

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 9 June 2021

APPLICATION REF. NO:	21/00271/DC
STATUTORY DECISION DATE:	8 July 2021
WARD/PARISH:	HUMMERSKNOTT
LOCATION:	Agricultural Land and Crematorium, West Cemetery, Carmel Road North, Darlington
DESCRIPTION:	Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 14 (drainage) attached to planning permission 19/01185/DC dated 9 March 2020 (refurbishment of existing crematorium including conversion of existing chapel to office space and erection of new chapel, car parking, external lighting, floral tribute area and garden of remembrance on agricultural land) to allow an increased discharge rate of 5 l/sec rather than 3.5 l/sec
APPLICANT:	Mr Dave Winstanley

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS (see details below)

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QPYON3FP0C800>.

APPLICATION AND SITE DESCRIPTION

1. Members considered an planning application, 19/01185/DC, for development in connection with proposals to upgrade and enhance existing chapel and crematorium facilities at West Cemetery in March 2020. The application proposed the refurbishment of the existing crematorium to office space and the erection of a

new chapel, car parking, external lighting, floral tribute area and garden of remembrance on agricultural land to the west of the existing cemetery. **Members resolved to grant planning permission** subject to a number of a number of conditions which covered a range of matters including ecology, landscaping and tree protection, archaeology and drainage.

2. Condition 14 of that permission, was attached at the request of Northumbrian Water and requires that the development of the new chapel, access and car parking to be built on agricultural land to the west of the cemetery is implemented in line with the drainage strategy submitted with the planning application and restricts additional surface water flows generated from the new development element of the proposal (development on agricultural land) to 3.5 l/sec. This is a compliance condition and does not require the submission of any further details for approval. The wording of the condition is set out below:

Development shall be implemented in line with the drainage strategy contained within the submitted documents entitled 'Outline Drainage Strategy – Chapel' dated 2019-12-05. The drainage scheme shall ensure that foul and surface water flows discharge to the public sewerage network via the existing private on site drainage. The additional surface water generated from the new development element of the proposal shall not exceed 3.5 l/sec.

3. The outline drainage strategy and Flood Risk Assessment submitted with the original application set out how surface water run off from roofs and hardscaping on this part of the site will be dealt with. The drainage strategy is based on a sustainable drainage system in the form of a below ground attenuation tank beneath the proposed car park fitted with a hydrobrake, with a pumping station located at the southern end of the site to regulate flows to ensure the required run off rate into the existing sewer on Salutation Road to the south. Although the approved drainage strategy was designed to achieve a run off rate of 5 l/sec, at the time the application was considered NWL considered it necessary to restrict the run off rate to 3.5 l/sec. **This is the sole area of consideration within this application based on revised technical advice from NWL**
4. This planning application has been submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary the wording of condition 14 to allow an increased discharge rate from the new development from 3.5l/sec to 5 l/sec, following further discussions with the agent and Northumbrian Water. The principle of the outline drainage strategy itself will not change, however the proposed increase in the discharge rate does require an application to formally vary this condition.
5. No other changes to the approved scheme are proposed as part of this application. Other drainage conditions required the submission of further information for approval including a sustainable surface water drainage scheme for the site as a whole (15) and the submission of a programme of remedial works and mitigation measures relating to the existing drainage system within the cemetery itself (16). This application does not propose any changes to these

conditions which are to be considered alongside other relevant conditions as part of the associated discharge of condition application, 20/00952/CON.

SECTION 73 APPLICATION PROCESS

6. Section 73 of the Town and Country Planning Act 1990 (as amended) relates to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. Planning Practice Guidance states that an application can be made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. Applications cannot be made under Section 73 to extend the time limit within which a development must be started and where an application under Section 73 is granted the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS

7. The Local Planning Authority has considered the proposal against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. In the opinion of the Local Planning Authority, the proposal is development for which an Environmental Impact Assessment **is not required** as the development would not be likely to have significant effects on the environment by virtue of factors such as nature, size or location.

MAIN PLANNING ISSUES

8. An application under Section 73 is an application for planning permission and therefore Section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise, is relevant. The National Planning Policy Framework (NPPF) comprises up to date national planning policy and is a material consideration in planning decisions.
9. However, since the application only proposes to amend the wording of condition 14, seeking an increase in the discharge rate for additional surface water flows arising from the new development, and as the proposal in all other respects remains unchanged from that considered by Members in March 2020, with no subsequent change in either local or national planning policy since this time, consideration of the application will be limited to the acceptability or otherwise of the proposed variation of condition 14, having regard to the technical advice of Northumbrian Water, together with relevant national and local planning policy concerning flood risk as set out in the Planning Policies section of this report and

considered in detail in the main body of the report. It is not necessary to revisit the principle of development or re-assess any other aspects of the proposal.

