, WALSALL, WV12 4AE

Proposal: EXTENSION TO EXISTING CEMETERY, RE-ROUTING OF PUBLIC RIGHTS OF WAY (WILL 35,36,37), LANDSCAPING AND SUSTAINABLE DRAINAGE.

Application Number: 15/0744/FL

Case Officer: Paul Hinton

Applicant: Walsall Council

Ward: Short Heath

Agent: Mr Jag Raan

Expired Date: 25-Aug-2015

Application Type: Regulation 3 Consent

Time Extension Expiry:

Recommendation Summary: Grant Permission Subject to Conditions



Application and Site Details

This application seeks planning permission for an extension of Willenhall Lawn Cemetery and the re-routing of public rights of way (Will 35,36,37) The extension would increase the site area by 1ha and would be served by the existing vehicle access from Bentley Lane and continuation of the access road through the existing site with a 6m surfaced access road and a turning circle at the end. A new pedestrian access would be provided from Bentley Lane close to the turning circle, to the south of the turning circle a spoil storage area is proposed. With the exception of the new pedestrian access a 5m tree belt to the boundary with Bentley Lane would be retained and enhanced. New tree and hedge planting is proposed around the spoil storage area. The site would be secured by 1.8m high metal railings to the Bentley Lane boundary which would match the existing cemetery boundary, with the remaining boundaries being 2.2m high weldmesh fencing. Land levels will be altered to create a graded surface varying between plus or minus 0.5m. A 1m deep attenuation basin is proposed to the north.

The existing public rights of way running north to south along the boundary of the cemetery would be closed, with the PROW running from east-to-west re-routed further to the south.

This is an undeveloped irregular shaped site bounded by Bentley Lane to the north, a pick-up and drop-off car park for the Willenhall School Sports College to the east, with the school building to the south and the existing Willenhall Lawn Cemetery to the west. Old Hall Special School is further to the east. The site is dominated in the eastern, central and south-western areas by dense tree groups. Three grassed clearings are located in the north-east corner, north-western area and southern area of the larger site with desire line footpaths. A tarmac footpath bisects the site in a diagonal from the southeast corner to midpoint on the northern boundary linking the school entrance with Bentley Lane. Although well used, this path does not form part of an adopted Public Right of Way. The site slopes down from south-west (149.86m AOD) to north-east (148.22m AOD).

The following documents have been submitted with the application:

Design and access statement

- Existing cemetery was first developed in 1966, extended in the 1990s and now has limited space available for future burials and with the current rate of burials will be at capacity in five years.
- Recent survey showed that 70% of visitors live within 2 miles of the cemetery and 44% came on a weekly basis.
- Existing public rights of way will be subject to a stopping up/diversion order, a new 3m wide alternative footpath is proposed with the lifting of the crowns of the trees to also improve the route.
- In addition to retaining most of the boundary trees additional planting will be incorporated.
- Additional parking will be on road and will allow for passing traffic.
- There will be extensive tree planting included as part of the proposed development to compensate for the removal of the trees.

- South-eastern corner will be used for the storage of spoil, using grasscrete blocks and bounded by a low shrub fence.
- Boundary fencing will be retained where possible and new fencing will be closed matched with the existing style and colour.
- The public footpaths which runs through the site will be redirected and improved with a 3m wide tarmac surface.
- Proposed landscaping is based on a low maintenance landscape scheme with a mix of ornamental and native planting, using mainly grass and trees.
- The extension will provide additional burial space for a further 15 years.

Ecological Assessment

- No features that would justify designation as a wildlife site on botanical grounds.
- No evidence of protected species.
- Site clearance must take place outside the breeding bird season (mid February to September inclusive).
- Site is visually attractive and has ecological structural diversity which would take many years to replicate.
- Recommended that attractive paths are maintained through the sites.
- Recommend that as much as possible of the existing vegetation is retained and a landscape different to that of the ecologically sterile existing lawn cemetery is created.

Geo-Environmental Investigation

- Recommends:
 - Stabilisation of the shallow mine workings by grid drilling and grouting beneath the proposed extension site.
 - Further review of records to determine the specification used to stabilise the existing capped shafts.
 - Probing to locate the three further mine shafts.
 - Review of specific design requirements if structures are proposed.

Tree report

- Groups of trees could be picked out of the existing tree stock on the site and retained as landscape features.
- Most of the trees are young enough to cope with altered exposure if the area of some of the tree groups need reducing.
- The northern shelterbelt will provide continuity with the existing cemetery but may limited design proposals.
- Overall it is not thought that any single tree should impose a constraint on the site development, the proposal will provide multiple locations for more suitable new planting and landscaping.

Transport Statement

- Parking at the site is sufficient and no additional parking is expected to be required for the proposed extension.
- The site has good public access, bus stops are located within a short distance of the cemetery and the area is served by a number of routes. Pedestrian and cyclist access to the site is good.

- Average daily trips have been estimated, it can be concluded that the proposed development is unlikely to have any significant affect on the surrounding highway network.

