

Application Number	19/00683/FUL
Site Address	Worcester Muslim Cemetery, John Comyn Drive, Worcester,
Description of Development	Change of Use for the creation of an extension to the existing cemetery. Creation of two new ancillary buildings.
Expiry Date	14 January 2020 Extension of time agreed with applicant until 21 October 2022
Applicant	Mr Allah Ditta
Agent	Zebra Architects
Case Officer	Andrew Thompson
	andrew.thompson@worcester.gov.uk
Ward	Claines Ward
Reason for Referral to Committee	The Corporate Director – Planning and Governance refers this application to Planning Committee due to the sensitive nature of the application as the City Council owns part of the site and the applicant is a Member of the City Council.
Key Issues	The principle of development and whether the proposal would be sustainable form of development having regard to the 3 dimensions of sustainable development in terms of its economic role, social role and environmental role.
Web link to application	https://plan.worcester.gov.uk/Planning/Display/19/00683/FUL
Recommendation	That Planning Committee delegates authority to the Corporate Director - Planning and Governance to receive and update ecological information and provided that this raises no new issues in respect of biodiversity, to grant planning permission subject to the conditions, updated as appropriate, as set out at Section 9 of this report.

1. **Background**

- 1.1 The application was registered on 19 November 2019 and was due for a decision on 14 January 2020. An extension of time for the determination of the application has been agreed until 7 October 2022 to allow determination by the Planning Committee.
- 1.2 The application has been referred to the Planning Committee in accordance with the adopted Scheme of Delegation as the City Council owns part of the site and the applicant is an elected Member.

2. **The site and surrounding area**

- 2.1 The application site is currently an area of scrub land and a hub used by the City Council's Clean and Green (bin storage) operations behind the existing Perdiswell Muslim Cemetery.



Figure 1 – Site Location Plan

- 2.2 The application is in two levels. At the highest level the site is in Flood Zone 1 with a lower level being within Flood Zone 2. A small portion of the site at the northern boundary is in Flood Zone 3.
- 2.3 The application site is part of an allocated Green Space and within the Green Belt. The site is also close to the former site of Perdiswell Hall and the listed buildings of the former Coach House and Stables and associated walls. The area is in an area identified as an Archaeological Sensitive Area.

2.4 To the northwest is the allotments and to the east is Perdiswell Park. The national cycle route runs alongside the eastern boundary.

3. The proposals

3.1 The application proposals are to extend the existing cemetery in the area immediately adjacent to the existing cemetery and re-landscape the lower area including the clearing and extension to the existing pond. The proposals would also include a new ancillary pavilion building on a raised platform and car parking for funeral services. The application proposals have been the subject of amended plans and further information has been provided to address objections of consultees.

3.2 A new administration and toilet building is also proposed at the site entrance from John Comyn Drive with realignment of the existing visitor parking area for 5 spaces.

3.3 The proposals would also retain the existing maintenance shed and an external area for the use by the City Council's Clean and Green Services.

3.4 The buildings proposed are approximately the following size:
Administrative and WC building - 14.3m by 6.25m by 5.75m in height
Pavilion Building - 7.95m by 3.85m by 4.25m in height

3.5 The application is accompanied by a full set of plans together with a suite of supporting documents that include:

Site Location Plan (Ref: PL001 - Rev B)
Existing Site Plan (Ref: PL005 - Rev B)
Proposed Site Plan (Ref: PL020 - Rev D)
Proposed Site Plan (with 28.7m Contour) (Ref: PL012 - Rev E)
Admin and WC Building (Ref: PL100 - Rev B)
Pavilion Building (Ref: PL101 Rev B)
Tree Survey (Ref: Z.2940)
Flood Risk Assessment (Ref: 19015_FRA Version 01)
Design and Access Statement
Preliminary Ecological Appraisal
Bat Survey
Reptile Survey
Hydrogeological Risk Screening Assessment (Ref No: 404.10679.00002)
Transport Technical Note (Ref: 21-0625)
Draft Access and Management Strategy

3.6 In accordance with Article 15 (7) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), full details of the application have been published on the Council's website. As such, Members will have had the opportunity to review the submitted plans and documents in order to familiarise themselves with the proposals prior to consideration and determination of the application accordingly.

4. Planning Policy

4.1 The Town and Country Planning Act 1990 ('the Act') establishes the legislative framework for consideration of this application. Section 70(2) of the Act requires the decision-maker in determining planning applications/appeals to have regard to the Development Plan, insofar as it is material to the application/appeal, and to any other material consideration.

Where the Development Plan is material to the development proposal it must therefore be taken into account. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application to be determined in accordance with the Plan, unless material considerations indicate otherwise.

4.2 The key legal provisions relating to the consideration of heritage assets in the planning system are s72 (1) and s66 (1) of the Planning Listed Buildings and Conservation Areas Act 1990 which state that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area" and "have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".

4.3 The Development Plan for Worcester now comprises:

- The South Worcestershire Development Plan (SWDP) which was adopted February 2016;
- The Worcestershire Waste Core Strategy, which was adopted in December 2012; and
- The Worcestershire Minerals Local Plan which was adopted in July 2022.

South Worcestershire Development Plan

4.4 The following policies of the SWDP are considered to be relevant to the proposal:

SWDP 1 Overarching Sustainable Development Principles
SWDP 2 Development Strategy and Settlement Hierarchy
SWDP 4 Moving Around South Worcestershire
SWDP 5 Green Infrastructure
SWDP 6 Historic Environment
SWDP 7 Infrastructure
SWDP 21 Design
SWDP 22 Biodiversity and Geodiversity
SWDP 24 Management of the Historic Environment
SWDP 25 Landscape Character
SWDP 27 Renewable and Low Carbon Energy
SWDP 28 Management of Flood Risk
SWDP 29 Sustainable Drainage Systems
SWDP 31 Pollution and Land Stability
SWDP 38 Green Space

The Waste Core Strategy for Worcestershire - Adopted Waste Local Plan 2012-2027

4.5 The Waste Local Plan was adopted by Worcestershire County Council on 15 November 2012 and is a plan outlining how to manage all the waste produced in Worcestershire up to 2027. The following policies are relevant to this application:

