



TO: Planning Committee North

BY: Head of Development and Building Control

DATE: 5 September 2023

DEVELOPMENT: Change of use of existing allotment site to form extension to Hills Cemetery for burial plots, and creation of hard surfaces for vehicular and pedestrian access.

SITE: Hills Cemetery, Guildford Road, Horsham, West Sussex, RH12 1TT

WARD: Denne

APPLICATION: DC/23/0320

APPLICANT: **Name:** Mr Sorin Caraiman **Address:** Parkside Chart Way Horsham RH12 1RL

REASON FOR INCLUSION ON THE AGENDA: The site is owned by the District Council

RECOMMENDATION: To approve planning permission subject to appropriate conditions

1. THE PURPOSE OF THIS REPORT

To consider the planning application.

DESCRIPTION OF THE APPLICATION

- 1.1 Planning permission is sought for the change of use of the land from allotments (sui generis agriculture) to a cemetery (sui generis) to provide approximately 476 burials plots and 659 ash areas. The proposal includes the creation of new hardstanding routes within the site for vehicular and pedestrian access to create a one-way system, and additional planting.

DESCRIPTION OF THE SITE

- 1.2 The application relates to the southern-most part of the Hills Cemetery site located on the southern side of Guildford Road. The site was formerly occupied by allotments, in addition to the sporadic siting of polytunnels and sheds. At the time of the Officers visit to the site (April 2023), the buildings and allotments had been cleared, and the site laid to soil / self-seeded grass. The site is located within the built-up area of Horsham, in an area predominantly comprising residential development. The site is level and is bound by neighbouring residential properties to all its boundaries. The southern boundary of the site is formed of a close boarded fence with sporadic tree and hedge planting.

2. INTRODUCTION

STATUTORY BACKGROUND

2.1 The Town and Country Planning Act 1990.

RELEVANT PLANNING POLICIES

The following Policies are considered to be relevant to the assessment of this application:

National Planning Policy Framework

Horsham District Planning Framework (HDPF 2015)

- Policy 1 - Strategic Policy: Sustainable Development
- Policy 2 - Strategic Policy: Strategic Development
- Policy 3 - Strategic Policy: Development Hierarchy
- Policy 24 - Strategic Policy: Environmental Protection
- Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
- Policy 26 - Strategic Policy: Countryside Protection
- Policy 27 - Settlement Coalescence
- Policy 28 - Replacement Dwellings and House Extensions in the Countryside
- Policy 29 - Equestrian Development
- Policy 30 - Protected Landscapes
- Policy 31 - Green Infrastructure and Biodiversity
- Policy 32 - Strategic Policy: The Quality of New Development
- Policy 33 - Development Principles
- Policy 34 - Cultural and Heritage Assets
- Policy 35 - Strategic Policy: Climate Change
- Policy 36 - Strategic Policy: Appropriate Energy Use
- Policy 37 - Sustainable Construction
- Policy 38 - Strategic Policy: Flooding
- Policy 39 - Strategic Policy: Infrastructure Provision
- Policy 40 - Sustainable Transport
- Policy 41 - Parking
- Policy 42 - Strategic Policy: Inclusive Communities
- Policy 43 - Community Facilities, Leisure and Recreation

Horsham Business Blueprint Neighbourhood Plan (made):

- Policy HB1 – Location of Development
- Policy HB3 – Character of Development
- Policy HB4 – Design of Development
- Policy HB15 – Allotments and Community Growing Spaces

Planning Advice Notes:

Biodiversity and Green Infrastructure

PLANNING HISTORY AND RELEVANT APPLICATIONS

DC/07/1822	Change of use from allotments to cemetery	Application PERMITTED 14.11.2007	on
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3. OUTCOME OF CONSULTATIONS

- 3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

INTERNAL CONSULTATIONS

HDC Arboricultural Officer: No Objection

HDC Environmental Health: No Objection, subject to conditions

HDC Drainage Engineer: No Objection (verbal comments)

OUTSIDE AGENCIES

WSCC Highways: No Objection

Environment Agency: No Objection – Our position is that at this point we would not pursue a permit for the extension to Hillside cemetery. This is due to no abstractions being near the locale, a lack of pathways and that it is an extension to an existing cemetery. This may change at a later date as more guidance on the permitting of cemeteries becomes available.

PUBLIC CONSULTATIONS

- 3.2 Three (3) letters of representation received from three separate addresses *objecting* to the proposal on the following grounds:
- Impact on adjacent protected tree
 - Poor fencing to the southern boundary
 - Adverse impact on neighbouring amenity
- 3.3 Two (2) letters of representation received from two separate addresses *neither objecting to nor supporting* the proposal, stating:
- Concerns regarding an increased risk of flooding
 - Existing damage to the southern fence
 - Works have already commenced on the site
 - Potential impact on the tree
- 3.4 **Horsham Denne Neighbourhood Council** *objects* to the proposal on the following grounds:
- Insufficient details relating to flooding, planting, boundary treatment and access to the site from the south.