Surface Water Drainage Strategy

- Site not suitable for infiltration, it is proposed that surface water from the new roadways will discharge to the public surface water sewer.
- Source control features in the form of filter drains
- Use of filter drains and swales in lieu of pipelines wherever possible with a design storm of a 1 in 30 years return period.
- Overland flows from burial areas will be directed to swales/drainage channels and filter drains taken to the discharge location via storage features designed to accommodate 1 in 100 year return period storm events with 30% allowance for climate change.

Flood Risk Assessment

- Outside of flood risk zone, does not lie within a groundwater protection zone.
- Most risk of flooding is from the on-site drainage system
- Ground conditions are unlikely to permit the use of infiltration as a method of drainage.
- Surface water discharge from the site should be limited to equivalent greenfield rate of runoff.
- Design should allow for excess runoff from an exceptionally intense local rainstorm to be confined for the duration of the storm within the site.

Further supporting statement

- The catchment area for the cemetery extension is mainly areas to the west of the M6 corridor, including Bentley, Darlaston, Moxley, Willenhall, Short Heath, New Invention and parts of Bloxwich.
- Average coffin burial rate is 120 graves per year.
- If the cemetery is not extended the Council will only be able to offer full coffin burials at North Walsall or Streetly cemeteries. The only other local burial provision for residents from the above areas will be Bushbury Cemetery in Wolverhampton and Fallings Heath Cemetery in Wednesbury. Potentially Walsall residents would have to pay a considerably larger sum to a neighbouring authority to bury a loved one.

The application was originally presented as an extension covering most of the undeveloped land between the cemetery and the school including new vehicle access, re-routing the public rights of way and upgrading public rights of ways leading up to the site. The proposal has been amended during the application process following discussions with officers and re-consultation has been undertaken.

Relevant Planning History

BD16217P – Change of use to cemetery on 7 acres of land. Granted subject to conditions 28/7/1986.

LAND AT CALDERFIELDS FARM, ALDRIDGE ROAD (TO REAR OF LONGWOOD COTTAGES), WALSALL

12/1572/FL - Change of use of land to form cemetery with associated parking, paths, access roads, landscaping, nature conservation area and reception building following demolition of existing buildings.

Appeal dismissed (21/7/14) on the principle grounds of proposed change of use comprises inappropriate development where no very special circumstances exist.

Timmins and Anor v Gedling Borough Council (Court of appeal) 2015

Establishes that a material change of use of land within the Green Belt to a cemetery would be inappropriate development.

Relevant Planning Policy Summary

National Planning Policy Framework (NPPF)

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

All the **core planning principles** have been reviewed and those relevant in this case are:

- find ways to enhance and improve places in which people live their lives
- contribute to conserving and enhancing the natural environment and reducing pollution.
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas.
- encourage the effective use of land by reusing land that has previously been developed.

Key provisions of the NPPF relevant in this case:

1. Delivering sustainable development

19 Planning should encourage sustainable growth.

4: Promoting Sustainable Transport

32 All development should have safe and suitable access to the site for all people.

Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

35. Developments should be located to create safe and secure layouts.

7: Requiring Good Design

56. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

58. Decisions should aim to ensure that developments:

- Will function well and add to the overall quality of an area
- Establish a strong sense of place
- Optimise the potential of the site to accommodate development
- Respond to local character and history and reflect the identity of local surroundings and materials
- Create safe and accessible environments where crime and disorder, and the

- fear of crime, do not undermine quality of life or community cohesion
- Are visually attractive as a result of good architecture and appropriate landscaping

60. It is proper to seek to promote or reinforce local distinctiveness.

61. Decisions should address the integration of new development into the natural, built and historic environment.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

8: Promoting healthy communities

70 Decisions should aim to achieve...safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life, containing clear and legible pedestrian routes. Ensure that established facilities and services are able to modernise in a way that is sustainable

9: Protecting Green Belt land

79 Green Belt policy is to prevent urban sprawl by keeping land permanently open.

80 The Green Belt services five purposes:

- Check the unrestricted sprawl of large built up areas
- Prevent neighbouring towns merging into one another
- Assist in safeguarding the countryside from encroachment
- Preserve the setting and special character of historic towns
- To assist urban regeneration, by encouraging the recycling of derelict and other urban land

81 Once Green Belts have been defined, local planning authorities should plan positively to enhance the beneficial use of the Green Belt.

87 Inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.

88 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

89 Construction of new buildings are inappropriate development in Green Belt, with the exception of...provision of appropriate facilities for...cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

10. Meeting the challenge of climate change, flooding and coastal change

103 Local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a site-specific flood risk assessment.

11. Conserving and enhancing the natural environment

109. The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity...prevent new and existing development from contributing or being put at unacceptable risk from, or being adversely affected by unacceptable levels of...air...or noise pollution.

111. Planning decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided it is not of high environmental value.

118. Local planning authorities should aim to conserve and enhance biodiversity by...incorporate biodiversity in and around developments.