WCS1 (Presumption in favour of sustainable development)
WCS3 (Re-use and recycle)
WCS17 (Making provision for waste in new development)

The Worcestershire Minerals Local Plan

4.6 There are no relevant policies to the determination of this application.

Material Considerations

1. National Planning Policy Framework

2. National Planning Practice Guidance

3. Supplementary Planning Documents

4.7 The following Supplementary Planning Documents (SPD) are relevant to the application proposals:-

- South Worcestershire Design SPD
- Planning for Health in South Worcestershire SPD
- Developer Contributions SPD

4. Other material considerations

4.8 The following documents are relevant to the application proposals.

- Worcestershire's Local Transport Plan (LTP4) 2018 – 2030
- Worcestershire County Council Streetscape Design Guide (2020)

5. Relevant Legislation

4.9 The following legislation is also relevant and has been taken into account when considering this application:

Town and Country Planning Act 1990 (as amended)
Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)
Localism Act 2011 - Section 143 (amending S70 of the Town and Country Planning Act 1990) regarding local finance considerations.
Accessibility and Equalities Act 2010
The Human Rights Act 1998.

5. Planning History

5.1 The site has been the subject of the following planning applications:

82/1298 - The provision of a new vehicle and plant store. Application under Regulation 4 of the Town and Country Planning General Regulations 1976. No Planning Objection. Amenities and Recreation Committee at their meeting on 10/11/82 resolved to seek to obtain planning permission in accordance with Article 4 of the Town and Country Planning General Regulations 1976. Approved 21 December 1982

P85C0411 - Gen. regs. Development of golf course. (application under reg 4 of T & CP Gen. regs. 1976) On 03/04/85 the amenities and recreation committee resolved to seek planning permission for the above. Plans inspection sub-committee resolved to carry out development 24/09/85 subject to one point. Approved 24 September 1985

P95E0281 - Layout of nine holes to golf course, construction of tees and greens, car park and associated landscaping. Bridleway diversion. Application under Regulation 3 of the Town and Country Planning General Regulations 1992. Approved 31 August 1995.

P97E0310 - Application under Regulation 3 of the Town and Country Planning General Regulations 1992 for the erection of a 50 square metre implement shed. Approved 25 September 1997

P08E0070 - Application under Regulation 3 of the Town and Country Planning General Regulations 1992 for change of use and alterations for use for storage, office, messroom and toilets. Approved 3 April 2008

19/00561/FUL - Retrospective change of use to burial land – Approved 26 November 2020.

6. **Consultations**

6.1 Formal consultation, including display of site notices, has been undertaken in respect of the application. The following comments from statutory and non-statutory consultees and interested third parties have been received in relation to the original and amended proposals and are summarised as follows:

Neighbours and other third party comments: Letters of objection has been received from a tenant of the first and second floor of Acton House which borders the proposed cemetery development on 18/12/2019 and to amended plans on 13/07/2021 which are summarised below.

- Whether there is adequate parking for an extension of this size.
- Visibility of the graves to HR operations.

Worcester City Council Archaeological Officer: 19/12/2019 - The application proposes an extension to the existing cemetery and includes creation of two new ancillary buildings. No supporting heritage information has been provided in the form of either a statement of heritage significance, or archaeological desk-based assessment. The application site is an area of demonstrated high archaeological potential. Previous archaeological work in the immediately surrounding areas, has evidenced the strong archaeological interest in the area. Identified remains include:

- circular palisaded enclosure site, of early-middle Bronze Age date, excavated in 2000 on the site of the park and ride car park
- Cropmarks identified from aerial photographs immediately to the northeast indicating a large triple-ditched enclosure, causeway and possible prehistoric field boundaries extending towards the application site.
- Cropmark identified to the south of the application site most likely indicates the presence of buried ditches representing an Late Iron Age/Romano British enclosure
- Field name evidence within the application site indicates potential for earlier settlement
- Stray finds within the immediate area include a number of prehistoric flints and the Romano-British Perdiswell Torc (now in the British Museum)
- The application site is immediately adjacent to the medieval settlement of Perdiswell
- The application site falls within the 18th-century landscaped gardens of Perdiswell Hall, with some features still remaining including ponds and planting.

The proposed works, including construction of ancillary buildings, landscaping and excavation of burial plots would have a high impact on any remains present. Given the high significance of archaeological remains from this area and the strong potential for further remains within the application site, the potential impact needs to be assessed, understood and appropriate mitigation put in place. With sufficient safeguards, I consider that this can be achieved by condition.

I recommend that a programme of archaeological investigation is secured by condition, to include evaluation trenching, and mitigation if required (potentially either archaeological excavation, or a watching brief during ground works), and landscape survey of the 18th-century gardens. A fuller understanding of what remains of the earlier landscape could add value to the scheme with potential for enhancement of existing features, and retention within the proposed landscaping.

Worcestershire County Council (Highway Authority): No objection subject to conditions relating to the management of the development and site.

Whilst the existing access from Droitwich Road (A38) via John Comyn Drive will be retained, the proposed access and parking (26 spaces) to the east of the cemetery site, represents an intensification of use of the public right of way (Worcester footpath WR-835) which is also a designated cycle route (National Cycle Network Route 3) and safety concerns have been raised regarding the increase in potential conflict with pedestrians and cyclists on the well-used paths.

The proposed parking area is currently in use by Worcester City Green and Clean services therefore, it is acknowledged that there is an existing vehicular use on this route. However, it is understood that Council services will remain in this location and some vehicular trips on this route will continue although it is noted that no details have been put forwards to quantify these trips.

Equally, the applicant has not been able to provide firm evidence of the proposed use of the cemetery site in terms of frequency of burials and the associated parking demand, to justify the provision of 26 spaces. However, it has been stated that the proposed extension is for use by members of existing families on the cemetery site with alternative provision available for the Muslim Community at Astwood Road Cemetery. The average number of burials per year will therefore be low, at 12 per year with an average attendance of 50 – 100 people.