PLANNING POLICIES

10. Relevant planning policies include those seeking to ensure that new development:

- Protects and, where possible, improves environmental resources whilst ensuring that there is no detrimental impact on the environment, general amenity, and the health and safety of the community (Policy CS16)
- Does not increase flood risk elsewhere and where appropriate is supported by a site-specific flood risk assessment (NPPF, para. 163)

RESULTS OF TECHNICAL CONSULTATION

11. No objection in principle has been raised by the Council's Environmental Health Officer and Highway Engineer. Durham County Archaeology, Northern Powergrid and Northumbrian Water similarly raise no objection. The Gardens Trust do not wish to comment on the application.

RESULTS OF PUBLICITY AND NOTIFICATION

12. Four letters of objection have been received from local residents which raise the following issues:

- Cannot find reassurance that these proposals will not add to the existing drainage issues.
- No published inspection regime for the drainage to ensure that it meets the needs of the development and affected residents not and in the future
- The proposed increased discharge rate only relates to the new chapel area. The remaining land has not yet been subject to the same degree of scrutiny, surface water will therefore remain an issue unless it is remedied at the same time
- The chapel development has been prioritised at the expense of residents' interests
- Concerned about the level of flooding along the whole length of the north side of Salutation Road, no progress seems to have been made to resolve the problems we face
- Lack of information about the source of the water and why it is not flowing away
- Insufficient information to support clear run into the designated public sewer on Saluation Road
- Residents may be impacts by surface water flooding near the outlet of West Cemetery's drainage network into the NWL public sewer
- Public drainage/sewerage networks in this area have limited capacity and tolerances should not be exceeded by private new developments
- Privacy for residents and future users of the cemetery must be taken into account now.

PLANNING ISSUES/ANALYSIS

(a) Flood Risk and Drainage

13. Condition 14 concerns drainage associated with the proposed new chapel, car park and access roads, on agricultural land to the west of the cemetery. The condition, which was attached at the request of Northumbrian Water (NWL), requires that this part of the development is carried out in accordance with the outline drainage strategy submitted with the application. On the basis of the information submitted with the original planning application, NWL advised that while it was satisfied with the drainage strategy, it was necessary to restrict additional surface water generated from the new development and entering the public sewerage network to a discharge rate of 3.5 l/sec. with excess flows attenuated on site.
14. Further discussions between the agent and NWL have taken place following determination of the application in March 2020, through NWL's formal pre-planning enquiry service. As a result of this, Northumbrian Water has confirmed there is now sufficient capacity in their system to accept additional restricted surface water flow of 5 l/sec to discharge into the existing sewer on Salutation Road from the new chapel/access/parking rather than the 3.5 l/sec as originally proposed. Accordingly, NWL raise no objection to this application to increase the discharge rate.
15. Conditions 15 and 16 of the original planning permission, requiring the submission of a sustainable surface water drainage scheme for the site as a whole (15) and the submission of a programme of remedial works and mitigation measures relating to the existing drainage system within the cemetery itself (16) remain to be discharged. While these details have been submitted this information is currently with technical consultees for consideration. Consultation on this information has also take place with nearby residents, as Members requested, and those technical consultees will be made aware of the comments raised before this application is determined. Consideration of the issue of increasing the discharge rate does not however affect the determination of these outstanding conditions.

(b) Other Matters

16. One matter raised by objection relates to privacy between the proposed chapel and the properties on Salutation Road to the south. This will require the relevant condition (17) to be discharged at the appropriate time but is not a matter for this application.