123. Planning decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts

On **planning conditions** the NPPF says:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

On **decision-taking** the NPPF sets out the view that local planning authorities should approach decision taking in a positive way to foster the delivery of sustainable development and look for solutions rather than problems and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

The Development Plan

Planning law requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions but recognises that what it terms 'Local Plan' policies should not be considered out-of-date simply because they were adopted prior to the publication of the framework.

Local

The Black Country Core Strategy (BCCS) (2011)

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

This was adopted under the current Local Development Framework system, and the NPPF says that for 12 months from the publication of the national framework "*decision-takers may continue to give full weight to relevant policies.* However, it is more than 12 months since the NPPF was published in March 2012. Now (as with the saved policies of Walsall's UDP) the NPPF advises that "*... due weight should be given to relevant policies ... according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*" To consider the conformity of the BCCS with the NPPF the four Black Country councils have completed a 'Compatibility Self-Assessment Checklist' (published by the Planning Advisory Service) and have discussed the results with a Planning Inspector. Whilst there is no formal mechanism to certify that the BCCS is consistent with the NPPF the discussions led officers to the conclusion that the exercise identified no issues that would conflict with the NPPF or require a review of the BCCS in terms of conformity.

This checklist has been published on the BCCS and Council websites. Cabinet on 24th July 2013 resolved to endorse the assessment undertaken by officers from the four local authorities and agreed that the Black Country Core Strategy is consistent with the National Planning Policy Framework, so that the Core Strategy policies should be given full weight in planning decisions.

The key planning policies include:

2a: Seeks to create a network of cohesive, healthy and prosperous communities across the Black Country, deliver high quality distinctive places which respect the diversity of the Black Country natural and built environment and attract new employment opportunities.

CSP2: Outside strategic centres and regeneration corridors a mix of good quality residential areas where people choose to live should be provided. Green Belt boundaries will be maintained and protected from inappropriate development.
CSP3: Development proposals will need to demonstrate that the strategic network of environmental infrastructure will be protected, enhanced and expanded at every opportunity.

CPS4: The design of spaces and buildings will be influenced by their context and seek to enhance the unique attributes the area offers.

DEL1: All new developments should be supported by the necessary on and off-site infrastructure to serve the development, mitigate its impacts on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

ENV2: Historic Character and Local Distinctiveness

States that development proposals will be expected to preserve and, where appropriate, enhance local character and distinctiveness. Proposal should aim to sustain and reinforce locally distinctive elements.

ENV3: Design Quality

Development proposals across the Black Country will deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits.

ENV5: Flood Risk

The Black Country Authorities will seek to minimize the probability and consequences of flood risk by adopting a strong risk-based approach

TRAN1: All new developments will address the transport network and provide adequate access for all modes, including walking, cycling and public transport.

TRAN2: Planning permission will not be granted for development likely to have significant transport implications.

It is considered in this case that the relevant provisions of the BCCS can be given full weight

Walsall's Unitary Development Plan (UDP) (2005)

www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Policies that have been saved and not replaced by the BCCS remain part of the development plan. However, in such cases the NPPF says "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

The relevant policies are:

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VII. The adequacy of the access, and parking.

VIII. The effect on the environment of the countryside and Green Belt

XII. The effect on woodland or individual trees on or near the site.

XIV. The effect on open spaces and outdoor recreation facilities, including footpaths.

XV. Implications for water resources

3.3 Inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances.

3.6 Development and redevelopment schemes should as far as possible, help to improve the environment of the Borough.

3.7 Seek to protect people from unacceptable noise, pollution and other environmental problems.

ENV2 d) Any engineering or other operation, or the making of any material change in the use of land, is inappropriate development in the Green Belt if it conflict with the openness and purposes of the Green Belt.

ENV4.

e) Where development is consistent in principle with the purposes of the Green Belt the Council will require that its siting, design, form, scale and appearance is compatible with the character of the surrounding area.

ENV3: Identifies more detailed considerations for proposals in the Green Belt, including detailed layout, quality of new landscape schemes.

vii. The cumulative physical effect of proposals in any one area.

ENV7: The Countryside Character approach to landscape assessment, conservation and enhancement is recognised and supported.

ENV10: Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV17: Planting will be promoted as part of landscape design around new developments or redevelopment schemes as a condition of the planning permission.

ENV18: Existing Woodlands, Trees and Hedgerows. The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows. Development will not be permitted if it would damage or destroy trees or woodlands protected by Tree Preservation Order,

ENV23: Proposals must take account of opportunities for nature conservation.

ENV32: Design and Development Proposals.

(a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. This policy will be applied to all development but will be particularly significant in the following locations:

III. On a visually prominent site

IV. Adjacent to transport corridors.

IX. Within Green Belt

(b) When assessing the quality of design the Council will use the following criteria:

I. The appearance of the proposed development

II. The height, proportion, scale and mass of proposed buildings/structures.

III. The materials proposed.

IV. The integration and co-ordination of buildings and external space.

V. Community safety and security.

VI. The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

VII. The effect on the local character of the area.

VIII. The proposed vehicular and pedestrian circulation patterns.

ENV33: Good landscape design is an integral part of urban design. Development within the Green Belt should be supported by full details of landscape proposals.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

T4: On District Distributors street parking and direct frontage access will be strictly regulated.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13, and be well designed.