Taking the existing 5 parking spaces via John Comyn Drive into account, with 2 spaces reserved for operational purposes, the total of 29 spaces is put forwards as sufficient provision for the proposed number of attendees, given that family mourners will travel together and significant single occupancy car use is unlikely. Also, by the nature of the site, the traffic flow on the public right of way will be tidal, with all attending vehicles arriving and departing around the same time for the duration of the event only. Access will not be permitted any other time.

Accordingly, the Highway Authority is willing to accept that the traffic impact of 12 burials per year on the wider transport network will not be severe (NPPF 111) and the applicant has stated that events will be planned to take place outside the traditional peak hours and to avoid increased pedestrian and cyclist movements associated with school hours. Whilst each event itself represents an intensification of vehicular activity on the public right of way, strictly on the basis that these events will be monitored, controlled and limited to 12 per year, no further objection will be raised. It is understood that Worcester City Council will retain control of the barriered access and it has been agreed in principle that a tightly worded Management Plan will be put place, a condition requiring this is provided below.

Following further discussion, no changes are proposed the public right of way and cycle route which is now considered to be of adequate width to allow vehicles and pedestrians or cyclists to pass safely plus the applicant has identified informal passing opportunities, sufficient for 2 vehicles to pass if required, although it is understood that the track will not be in use by Council vehicles during a burial event. Also, whilst the surfacing is that of an unmade track, as befitting a public right of way footpath, this is seen as acceptable for the additional but relatively infrequent vehicular use and the unmade surfacing will serve to ensure vehicle speeds are kept low.

Nonetheless, maintenance of the track may be necessary due to the increased vehicular usage and it must be noted that Worcestershire County Council is responsible for maintaining rights of way to a standard suitable for their usual public use as a path only.

Importantly, it is expected that there will be no disturbance of or change to the surface of the path or part thereof, without written consent of the County Council's Public Rights of Way Team and this proviso must be included in any Management Plan put forwards. The public right of way must be kept free of obstruction at all times and it is also requested that appropriate signage is installed along the track to alert pedestrians and cyclists to the presence of additional vehicles at certain times.

The Highway Authority is reassured that displacement parking onto the highway in the vicinity of the site is unlikely to occur not least because of the parking restrictions in place along the entire length of John Comyn Drive.

Worcestershire County Council (Public Rights of Way) - 19/07/2021 - Object:

It should be noted that under section 34 of the Road Traffic Act 1988 any person who, without lawful authority, drives a motor vehicle on a public right of way commits an offence. The applicant should make themselves satisfied that they, and anyone else who may use public rights of way for private vehicular access in connection with the development, has a right to do so. They may wish to seek legal advice on the matter. The County Council is responsible for maintaining rights of way to a standard suitable for their usual public use only which is as a footpath.

Even if such private rights do exist it is not clear why an additional access point is required in this location for regular use and why the main access point off John Comyn Drive could not be used for all day to day traffic. Use of footpaths WR-833-835 will introduce unnecessary conflict with pedestrians on these well used paths which we would not be supportive of.

We would therefore ask that this access point be used for emergency access only, if essential. We would suggest that all car parking, maintenance and funeral vehicles should be accessing via the main gate only to protect the public using the footpaths.

South Worcestershire Land Drainage Partnership: The site is located within EA (fluvial) Flood Risk Zone 2. The proposed development is classified as 'more vulnerable'. The Applicant has submitted a FRA and it was noted that the EA flood data is based on the 2009 hydraulic model which is incorrect as the outlines are based on generalised 2D JFlow modelling, rather than the best available data used in the SWDP SFRA2012 update (attached). Generally ground levels should not be raised above existing ground levels. No objection in principle on flood risk grounds but Worcestershire Regulatory Services and/or the EA should be consulted with respect to the potential pollution of groundwater and water in Barbourne Brook and any mitigating measures that may be required.

Environment Agency – Updated 20/09/2022 following comments on 28/07/2021.

Groundwater Risk

After consideration of the Hydrogeological Risk Screening Assessment, we agree that the minimum groundwater protection requirements can be met for this proposed cemetery site extension (subject to the discussion above regarding the 28.7metre contour line boundary). We can therefore remove our objection subject to the following condition being attached to any permission granted to secure groundwater protection at this site.

Flood Risk:

Following the amended plans, our previous comments still stand in respect of fluvial flood risk, and we have the additional following comments to make.

A large proportion of the proposed red line boundary to the east falls within the Barbourne Brook valley and is within the flood plain. This area has been designated for car parking, soft landscaping, a pavilion/ pond and a storage/maintenance area with the existing building being retained. All of these areas may be inundated during flood events according to available flood risk mapping. We note that the amended plans propose that there will be no burials in Flood Zones 2 and 3.

With regard to the proposed car parking area, and the other uses listed above, being located within Flood Zone 3, whilst we would not object on this basis given our roles and responsibilities, we would ask your Council to consider whether this is appropriate. In order to assist your Council in this matter we refer to the Flood Risk Assessment (FRA), which states that the 1 in 100 year fluvial flood level (including an allowance for climate change is 28.07m AOD. This may be compared to the approximate ground level of the proposed car parking area, which ranges between approximately 27.3m AOD and 28.0m AOD.

Historic Landfill:

Given the presence of an historical landfill at this location (our records indicate the Bilford Road Depot site at Perdiswell is located at this site) no burials should be made into any historical waste material and the landfill must not be disturbed. We recommend you consult with Worcestershire Regulatory Service Environmental Health on this matter, particularly with regards to human health issues. Given the presence of a historical landfill, gas and leachate migration issues need to be considered and are a clear risk. Holes dug for burials can cause depressions for gas and leachate to migrate to and may have implications for human health when constructing graves and creating new gas migration pathways from the landfill.

Lead Local Flood Authority: 24/12/2019 and 07/07/2021 - These comments represent those of Worcestershire County Council as the Lead Local Flood Authority (as determined by the Flood and Water Management Act 2010) and are officer comments only.