CONCLUSION AND RECOMMENDATION

17. The proposed variation of condition 14 is a technical matter relating to an increase in discharge rates for additional surface water flows in connection with the approved outline drainage strategy following further discussions between the

agent and Northumbrian Water, who have confirmed their acceptance of the proposal by way of a consultation response to this application. No other changes to the approved scheme are proposed as part of this application and it is not considered necessary to revisit the principle of development or re-assess any other aspects of the proposal. As this is an application under Section 73 of the Town and Country Planning Act 1990, it is also necessary to repeat the relevant conditions from the original planning permission for clarity. Accordingly, it is recommended that:

**PURSUANT TO REGULATION 3 OF THE TOWN AND COUNTRY PLANNING
GENERAL REGULATIONS 1992, PLANNING PERMISSION BE GRANTED
SUBJECT TO THE FOLLOWING CONDITIONS**

1. The development hereby permitted shall be commenced not later than 9 March 2023.

REASON – To accord with the provisions of Section 73 of the Town and Country Planning Act 1990

2. The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below:
 - (a) Proposed site plan, drawing number DC19002/A/020 P1 dated 18.12.2019
 - (b) Proposed site plan – crematorium, existing car parking and passing places, drawing number DC19002/A/021 P1 dated 18.12.2019
 - (c) Proposed site plan – chapel, drawing number DC19002/A/022 P1 dated 18.10.2019
 - (d) Proposed external works – fencing, drawing number DC19002/A/035 P1 dated 16.12.2019
 - (e) Proposed external works – fencing details, drawing number DC19002/A/036 P1 dated 19.12.2019
 - (f) Contractors compound and access plan - sheet 1 of 2, drawing number DC19002/A/040 P1 dated 29.11.2019
 - (g) Contractors compound and access plan – sheet 2 of 2, drawing number DC19002/A/041 P1 dated 29.11.2019
 - (h) Proposed ground floor plan – chapel, drawing number DC19002/A/101 P1 dated 28.10.2019
 - (i) Proposed ground floor plan – crematorium, drawing number DC19002/A/120 P1 dated 03.12.2019
 - (j) Proposed roof plan – crematorium, drawing number DC19002/A/130 P1 dated 16.12.2019
 - (k) Proposed roof plan – chapel, drawing number DC19002/A/131 P1 dated 12.11.2019
 - (l) Proposed elevations – crematorium, drawing number DC19002/A/220 P1 dated 10.12.19
 - (m) Proposed chapel elevations, drawing number DC19002/A/221 P1 dated 28.10.2019
 - (n) Proposed site sections – chapel, sheet 1 of 3, drawing number DC190002/A/320 P1 dated 19.12.2019

- (o) Proposed site sections – chapel, sheet 2 of 3, drawing number DC19002/A/321 P1 dated 19.12.2019
- (p) Proposed site sections – chapel, sheet 3 of 3, drawing number DC19002/A/322 P1 dated 19.12.2019
- (q) Landscape concept, drawing number BA9684LAN-C dated 18.12.2019 issue C
- (r) Landscape planting detail, drawing number BA9684LAN-D1 dated 18.12.2019 issue C
- (s) Outline drainage strategy – chapel, drawing number DC19002-APP-00-XX-DR-C-30001-S3 P06 dated 12.7.2019
- (t) Outline surfacing and level strategy, drawing number DC19002-APP-00-XX-DR-C-30002-S3 P05 dated 12.7.2019
- (u) External lighting and trenching layout sheet 1 of 2, drawing number DC19002/A/607 T1 dated February 2020
- (v) External lighting and trenching layout sheet 2 of 2, drawing number DC19002/E/608 T1 dated February 2020

REASON – To define the consent

3. The development hereby permitted shall be constructed in accordance with the external materials/finishes as set out in the application and detailed on drawing numbers DC19002/A/220 P1 Proposed elevations – crematorium and DC19002/A/221 P1 Proposed chapel elevations.

REASON – To ensure that the external appearance of the development is an appropriate design and quality in accordance with Policy CS2.

4. The ecological enhancement and mitigation measures set out in the Barrett Environmental Ltd 'Preliminary Ecological Appraisal: Plot 09/035, West Cemetery, Darlington' dated December 2019 and 'Bat Survey Report: Crematorium, West Cemetery, Darlington' dated October 2019 shall be implemented in full. In addition, no development of the new chapel building above damp proof course level shall take place until a scheme for the planting of an area of species rich grassland on land to the south of the proposed burial ground has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented in full prior to the chapel first being brought into use.

REASON – To comply with Policy CS15.

5. The submitted landscaping scheme shall be fully implemented concurrently with the carrying out of the development, or within such extended period which may be agreed in writing, the Local Planning Authority. Thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

REASON – In the interests of the visual amenity of the area and to ensure compliance with Policy CS15.