T8: Encourages greater use of walking as a healthy and sustainable form of travel. Seek to safeguard, improve and rationalise the statutory public footpath and bridleway network. Any changes to statutory rights of way should aim to make access to the countryside easier.

T9: Cycle routes should provide a functional, direct link within and between different communities, centres and other destinations.

7.51: Easy walking/cycling distance will depend on local circumstances but the maximum will normally be regarded as 1000m.

T11b) Developments which generate significant numbers of personal trips should have direct, safe and attractive access for pedestrians, cyclists and wheelchair users. C) Where pedestrian and cycle links are considered to be sub-standard, measures must be taken to improve them.

T13: Seeks an appropriate level of car parking for each development. There is no specific standard for cemetery development.

LC1: The Council will seek to retain and enhance existing urban open spaces and redress any deficiencies in the provision or accessibility of these. Proposals for development which would result in the loss of, or otherwise adversely affect, urban open spaces will not be permitted.

LC11: Site proposed for the future extension of the cemetery at Bentley Lane.

It is considered in this case that the relevant provisions of Walsall's saved UDP policies are consistent with the NPPF

Supplementary Planning Documents (SPD)

On the basis that relevant UDP policies are consistent with NPPF, the related SPD(s) will also be consistent provided they are applied in a manner consistent with the NPPF policy. The relevant SPD's are;

Designing Walsall (Feb 2008)

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies.

DW3 – all new development must be designed to respect and enhance local identity

DW6 – new development should contribute to creating a place that has a clear identity

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DW10 – new development should make a positive contribution to creating a sustainable environment.

Conserving Walsall's Natural Environment SPD

NE1: All relevant applications to be supported by an adequate impact assessment.

NE7: planning applications with a potential to damage or destroy trees, woodlands or hedgerows should be supported by an arboricultural assessment and demonstrate trees to be retained will survive and space for them to develop is maintained.

N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

It is considered in this case that the relevant provisions of Designing Walsall Supplementary Planning Document are consistent with the NPPF.

Consultations

Planning Policy – site is allocated within the UDP as policy LC11. The applicant should provide some evidence in relation to need and the selection of the site over alternatives.

Transportation – no objection.

Public Rights of Way – no objection subject to the use of recommended conditions in regard to final footpath design and requirement of stopping up and diversion order.

Pollution Control – no objection. Note for applicant.

Flood Risk Planning & SuDs Officer – no objection subject to use of recommended conditions in regard to drainage details.

Environmental Health – no objection.

Natural Environment (Ecology and Landscape) – no objection, but landscape scheme requires further attention.

Natural Environment (Trees) – no objection in principle, concern about the current layout.

Severn Trent Water – no objection.

Coal Authority – no objection subject to the use of a condition requiring site investigation.

Police Crime Reduction Officer – no objection.

Fire Services – no objection subject to provision of suitable water supplies.

Public Participation Responses

Site notice displayed, press notice issued and surrounding occupiers notified by letter.

In regard to the original submission of a larger proposal, six letters were received objecting to the planning application on the following grounds:

- Taking last piece of Rough Wood.
- Not much space left for wildlife.
- There are fields across the road that could be dug up.
- Existing parking problems from the school.
- More concerned with dead than the living.
- Did not buy house to have view of cemetery.

- Bats are roosting in the wooded area.
- Small mammals will have to relocate to direction of houses.
- Loss of property values (not a material consideration).
- New alleyway will create a long corridor or anti-social behaviour, drugs and litter.
- Wayside Gardens and Tree Tops Drive are cul-de-sacs and are not wide enough to take the extra traffic.
- Central gated pathway will cause extra car parking problems in Wayside Gardens
- Pathways will bring an increase in anti-social behaviour.
- Will affect the mature hedge screening at the end of both Wayside Gardens and Treetops Drive.
- Paths will put more school children at risk from the drug problem that currently exists.
- One attending a funeral would not want children coming out of school through the cemetery.
- Told last time extending the cemetery would not go any further.
- Plans on line were not the same at the Council offices.
- Will Council compensate loss of property value (not a material consideration).

A petition with 354 signatures has been received objecting to the application.

One letter was received not objecting to the application.

Following amended drawings and re-consultation, two letters from the same property were received objecting to the application on the following grounds:

- To turn home into a through road would be unfair
- Object to through road

Two letters were received stating no objection to the amended plans, with one commending the planning team for extra work and time spent on the project to bring it to a successful conclusion.

Determining Issues

- The principle of cemetery development in the Green Belt
- Impact on the character and appearance of the area
- Impact upon residential amenity
- Impact on flooding/surface water drainage
- Impact upon ground conditions
- Impact on ecology and landscaping
- Impact on trees
- Access and Parking

Observations

The principle of cemetery development in the Green Belt

UDP policy ENV2 states the material change in the use of land is inappropriate development if it conflicts with the openness and purposes of the Green Belt. The area of the cemetery shown on the proposed plans are both in the West Midlands Green Belt and within the area defined on the UDP proposal map qualified by policy LC11 which proposes this area of land for the future extension of the cemetery.