The LLFA need clarification on the following points before we can fully assess the application:

- The application states that there will be extra car parking spaces. What is the extent of this additional hardstanding area and how will the surface water be managed?
- The FRA states that "Any runoff from pavement areas will be directed to landscaped areas". Is this the creation of new pavement? What volume of surface water will need to be managed. What assurance is there that this will be managed in the landscaped areas?

The LLFA is unable to support the submitted scheme for surface water drainage for the site until further information is supplied by the applicant.

West Mercia Constabulary Crime Risk Manager: 5/12/19 - Object due to the lack of information

Natural England: 17/12/2019 and 23/07/2021 – No comment subject to application of Standing Advice relating to protected species.

- 6.2 Members have been given the opportunity to read all representations that have been received in full. At the time of writing this report no other consultation responses have been received. Any additional responses received will be reported to members verbally or in the form of a late paper, subject to the date of receipt.

- 6.3 In assessing the proposal due regard has been given to local residents' comments as material planning considerations. Nevertheless, whether they are for or against a proposal. The Localism Act has not changed this, nor has it changed the advice that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission unless it is founded on valid planning reasons.

7. Planning Assessment

- 7.1 Policy SWDP1 of the South Worcestershire Development Plan sets out overarching sustainable development principles and these are consistent with the Framework. The various impacts of the development have to be assessed and the benefit and adverse impacts considered, to establish whether what is proposed is sustainable development when considered against the Development Plan and other material circumstances as a whole.

The Principle of Development

- 7.2 The application proposals would be located within the Green Belt. Policy SWDP 2 is noted however the National Planning Policy Framework ('the Framework') has been updated during the course of the application. Therefore the national policy on Green Belts would be the most relevant in this instance.

- 7.3 The key paragraphs of the Framework are:

149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it; and

150. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)

- 7.4 The purposes of the Green Belt set out at Paragraph 138 of the Framework are whether the proposals would result in unrestricted sprawl of large built-up areas; neighbouring towns merging into one another; encroachment into the countryside; or fail to assist in urban regeneration, or the recycling of derelict and other urban land.
- 7.5 The proposed extension of the cemetery would be in accordance with the purposes of including land in the Green Belt, with there being no harm to the openness and existing recreational character the modest extensions to the built up area and use of existing hard surfacing (in the location of the frontage car parking and the area used for the storage of bins).
- 7.6 Further the proposed buildings would be small in scale and limited in terms of their visual impact. With the combination of the surrounding landscaping and new landscaping proposed as part of the development, it is considered that the scheme would comply with the principles of the Green Belt. The proposal as a whole is considered be appropriate development in the Green Belt and it is therefore not necessary to demonstrate very special circumstances.
- 7.7 The proposals are considered to be acceptable in principle when considered against national planning policy subject to the consideration of detailed matters.

Amenity for neighbouring commercial occupiers

- 7.8 The site lies adjacent to the commercial development which was redeveloped as part of the wider Perdiswell Park/Hall development. Policy SWDP 21 requires that new development does not have a significant adverse effect on neighbouring amenity. This is consistent with paragraph 130 of the Framework that requires planning policies and decisions, amongst other matters, to ensure a high standard of amenity for existing and future users of land and buildings. The comments from the occupier have been noted and considered.
- 7.9 The introduction of the proposed development is noted in respect of the potential impact on neighbouring commercial uses and the sensitivity of current tenants are noted. However, the amended extent of the proposed burial area would be read against the existing burial area and cemetery and therefore the impacts would not be significant or material in relation to the impact on amenity of existing or future tenants and as such, whilst the comments have been given full and careful consideration, it is considered that the proposals are acceptable and in accordance with Policy SWDP 21 of the Development Plan in this respect.

Design

- 7.10 Policy SWDP 21 of the Development Plan states that the siting and layout of a development should reflect the given characteristics of the site in terms of its appearance and function. Further the policy advises that development proposals must complement the character of the area. In particular, development should respond to surrounding buildings and the distinctive features or qualities that contribute to the visual and heritage interest of the townscape, frontages, streets and landscape quality of the local area. On scale, height and massing, Policy SWDP 21 states that the scale, height and massing of development must be appropriate to the setting of the site and the surrounding landscape character and townscape, including existing urban grain and density. The Council's Design Guide SPD has also been given careful consideration.
- 7.11 The proposed buildings are simple and are relatively small scale buildings and would be appropriate for their setting. The administrative building would be in place of a storage container on site. In terms of the cemetery structures would be limited in scale and would not be obtrusive. The existing cemetery and the limited structures are noted.



Figure 2 – Proposed Administration and WC Building (Side and Front Elevations)



Figure 3 – Proposed Pavilion Building (Side and Front Elevations)

7.12 Considering their scale and the position of the administration building, in particular with this building being at the site frontage and next to the existing Council Depot buildings, the proposed administration building would be appropriate for their location and context. The final materials would need to be conditioned accordingly.

7.13 It is considered that the proposals would be in accordance with Policy SWDP 21 of the Development Plan.

Landscaping and Biodiversity

7.14 Policies SWDP 21 and SWDP 22 guide on the importance of landscape provision and supporting biodiversity. Policy SWDP25 also seeks to ensure that landscaping is appropriate to its setting. The application is supported by various ecological surveys and assessments.

7.15 The extent of the proposed cemetery and area subject to burial activity has been significantly reduced during the course of the application. The application proposals therefore have the capability for further planting and landscaping has been increased and the impacts on the natural environment have been reduced.



Figure 4 – Proposed Site Plan

- 7.16 The application site at the boundary with Perdiswell Park is currently actively used for bin storage and is hard surfaced and resulting in a level of paraphernalia and activity in the rear area. The existing maintenance shed would be retained and there would be a further area of external storage. Other details such as new fencing, gates to Perdiswell Park and other planting can be safeguarded by condition.
- 7.17 The loss of the existing trees in the proposed cemetery extension area is noted however none of these trees are of significant value being of poor individual quality. The trees within the tree assessment being show as worthy of retention are being retained adjacent to pond and peace garden. The potential for further tree planting is noted and the presence of new Woodland Trust on Perdiswell Park, adjacent to the eastern boundary, is noted.
- 7.18 The proposed car parking to the rear of the site and the existing hard surfacing would be reused. This would represent a betterment to the site and appearance in replacing the existing bin storage. Further the creation and expansion of the existing pond would also be a benefit to the area and landscape.
- 7.19 The surveys and supporting documents suggest the presence of protected species and further licences from Natural England will be required in relation to the location of a Badger Sett.
- 7.20 Whilst there has been no significant change in circumstances on the application site during the course of the application, due to the age of the submitted survey work, updated survey work is in progress and therefore delegated authority is sought to consider and receive these documents and these could update conditions accordingly.