6. Prior to any demolition or construction activities taking place on site, existing trees shall be protected in accordance with the details contained in the Barnes Associates Arboricultural Impact Assessment 'Expansion and Refurbishment of Crematorium and Chapel' dated 19.12.2019 and shown on drawing number BA9684TPP 'Tree Impacts' dated 18.10.2019. The tree protection measures shall remain in place in accordance with these details for the duration of the construction phase of the development hereby permitted.

REASON – To ensure a maximum level of protection in order to safeguard the wellbeing of the trees on site and in the interests of the visual amenities of the area.

7. The demolition and construction phase of the development hereby permitted shall be carried out in strict accordance with the measures set out in the 'West Cemetery Crematorium Construction Management Plan Revision 1' dated December 2019.

REASON – In the interests of highway safety and residential amenity

8. Demolition and construction activities on the site shall not take place outside of the hours of 08.00 – 18.00 Monday to Friday and 08.00 – 14.00 on a Saturday. There shall be no working on a Sunday other than those activities set out in the Facultatieve Technologies 'Proposed Sunday Working Schedule' between the hours of 09.00 and 17.00.

REASON – In the interest of residential amenity

9. Prior to installation of the temporary stack associated with the replacement of the existing cremators, details of the stack, shall be submitted to and approved in writing by the Local Planning Authority. The temporary stack shall be removed following full installation and commissioning of the new cremators which shall thereafter be served by the existing stack.

REASON – In the interest of residential and visual amenity

10. Prior to the new chapel hereby permitted first being brought into use, a scheme to provide secure cycle parking on the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the chapel shall not be brought into use until the approved details have been implemented in full and shall be retained for the lifetime of the development.

REASON – To encourage access to the site by sustainable modes of transport

11. Prior to the new chapel hereby permitted first being brought into use, details of a scheme to erect a 2.4 metre close boarded timber fence adjacent to the service road leading from the south of the existing maintenance building to the existing cemetery shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the chapel shall not be brought into use until the fence has

been erected in accordance with the details as approved and shall be maintained for the lifetime of the development.

REASON – In the interests of visual and residential amenity

12. No development shall commence until a written scheme of investigation setting out a phased programme of archaeological work in accordance with 'Standards for All Archaeological Work in County Durham and Darlington' has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.

REASON – To safeguard any archaeological interest in the site, and to comply with part 16 of the National Planning Policy Framework. A pre-commencement condition is required as the archaeological investigation/mitigation must be devised prior to the development being implemented

13. No part of an individual phase of the development as set out in the agreed programme of archaeological works shall be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

REASON – To comply with paragraph 199 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

14. Development shall be implemented in line with the drainage scheme contained within the submitted document entitled 'Outline Drainage Strategy – Chapel' dated 2019-12-05. The drainage scheme shall ensure that foul and surface water flows discharge to the public sewerage network via the existing private on site drainage. The additional surface water generated from the new development element of the proposal shall not exceed 5l/sec

REASON – To prevent the increased risk of flooding from any sources in accordance with the NPPF.

15. The development hereby approved shall not be commenced on site until a scheme for the implementation, maintenance and management of a sustainable surface water drainage scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. The scheme shall include but not be restricted to providing the following details:
 - I. Detailed design of the surface water management system;
 - II. A built program and timetable for the provision of the critical surface water drainage infrastructure

- III. A management plan detailing how surface water runoff from the site will be managed during the construction phase

While the decision to discharge conditions laid out in the paragraph above is a technical one, residents who have been consulted to date shall have sight of the papers which inform any decision to discharge. Any meetings of professionals to consider the discharge shall have access to comments by residents on the success or otherwise of the flooding mitigation measures.

REASON – To ensure the site is developed in a manner that will not increase the risk of surface water flooding to the site or surrounding area, in accordance Core Strategy Policy CS16 and the National Planning Policy Framework.

16. The development hereby permitted shall not commence until the remedial works highlighted in the Jet Aire Service GR8370 Darlington Crematorium report and accompanying drawing and mitigation measures highlighted in the Jet Air Services correspondence dated 13/02/2020 have been completed. The applicant must submit a programme for these works and the drainage system must be fully operational before works commence on the proposed development.

REASON – To ensure that flood risk to the site and neighbouring sites is not increased as a result of this proposed development

17. Prior to the chapel hereby approved being constructed above damp proof course level, details of a wall to be constructed along the southern boundary of the application site and associated landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the wall and landscaping scheme shall be implemented in full in accordance with the approved details prior to the chapel first being brought into use.

REASON – In the interests of visual and residential amenity