Paragraph 11 of the NPPF states that the framework does not change the statutory status of the development plan as the starting point for decision making. Paragraph 81 indicates that, once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use. While the NPPF (as confirmed through the Gedling case) considers a change of use to a cemetery as inappropriate development in the Green Belt, since 2005 the UDP under policy LC11 has specifically allocated (and in regard of NPPF paragraph 81 defined) this part of the Green Belt for a future extension to the cemetery. Therefore the principle of the extending the cemetery within in this part of the Green Belt has been considered to be acceptable through the plan making process.

Notwithstanding this policy designation, it is reasonable through this application and in the interests of sustainable development to explore why the development of this Green Belt site is being progressed over any other potential cemetery sites in the borough.

- The applicant explains that of the eight cemeteries run by the Council within the borough, only three have capacity for new burial plots. North Walsall in Bloxwich at current rates has capacity for another 75-100 years, at Streetly this is 20 years and within the boundary of the existing site, another 5 years. While none of the cemeteries are exclusive to people living in the borough or living within a particular area of the borough, it is natural that families predominately seek for burials close to the neighbourhood they live in. While the borough has a longer term capacity at North Walsall and Streetly, in the absence of Willenhall being extended, beyond the next five years residents from Bentley, Darlaston, Moxley and Willenhall would need to make the journey to these other sites. In a worst case scenario this would be a travel distance of approximately 9.3km, and which for those travelling by sustainable means may include a couple of bus rides. It is acknowledged that the demographics lend towards visitors paying their respects being more elderly and any additional travel barriers may preclude the attendance and upkeep of graves. The alternative would be for Walsall residents to seek cemeteries outside of the borough and who in some cases charge a higher burial rate for non-residents. The applicant explains that being in use since 1966 means that many residents have strong connections to the cemetery. The planned extension will ensure that these already strong affiliations are reinforced as it will permit further family burials within the same area for generations to come. If an alternative site were used the connections would fracture as family members could not be buried within the same burial ground as their loved ones.

The cemetery has been in Bentley Lane since 1966 and has expanded in that time. It includes a permanent site office, vehicle access, car park and associated infrastructure. The site is well served by public transport and is within a residential area. A natural extension, as planned since the UDP adoption in 2005 would be a sustainable and cost effective way of continuing the local community service for a further 15 years. The alternative of developing a new cemetery within this neighbourhood would not be sustainable and could conflict with regeneration aspirations at other sites within the neighbourhood.

UDP policy LC11 was not revoked as part of the Black Country Core Strategy (which revoked some other UDP policies) and as part of the emerging work and evidence base on the preparation for the Site Allocations Document it is not proposed to remove LC11 allocation from the development plan documents. While limited weight can given to the SAD, the current local policy position and the needs assessment explained above provide sufficient weight that the allocation for an extension on this part of the Green Belt is still relevant and not out-of-date. As the development plan is the starting point for decision making and UDP policy LC11 proposes this area of land for the future extension of the cemetery, the principle of an extension to the cemetery is acceptable.

One resident comments that the proposal would take the last piece of Rough Wood, the amended plans now retain open space between the schools and the cemetery. Another comments that there are more concerns with the dead than the living. It is prudent for the Council to consider the future needs of residents and their families while protecting residential amenity which this report considers. Comments have also been made about being told previously that the extension would not go any further, as explained the land has been allocated for an extension since 2005.

Impact on the character and appearance of the area

Where development is acceptable in principle, UDP policy ENV3 requires detailed evaluation of proposals within the Green Belt. Openness is an essential characteristic of the Green Belt, with openness being considered to mean the absence of buildings or development. The site has a rural character and appearance being an open site with tree planting and while located between the edge of the existing cemetery and Old Hall Special School it is seen as part of the wider countryside. The proposal does not include any buildings; the site would be bound by 1.8-2.2m high metal fences, which like that used around the existing cemetery provides views through the site. The extension would include one central access road from the existing cemetery. Other built form would be headstones and associated infrastructure such as waste bins and water taps. Around the perimeter of the site a number of trees would be retained with opportunities for additional planting that would provide screening.

In comparison with the existing open space it is recognised that the proposal would be relatively innocuous in its effect upon the openness, but there would be by virtue of the associated paraphernalia associated with the day-to-day use of the cemetery it would nonetheless have some effect on the openness. Weight is given that in allocating an extension as part of the UDP adoption (policy LC11) it would have been recognised at the time that these ancillary features would be necessary. The design ensures continuity of the character derived from the existing extension and in main would retain wide open vistas across the site. It is considered that the character and

appearance of the development is acceptable and in accordance with the development plan and NPPF.