- 7.21 Overall, it is considered that the proposals would present an opportunity to enhance the natural environment and would be in accordance with Policy SWDP Policies SWDP 21, SWDP 22 and SWDP 25.

Historic Environment

- 7.22 The key legal provisions relating to the consideration of heritage assets in the planning system are s72 (1) and s66 (1) of the Planning Listed Buildings and Conservation Areas Act 1990 which state that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area" and "have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses". Policy SWDP 6 is the relevant policy of the Development Plan and the requirements of Paragraph 200-204 of the Framework are also relevant.

Listed Structures

- 7.23 The nearest Listed Buildings are the former Perdiswell Hall Coach House and Stables and associated structures, particularly the wall to the former gardens. The structures and the surrounding landscape form part of the Perdiswell Business Park which is gated and therefore there is limited intervisibility between the proposed buildings and cemetery and the listed structures.
- 7.24 As such, considering this and the intervening structures it is considered that there would be no impact on the listed buildings and structures in the vicinity of the application site.

Archaeology

- 7.25 It is noted that the site is in an area of Archaeological Sensitivity and the Council's Archaeological advisor seeks detailed evaluation being secured through condition, noting the context of the area and that the proposals form part of the former Perdiswell Hall Gardens. Taking account of the proposals and the potential for archaeology it would be appropriate to phase and manage the archaeological investigations accordingly. Any harm would therefore be less than substantial to archaeological assets.
- 7.26 As such considering the requirements of legislation, policy and national requirements, the proposals would have no impact on built heritage and less than substantial harm to the archaeological assets and as such there would be no conflict with Policies SWDP 6 and SWDP24 of the Development Plan subject to the imposition of appropriate conditions.

Access and Highway Safety

- 7.27 Policies SWDP 4 and 21 of the South Worcestershire Development Plan (2016) state that satisfactory access and provision for the parking, servicing and manoeuvring of vehicles should be provided in accordance with the recognised standards. SWDP4 also seeks to manage the level of car parking to an appropriate level and reduce the need to travel or use alternative modes of transport. The comments of highways officers are noted and the submitted transport information are also noted.

Highway Network

- 7.28 The application site would be accessed in principle from John Comyn Drive, except for funerals. The number of burials per year has been 10 in 2020 and 15 in 2021 (possibly due to Covid). The application submits that there are proposed to be 9 per year although up to 12 has been suggested as a midpoint between 2020 and 2021.

- 7.29 There is a signal controlled junction on both John Comyn Drive/Droitwich Road and on Perdiswell Park Road/Droitwich Road junctions so capacity from the proposed use and extension to the cemetery which would be limited would not have a severe impact on the highway network.
- 7.30 Access to the rear car park would be through the barrier access which is adjacent to established access to sports facilities on Perdiswell Park and adjacent to Old Elizabethans Cricket Club and Worcester Motorcycle Club facilities. The access to this area from Droitwich Road would be through the access to Perdiswell Park which is also a signalised junction with a bus gate on Droitwich Road. The road is two way and there would be no capacity issues from the limited traffic and activity. There is an informal parking area which is adjacent to the barrier which is currently used by dog walkers and users of Perdiswell Park.

Cycle Network and Perdiswell Park Access

- 7.31 The current application site is used by the City Council's Clean and Green Services for bin storage and also general maintenance of Perdiswell Park. There has been general improvement to the park over the course of the application.
- 7.32 The access track is approximately 4.1m wide at its narrowest point with grass verges and mature planting on either side. There are a few potholes of varying sizes but overall the track is in a reasonable condition. The track is understood to be owned by the City Council but is also a dedicated right of way and part of the National Cycle Network. From observation on several site visits the track is used principally as a recreational route.
- 7.33 Due to the intervening planting and landscaping and a minor curve in the track it is not possible to see the Perdiswell Park entrance barrier from the depot or vice versa.
- 7.34 The access to the City Council depot area is currently through a secure gated access which would allow for vehicles to enter and exit the site. The access track from the cycle way is at 90degrees and therefore vehicles moving along the track would need to move slowly in order to access the rear area. The access track into the depot area is not as well maintained as the cycleway. There appears to be existing access rights over the cycleway which is used by City Council vehicles.
- 7.35 Whilst the comments of the Public Rights of Way Officer are noted, the barrier access to Perdiswell Park would be retained and there would be a gated access to the rear area of the cemetery, to which the City Council would retain control. This prevents significant traffic movement on the site and control over the access to the rear area to limited levels.
- 7.36 In this respect therefore it is expected that given the level of activity and the controlled nature of access, whilst noting the comments of the highway authority and the public rights of way officer are noted it is not considered that the proposals would result in harm to users of the cycleway or Perdiswell Park in a manner that could not be controlled or managed.

Parking Provision and Site Management During Funerals

- 7.37 The current parking provision at the front of the site from John Comyn Drive would be largely retained with 5 spaces in the re-orientated layout with the proposed administrative building sitting in front of this area which would be in place of the existing storage container on the site.
- 7.38 In this parking area there are c.6spaces (not laid out with lines) which is currently used by both users of the cemetery and the City Council Depot visitors and workers.

It is noted that there is a yard within the gated depot site which could also be utilised for City Council contractors.