Impact upon residential amenity

The edge of the extension would be 75m from the nearest houses along Wayside Gardens with a buffer of trees and hedges between screening any views. There are no new buildings and by their very nature, it is considered a cemetery would not give rise to unacceptable noise and disturbance.

One resident comments that they did not buy their house to have view of cemetery. It is common planning principles that nobody has a right of a view, but of outlook. The proposed extension would not bring the boundary of the cemetery any closer than existing and would therefore not result in a loss of outlook.

Comment has also been passed that plans on line were not the same at the Council offices. All plans submitted for formal consideration have been available on the website.

Impact on flooding/surface water drainage

Both a Flood Risk Assessment and Surface Water Drainage Strategy have been provided in support of the development of this undeveloped site. The FRA states that the ground conditions are unlikely to permit the use of infiltration as a method of drainage and surface water discharge from the site should be limited to equivalent greenfield rate of runoff. The SWDS proposes surface water from the new roadways to be discharged to the public surface water drains, with filter drains and swales to assist attenuation and filtering of water. Flood Risk Planning & SuDs Officer raises no objection subject to securing detailed drainage designs which can be secured by condition.

Impact upon ground conditions

The Coal Authority define the area as a Development High Risk; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. A Geo-Environmental Investigation Report has been submitted. The Coal Authority records indicate that the site has been subject to historic underground coal mining at shallow depth and is also likely to have been subject to historic unrecorded underground coal mining at shallow depth. Records indicate the presence of seven mine entries (shafts) within, or with 20m of the planning boundary. The report confirms that drilling and grouting will be required to consolidate the shallow workings identified and that further clarity will need to be determined from probe drilling. As per the recommendations of the report the Coal Authority do not object to the proposal subject to the use of conditions requiring site investigation and where necessary remedial works prior to the commencement of development.

Pollution Control raise no objection to the application. A note for applicant is recommended in regard to health and safety of workers due to made ground in the locality.

Impact on ecology and landscaping

An Ecological Assessment has been submitted with the application noting that there are no features that would justify designation as a wildlife site on botanical grounds and no evidence of protected species. It recommends site clearance outside the breeding bird season (mid February to September inclusive), maintain attractive paths through the sites and retain as much as possible of the existing vegetation.

The Council's Natural Environment Team have considered the proposal and note that the site has a developing nature conservation interest which has partly regenerated naturally and partly through tree planting. It is not designated for nature conservation and is not within a wildlife corridor. They note that while this development is not desirable in nature conservation terms, the proposed design will retain a proportion of the existing vegetation and result in the creation of new habitats.

The visual relationship between the cemetery area and the adjacent land is broadly satisfactory; cemetery users will see a more natural landscape beyond the semi-transparent weldmesh fencing. The proposed path is sufficiently far away from most of the proposed burial areas to not detract from the privacy of the cemetery extension. The proposal would require the clearance of a number of trees which in the early stages would appear as a stark transition between the retained wooded areas outside of the extended area and the cleared site. It is recommended that some trees are retained within the cemetery extension during the early years of its establishment which could then be removed when those areas are required for burials. The drawings do not demonstrate sufficient screening to the soil storage areas.

The proposed landscape plan does not provide full details but shows sufficient areas where compensatory planting can be accommodated to provide sufficient landscaping to the proposed extension in the interests of both visual amenity and offering ecological value while ensuring appropriate burial space is provided. Full landscape details, including phasing and maintenance arrangements can be secured by condition.

Natural Environment officers comment that the proposed path had a dog leg which may result in desire lines and the path could be designed to consider natural lines. The route of the path has been designed to minimise travel distance to Bentley Lane and also to ensure sufficient surveillance is provided for users.

One resident has commented that any works would make small mammals relocate to the direction of houses. There is a considerable distance between the site and houses, with areas of natural habitat for mammals within the retained open space between.

Impact on trees

A tree report has been provided noting trees could be picked out of the existing tree stock on the site and retained as landscape features. Most of the trees are young enough to cope with altered exposure if the area of some of the tree groups need reducing.

The Council's Arboriculturalist comments that the plans show there will be very little in the way of tree retention along the Bentley Lane frontage and some of the details on the drawing do not match with what is on site. The extent of the proposed use does not leave much space for replanting along the Bentley Lane frontage and consideration should be given to retaining more of the existing trees while allowing for more replanting.

The officer considers that the proposed route of the PROW may also result in the loss of a considerable number of trees. There is an acute junction in the middle of the site which may not be desirable from a safety point of view and may result in the removal of more trees to open up the visibility aspects.

None of the trees are protected and the tree report categories most trees individually as either low quality or of no value. Collectively they have an amenity value and while compensatory planting can be provided the extent of this is balanced against burial space. Weight is given to the pockets of trees outside of the proposed extension area that, with the exception of the footpath would be retained. It is considered that compensatory planting can be secured by condition that would retain amenity value to the site.

The loss of trees to accommodate the revised PROW is regrettable, but this route has been chosen to minimise the travel distance and to ensure sufficient surveillance of the route. Alternative longer routes to avoid trees might increase travel distance and bring the route closer to boundary fences which reduces surveillance and may prohibit the success of the required stopping up order.