- 7.39 With the administrative building containing storage and a mortuary it is likely that bodies to be buried would be placed here prior to the formal funeral activity. This is also closer to the extended cemetery area. Visitors and maintenance activity would be from this location as presently.
- 7.40 The area to the rear includes 26 spaces being available for mourners and funeral guests. Due to access being from Perdiswell Park the access would require proactive management during funeral activity. The Highway Authority have commented that these and the spaces off John Comyn Drive provides sufficient car parking and that this could be managed appropriately.
- 7.41 It is expected that there will be a limited number of funerals that take place and accordingly this will be limited to 12 per annum which is a level expected based on previous years of activity from 2016. This can be controlled through the use of an appropriate condition.
- 7.42 Taking account of the controlled and restricted access to the Park and therefore the rear access it is likely that the users of the rear car park would arrive in close proximity to each other and it is unlikely that there would be significant two way traffic. Further with the nature of the road and activity it is expected that traffic would naturally move slowly. It is therefore considered that passing places would be unnecessary.
- 7.43 The proposals also include measures for management of vehicles to and from the site. This would need to be developed further but is expected to include the following:
- Agreement with the City Council as key holder to the Perdiswell Park barrier and responsible for opening and closing the barrier to prevent unauthorised access.
 - Agreement with the City Council to permit exclusive use of the shared parking spaces adjacent to the John Comyn Drive for access by formal traffic (e.g. hearse) and close family and religious person (e.g. Iman) on funeral dates only..
 - The attendees to be informed of limited parking space and to be encouraged to car share or to find alternative arrangements.
 - Management on site – e.g. marshalling at the Perdiswell Park barrier and the car park entrance in hi-vis directing traffic to and from the site and to prevent overspill or indiscriminate parking.
 - Temporary signage (e.g. A boards) to be used to alert recreational users of Perdiswell Park that there may be potential vehicles coming to and from the site. This temporary signage would be removed after the funeral so that the character of the area and the Park is not permanently affected.
- 7.44 Overall therefore whilst the concerns and objections of the highway and rights of way officers have been given full and careful consideration, the concerns raised would not be sustainable and the mitigation proposed would not be reasonable given the small scale and limited nature of the use and the ongoing management would allow for a planned and sustainable level of traffic which is appropriately managed and would be in accordance with the requirements of Policy SWDP 4 of the Development Plan. Conditions are recommended to ensure the management plan is formally submitted and enforceable.

Flooding, Drainage and Contamination

- 7.45 As stated in the Site Description the application site is covered by Flood Zone 1, 2 and 3. Policies SWDP 28; SWDP 29 and SWDP 30 have been carefully considered and noted. The comments of the Environment Agency and other drainage bodies, e.g. the Lead Local Flood Authority are noted and have been given full and careful consideration.
- 7.46 The proposals for burial activity have been removed from the flood zone during the course of the application. The proposed Pavilion building, rear car park and footpaths would be within flood zone 2. The existing hard surfacing and storage is noted.

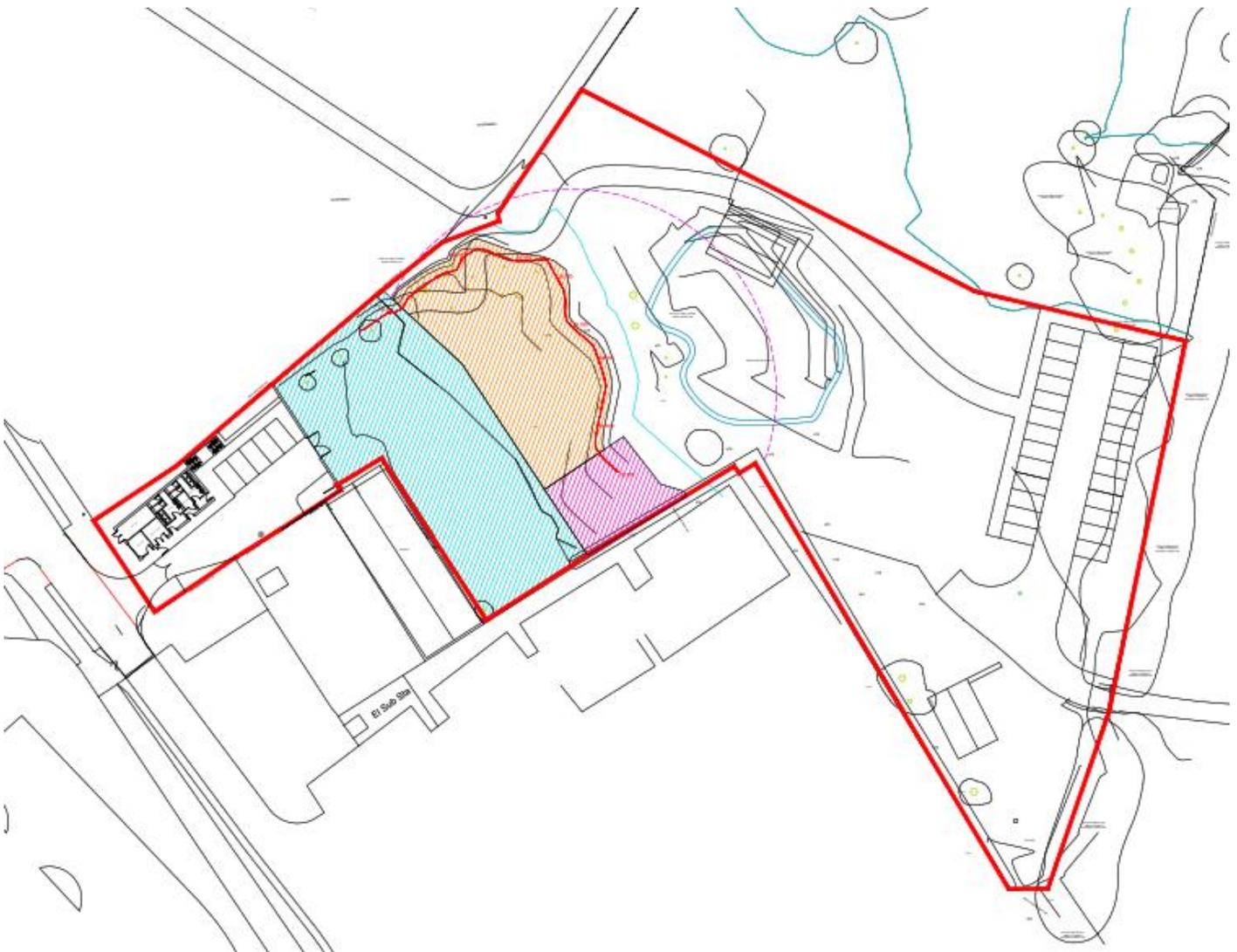


Figure 5 – Site Plan with 28.7m Contour shown

- 7.47 The proposals would not include any vulnerable activity (as defined by the Environment Agency) within the flood zone. The proposed pavilion would be raised on stilts and a wooden platform and would be limited to no formal activity. The raised nature of the pavilion structure would have no material or significant impact on the character or nature of the flood zone. Further the pond area would be expanded as part of the landscape proposals.
- 7.48 The proposals could also include appropriate measures of flood resilience into the proposed pavilion and it would be expected that the car park and footpaths would be permeable paving. Due to levels it would be expected that these features would drain into the pond.

- 7.49 As such, considering all matters carefully and fully, the proposals would not result in an adverse impact to flooding and would not result in flooding elsewhere or adverse impact from the development. As such the proposals would be acceptable and in accordance with Policies SWDP 28, SWDP 29 and SWDP 30 of the Development Plan and the aims and objectives of the National Planning Policy Framework.
- 7.50 The comments of the Environment Agency in respect of contamination are noted. However, the revised scheme has reduced the risk of ground contamination. A suitable condition is recommended to cover any circumstances where contamination are found during any operations on the site.

Planning obligations

- 7.51 It is recognised that new development can create the need for new or improved infrastructure and community facilities. Planning obligations mitigate the impact of development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2012 and as policy tests in the National Planning Policy Framework.
- 7.52 In accordance with Community Infrastructure Levy Regulations 2012, the applicants are willing to enter into a legally binding agreement to deliver contributions to provide improvements to the infrastructure that the development will impact upon. This legal agreement will be made under Section 106 of the Town and Country Planning Act 1990 (as amended).
- 7.53 As discussed above, the highway authority seek a contribution towards resurfacing of the cycleway. As discussed above this is not considered to be necessary to make the development acceptable or to mitigate the impact of the development. As the City Council own the track it is considered that these matters can be resolved between the applicant and the Council as part of the normal lease or licence arrangements. As such the contribution would not meet the legal tests and is not sought.

Human Rights Issues

- 7.54 Article 8 of the Human Rights Act 1998 (as amended) states that everyone has the right to respect for his private and family life. A public authority cannot interfere with the exercise of this right except where it is in accordance with the law and is necessary (amongst other reasons) for the protection of the rights and freedoms of others. Article 1 of Protocol 1 of the Act entitles every natural and legal person to the peaceful enjoyment of his possessions.
- 7.55 The law provides a right to deny planning permission where the reason for doing so is related to the public interest. Alternatively, having given due consideration to the rights of others, the local planning authority can grant planning permission in accordance with adopted policies in the development plan.
- 7.56 As part of the consideration of this application, human rights issues have been considered in so far as they are relevant. It is considered that an appropriate balance between the interests and rights of the applicants (to enjoy their land subject only to reasonable and proportionate controls by a public authority in the public interest) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties) has been achieved with conditions controlling the development where necessary

Public Sector Equality Duty

- 7.57 In making this decision, the council has had due regard to the requirements of Section 149 of the Public Sector Equality Act 2010, which introduced a public sector equality duty that public bodies must, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.58 These considerations are relevant to the duties that decision makers have under s149(1) of the Equality Act 2010.

8. Conclusion

- 8.1 The Framework identifies a series of the components that are considered critical to achieving sustainable development which should be balanced against the economic, social and environmental objectives set out in the Framework.
- 8.2 The proposed development would result in limited economic benefits from employment during construction of the proposed buildings. For this role of sustainable development, the balance would clearly be in favour of granting planning permission and moderate positive weight in the planning balance.
- 8.3 With regard to the social role, the delivery of burial space for the community would also attach significant weight.
- 8.4 Environmentally the proposals would include enhanced landscaping to large portions of the site and this should be given significant positive weight. There is no identified benefit harm to heritage and therefore this is given neutral planning balance.
- 8.5 In respect of potential adverse impacts, objections and negative consideration in relation to flood risk and transport matters which have been discussed above. These concerns which are to be given moderate weighting in the determination of this application with the capability of mitigation being carried out to lessen such harm.
- 8.6 Having considered carefully all comments received, it is considered that the proposals would be in accordance with the Development Plan when considered as a whole and the adverse impacts do not significantly and demonstrably outweigh the benefits. Overall, it is considered that the proposals constitute an environmentally, socially and economically sustainable form of development that accords with the Framework and the Development Plan as a whole.

9. Recommended Planning Conditions

- 9.1 It is recommended that Planning Committee delegates authority to the Corporate Director for Planning and Governance in respect of biodiversity to update the submitted evidence in relation to the ecological survey work and where necessary update Planning Conditions (in particular Condition 4). Providing that there are no new issues raised Members resolve to grant planning permission subject to the following conditions being recommended:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out and completed in accordance with the following approved plans and associated documents and the specifications and recommendations contained therein, except where otherwise stipulated by conditions attached to this permission:

Site Location Plan (Ref: PL001 - Rev B)
Existing Site Plan (Ref: PL005 - Rev B)
Proposed Site Plan (Ref: PL020 - Rev D)
Proposed Site Plan (with 28.7m Contour) (Ref: PL012 - Rev E)
Admin and WC Building (Ref: PL100 - Rev B)
Pavilion Building (Ref: PL101 Rev B)

Reason: In order to define the permission.

3. i) No development above ground level to the new buildings or to new parking areas, other than demolition or funeral activity, shall commence until details of a hard and soft landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

a) proposed finished levels or contours; car parking layouts, other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. street furniture, refuse, cycle and/or other storage units, signs, lighting, CCTV installations); proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines indicating lines, manholes, supports);

b) planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and an implementation programme;

c) tree planting proposals (including a mix of age specimens and native species)

d) boundary treatments and new gates indicating the type, positions, design, and materials of boundary treatments to be erected.

e) a timescale for implementation, landscape maintenance and management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas.

ii) If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place as soon as is reasonably practicable.