One resident comments that the development will affect the mature hedge screening at the end of both Wayside Gardens and Treetops Drive. This area is no longer part of the planning application.

Access and Parking

Running immediately along the boundary fence to the east of the cemetery is a PROW recorded as Footpath 35,36, and 37 Willenhall which links the residential properties of Treetops Drive and Wayside Gardens to the south to Bentley Lane in the north. This PROW forks and has a further 'L' shaped section travelling from near to the southern application boundary in an eastern direction across the open space and then in a northern direction and onto Bentley Lane. An additional tarmac safer route to school crosses the site from Bentley Lane close to the bus stop to near to the entrance gate of Willenhall E-Act Academy. Within the site there are also desire line paths that have been formed. With the exception of a tarmac safer route to school path, the paths are unconsolidated, uneven and can become enclosed by vegetation or waterlogged at certain times of the year.

The proposed extension and boundary fences would necessitate the closure of the north to south route and re-alignment of the footpath running across the middle of the open space. The other non-statutory paths would be removed and the tarmac path from the school reduced by half and access continued along the relocated rights of way. At the point of realignment the new footpath would have a shale surface with timber edges. For users of the north to south footpath it would increase the travel distance by 150m to reach the original access points. For the users of the east to west footpath the travel distance would reduce by 20m to reach the original

access points. While it is recognised that travel distance would be increased the experience for users of the public footpath would be improved. The uneven, unconsolidated and overgrown footpaths would be replaced with a level consolidated surface where in addition immediate vegetation 1m either side will be cleared to increase surveillance of the path. A 'K' gate is also proposed to provide a barrier for any potential motorcycles getting access towards the residential areas to the south.

The Public Rights of Way Officer has considered the application and raises no objection. Conditions are recommended in regard to the final alignment and specification. A separate application under Section 257 of the Town and Country Planning Act 1990 will be required and any grant of planning permission does not permit any diversions or stopping up orders.

Residents raise concerns about the pathway creating a long corridor of anti-social behaviour and will put more school children at risk from the drug problem that currently exists. The Council had a duty to maintain access ways defined as PROW. The existing paths are enclosed by landscaping, uneven and of unconsolidated surfaces. They have a lack of surveillance and would discourage use. The proposed path would increase its attraction for use, increase surveillance due to its width and due to the shale surface also provide a noisier surface so users become aware of other users. The path would improve links to the school and Bentley Lane and overall improve the experience of use.

A Transport Statement has been provided noting that parking at the site is sufficient and no additional parking is expected to be required for the proposed extension. The site has good public access, bus stops are located within a short distance of the cemetery and the area is served by a number of routes. Pedestrian and cyclist access to the site is good. Average daily trips have been estimated, it can be concluded that the proposed development is unlikely to have any significant affect on the surrounding highway network.

Transportation raise no objection. An additional access from Bentley Lane is proposed in close proximity to the bus stop which would assist reducing walking distance for visitors coming by bus or from the west side of the site.

A number of neighbours raised concerns about Wayside Gardens and Treetops Drive being cul-de-sacs and not wide enough to take the extra traffic, with a through road being unfair and that the central gated pathway will cause extra car parking problems. The proposed access to the cemetery would be from Bentley Lane. Earlier proposals sought to improve the PROW leading from Wayside Gardens and Treetops Drive and include a path through the cemetery. These are no longer part of the proposal.

Positive and proactive working with the applicant

Officers have been working with the applicant to address concerns with the original submission which have resulted in a re-design of the scheme to which full support can be given.

RECOMMENDATION: Grant permission subject to conditions

1) This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990 (as amended).

2) This development shall not be carried out other than in conformity with the application form and following plans and documents: -

- Location plan received 3/11/15
- Site survey received 14/5/15
- Proposed layout received 6/11/15
- Proposed landscaping received 6/11/15
- Proposed and existing rights of way received 3/11/15
- Proposed drainage layout received 6/11/15
- Existing contours received 6/11/15
- Proposed contours received 6/11/15
- Proposed longitudinal and cross sections (1 of 3) received 6/11/15
- Proposed longitudinal and cross sections (2 of 3) received 6/11/15
- Proposed longitudinal and cross sections (3 of 3) received 6/11/15
- Proposed general arrangements 6/11/15
- Design and access statement received 14/5/15
- Ecological Assessment received 14/5/15
- Geo-Environmental Investigation received 14/5/15
- Tree report received 14/5/15
- Transport Statement received 14/5/15
- Surface Water Drainage Strategy received 3/11/15
- Flood Risk Assessment received 14/5/15

Reason: For the avoidance of doubt and in the interests of proper planning, (except in so far as other conditions may so require).

3a) No development shall commence until an intrusive site investigation confirming the mining conditions and any remediation measures required to ensure the safety and stability of the proposed development have been submitted to and approved in writing by the Local Planning Authority.

3b) The development shall be undertaken in accordance with any approved remediation measures.

Reason: To ensure the safety and stability of the development.

4a) No development shall commence until details for a surface water drainage scheme, based on sustainable principles and the principles embodied with the *Opus Surface Water Drainage Strategy, dated March 2014, reference: J-B0596.00 R3.1 and Drwg No. HM683/05-01 Rev B - 'Drainage Layout'* has been submitted to for written approval by the Local Planning Authority. The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of two treatment trains to help improve water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features.

4b) The scheme shall be fully implemented in accordance with the approved details and thereafter maintained.

Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site.

INFORMATIVE: Detailed design details shall include including cross-sections and capacity of the proposed balancing pond, swales & filter drains.

5a) No development shall commence until details identifying on-site pluvial flood flow pathways and a scheme to sympathetically route overland flows though the site to avoid burial areas has been submitted to and approved in writing by the Local Planning Authority.

5b) The approved scheme shall be fully implemented in accordance with *section 6.11 of the Opus Surface Water Drainage Strategy, dated March 2014, reference: J-B0596.00 R3.1 and approved drawing HM683/05-01 Rev B.*

Reason: To mitigate against overland flow and to steer flows to an appropriate area within the site.

6a) No development shall commence until full details of the final footpath alignment and specification have been submitted to and approved in writing by the Local Planning Authority. Details are to include path width, construction, drainage, signs/waymarker posts, verges and proposed landscaping within them.

6b) The development shall be completed in accordance with the approved details.

Reason: To ensure the satisfactory access provision for the relocated public right of way.

7a) Prior to the commencement of development full details of hard and soft landscaping works, including replacement tree planting and a timetable for planting shall have first been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- correct botanical names
- numbers/planting densities for each block of planting proposed
- size supplied of all proposed tree and shrubs at time of planting

- details of proposed turf/seeded areas
- topsoil and mulching depths and specifications
- staking details for proposed trees
- details of landscape establishment / maintenance proposals to be undertaken during the standard conditioned maintenance period
- details of the phased clearance of trees required to be removed to ensure maximum tree cover until particular areas are required for burial space.
- ground preparation measures to be adopted.
- existing and proposed levels.

7b) The approved scheme shall be implemented in accordance with the approved timetable of works, retained for 5 years and managed in accordance with the approved management details. Any trees or plants, which die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species.

Reason: To ensure the satisfactory appearance of the development and protect wildlife.

8) All site clearance shall take place outside the bird nesting season (the bird nesting season is March to September inclusive). Where this is unavoidable a breeding birds survey shall be undertaken by a suitably qualified and experienced ecologist prior to any works commencing. If breeding birds are discovered site clearance and other operations should be delayed until young birds have fledged. All wild birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 and subsequent amending legislation. It is an offence to damage or destroy a nest of a wild bird. If nesting birds are discovered clearance works should be delayed and advice sought from the ecologist or Natural England.

(Please note that feral pigeons are protected and destruction of nests could only take place on the grounds of public health or public safety.)

Reason: To protect local bird populations.

9) The weldmesh fence hereby approved shall be finish in a moss green colour.

Reason: In the interests of visual amenity.

NOTES FOR APPLICANT

Coal Authority

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for a Coal Authority Permit and further guidance can be obtained from The Coal Authority's website at:

<http://coal.decc.gov.uk/en/coal/cms/services/permits/permits.aspx>

Building over or within the influencing distance of a mine entry (shaft or adit) can be dangerous and has the potential for significant risks to both the development and the occupiers if not undertaken appropriately. The Coal Authority would draw your attention to our adopted policy regarding new development and mine entries:

<http://coal.decc.gov.uk/assets/coal/whatwedo/4265-policy-for-building-over-or-within-the-influencing.pdf>

Highways

The grant of planning permission does not give authority to divert or stop up a footpath or bridleway. The diversion or stopping up of footpaths and bridleways is a separate process which must be carried out before the paths are affected by the development. An application must be made for a stopping up and diversion order under Section 257 of the Town and Country Planning Act 1990. New footpaths must be in place and existing paths are to remain undisturbed/ unaffected by the development until the order is completed.

In accordance with the Highways Act 1980, Lawful and Unlawful Interference with the Highway, prior to commencement of any work the applicant must provide details of the proposed work to Highways, Walsall Council and apply for any necessary permits including a scaffold permit and/or temporary prohibition of traffic order. Upon completion, the applicant must reinstate the public right of way to its present condition. No excavations, scaffolding, hoarding, movement and storage of materials, or other obstructions associated with the proposed development are to be present within, over or under the adjoining public right of way without prior agreement of the highways authority.

Pollution Control

The report identifies that there is organic matter in made ground on the proposed development site and that it is located within 250m of a site (described as land north of Bentley Lane), both of which could be sources of elevated levels of ground gas. Therefore, in addition to any builder or contractor undertaking the development, this information should also be brought to the attention of the employer of any employees involved with activities associated with digging graves on the proposed development; in order that they can implement any Health and Safety at Work precautions they feel appropriate when undertaking work at the site.