Reason: To ensure the development is satisfactorily assimilated into the area and enhances biodiversity in accordance with Policies SWDP 22 and SWDP 25 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework.

4. The development hereby approved shall be carried out in accordance with the recommendations of Preliminary Ecological Appraisal (prepared by Midland Ecology). Prior to these works or installation being carried out details shall be submitted to and agreed in writing by the Local Planning Authority to include:

- i) Provision of bat boxes for roosting;
- ii) Provision of bird boxes for house martins, sparrows and swifts within the landscape; and
- iii) Details for the management of badgers, their setts and appropriate mitigation.

All works shall be carried out in accordance with the agreed details and under the supervision of a qualified ecologist and outside nesting periods for protected species.

Reason: To ensure that the development enhances green infrastructure and does not impact on or harm protected species in accordance with Policy SWDP22 and SWDP25 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework 2021, as a material planning consideration.

5. Prior to the implementation of hard surfacing for the new footpath and car parking or prior to above ground works for the new buildings foul and surface water drainage details for each area/building shall be submitted to and approved in writing by the Local Planning Authority. The details should include:

- a) Coloured plan to show the different foul and surface water sewers;
- b) Routes of all sewers for the development; and
- c) A programme phasing the delivery of such works;

The details as approved shall be constructed and completed in accordance with the approved plans specification and programme.

Reason: In order to manage surface and foul water drainage, maintenance and efficient use and management of water within the site, to ensure the quality of the water leaving the site and to manage the connections to the wider drainage network. In accordance with Policies SWDP30 of the South Worcestershire Development Plan 2016.

6. Prior to installation of any materials used in the construction of the external surfaces of each building hereby permitted, a schedule of those materials based on the principles in the submitted plans and Design and Access Statement, shall be submitted to and agreed in writing by the Local Planning Authority. The submission shall include windows, window reveals, façade panels, head and cill treatments, brick slip systems, rainwater details, and doors, where appropriate. Where possible images of the submitted materials shall be provided within the schedule to be submitted.

Reason: To ensure that the new materials are in keeping with the surroundings and represent quality design in accordance with policy SWDP21 of the South Worcestershire Development Plan.

7. The development hereby permitted shall be carried out in accordance with the recommendations of the submitted Flood Risk Assessment (Ref: 19015_FRA Version 01) including the implementation of flood resilient measures into the approved Pavilion building and permeable surfacing to footpath and car park areas.

Reason: In order to manage surface water into the wider drainage network and to ensure the building is appropriate to its context in accordance with Policies SWDP30 of the South Worcestershire Development Plan 2016.

8. Prior to the first funeral in the extended burial area, an Operational Manual for the Cemetery operations shall be submitted to and agreed in writing by the Local Planning Authority. The minimum details within the manual shall include:

- Management of the site prior to any funeral, including digging of graves to accord with condition 10 below and other pre-burial requirements;
- Management on site during funeral/burials – e.g. marshalling and directing traffic to and from the site and to prevent overspill or indiscriminate parking.
 - o Details for access through the Perdiswell Park barrier and responsible persons for opening and closing the barrier to prevent unauthorised access.
 - o Details for access through the rear access gate to the application site.
 - o Use of parking accessed from John Comyn Drive during funeral and burial activity.
 - o Details of how attendees would be informed of limited parking space and how they would be encouraged to car share or to find alternative arrangements.
 - o Details of temporary signage (e.g. A boards) to be used to alert recreational users of Perdiswell Park that there may be potential vehicles coming to and from the site.
- Management of the site for maintenance and visitors outside funeral/burial times.

There shall be no access through the barrier controlled rear gate outside burial activity.

The Operational Manual shall be implemented and applied throughout the use of the site for all activities, and shall be retained and kept available within the Cemetery Office at all times.

Reason: In order to ensure that parking and access is managed during funeral and burial activity in accordance with Policies SWDP 4 and SWDP 21 of the Development Plan.

9. There shall be no more than 12 funerals in a calendar year.

Reason: In order to ensure that parking and access is managed during funeral and burial activity in accordance with Policies SWDP 4 and SWDP 21 of the Development Plan.

10. All burials must:

- a) be at least 250 metres from a well, borehole or spring used to supply water that is used for human consumption;
- b) be at least 30 metres from any other spring or watercourse and at least 10 metres from any field drain, including dry ditches;
- c) have at least one metre of subsoil below the bottom of the burial pit, allowing a hole deep enough for at least one metre of soil to cover the remains;
- d) have at least 1 metre clearance of unsaturated zone between the base of the grave and the top of the water table. Allowance should also be made for any potential rise in the water table (at least one metre should be maintained);
- e) not take place below the water table and there should be no standing water in the grave when dug;
- f) not be dug in bedrock or areas susceptible to groundwater or surface water flooding; and

- g) be located upgradient of the 28.7metre contour line on the higher ground within the burial site as defined by SLR Consulting in Hydrogeological Risk Screening Assessment, SLR Ref No: 404.10679.00002, May 2022 on *Figure 5-3 Conceptual Cross-section through Existing Cemetery and Application Area* and defined in area on *Zebra Architects, Proposed Site Plan, February 2021 (plan reference PL012 Rev E)*. The 28.7metre contour line should be clearly marked on the ground to enable the cemetery manager and/or operators to be clear where burials can legally take place in accordance with this condition.

Reason: To ensure that cemetery operators take appropriate measures to manage the site and ensure they do not cause an unacceptable risk to groundwater quality.

11. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, these will be subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any buildings.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12. The Development of each building hereby approved shall not commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include but not be limited to the following:-

- Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;
- Details of site operative parking areas, material storage areas and the location of site operatives facilities (offices, toilets etc);
- The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring.

The measures set out in the approved Plan shall be carried out and complied with in full during the construction of the development hereby approved.

REASON: To ensure the provision of adequate on-site facilities and in the interests of highway and public safety.