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS AND EQUALITY

- 4.1 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.
- 4.2 The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

- 5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

Background

- 6.1 The site forms part of Hills Cemetery and had formerly been used for the allotment use. Historically, it is understood that more of the site to the north was also once used for allotments. As the demand for burial plots over time has increased, the site has reverted into the cemetery use. Planning application DC/07/1822 was granted in November 2007, which sought the cemetery use for the entire site. The proposal was supported under Policy HU15 of The Horsham District Local Plan 1997, which allocated the site for such a use. However, only a portion of the site (to the west) was used as approved. The remaining part of the approved site is subject to this application.

Principle of the Development

- 6.2 Policy 43 of the Horsham District Planning Framework 2015 (HDPF) states that the provision of new or improved community facilities or services will be supported. Proposals that would result in the loss of sites and premises currently or last used for the provision of community facilities or services, leisure or cultural activities for the community will be resisted unless equally usable facilities can be conveniently provided nearby. It will be necessary to demonstrate that continued use of a community facility or service is no longer feasible, taking into account factors such as; appropriate marketing, the demand for the use of the site or premises, its quality and usability, and the identification of a potential future occupier.
- 6.3 Policy HB15(a) of the Horsham Blueprint Neighbourhood Planning Document (NPD) states that proposals that would result in the loss of all or part of existing allotment spaces will not be supported.
- 6.4 As above, the site has historically been allocated for a cemetery use, and the 2007 permission (DC/07/1822) secured the reversion from the allotment use. As the permission was only part-implemented, the lawful use of the site by virtue of time (in excess of ten years) would fall to the allotment use. It is recognised that the loss of the allotment use would contradict Policy HB15(a) of the NPD. Though the application does not seek to replace the allotment use, the proposal would result in the improvement of an existing community facility. The additional burial spaces are required in the District. Whilst it is appreciated that the strategic development at North Horsham does include such a provision, this is not expected to be delivered in the short term. The cemetery at the Land North of Horsham site is part of Phase 3 (the last phase of development) and the earliest it could potentially be brought forward is in 2025. In addition, there are a number of smaller allotment sites within the surrounding area to meet the needs of the residents.
- 6.5 Though the loss of the allotment use is regrettable, the proposal would support the improvement of an existing community facility. The principle of the proposal is therefore considered acceptable in accordance with Policy 43.

Design and Appearance

- 6.6 Policy 32 of the HDPF states that good design is a key element in sustainable development, and seeks to ensure that development promotes a high standard of urban design, architecture and landscape. Policy 33 of the HDPF states that development proposals should make efficient use of land, integrate effectively with the character of the surrounding area, use high quality and appropriate materials, retain landscaping where feasible (and mitigate loss if necessary) and ensure no conflict with the character of the surrounding town or landscape.

- 6.7 The proposal does not require the demolition or erection of any physical structures on the site. However, new infrastructure and planting are proposed. Primarily a new roadway would be constructed to the eastern side of the site to create a one-way ring road around the entire site, in addition to the widening of the existing pathway to the west. The existing central walkway would be extended to the south into the new burial area, and a new pedestrian pathway established around the ashes area.
- 6.8 The resultant works would result in the creation of an efficient one-way system for vehicular traffic (hearses) to access the southern part of the site. The proposed layout is logical, and continues the relative symmetry of the northern part of the site.
- 6.9 The Neighbourhood Council's concerns on the proposal's planting are noted. The proposal includes the planting of 8x oak trees (4x each side of the central path). Planting to the southern boundary of the site has already been established, comprising of native English hedging. The remainder of the site will be laid to grass until the burial plots are interred. The specific planting within the site is yet to be determine. As a public site owned by the District Council, the detailed planting needs to be first agreed by Councillors at a selection committee (as part of the Council's procurement procedure) in consultation with the local residents. Therefore, it would be unfeasible for Officers to request this detail to be submitted upfront as part of this application or by way of condition.
- 6.10 Neighbouring concerns relating to impact on the protected trees outside of the site close to the eastern boundary are noted. The 2x lime trees and sycamore tree protected under TPO/1550 (T1-3). An updated construction layout plan was received on 09 May which detailed that the new roadway to the east would be outside of the root protection areas (RPA) of the two northern-most trees. Though there would be some impact on fibrous rooting, this would only impact on a small area. The RPA of the tree further south would be affected by the new roadway. The plan illustrates that this portion of the road would comprise a no-dig construction, utilising a webbing system that would not impact on the rooting system of the tree. The plan also indicates that no excavation would occur within the RPA of the protected lime tree to the south-eastern corner of the site (T4 of TPO/1550).
- 6.11 With the above in mind, the proposal is considered to accord with Policies 32 and 33 of the HDPF in terms of its design, layout and appearance, in addition to planting and preservation of nearby TPO tree specimens.

Impact on Amenity

- 6.12 Policy 33(2) of the HDPF states that permission will be granted for development that does not cause unacceptable harm to the amenity of the occupiers/users of nearby properties and land.
- 6.13 Officers appreciate that the pre-existing allotment use had been long-established, and that a change to the use of the site may result in a perceived amenity impact. However, given the proposed use, which is not likely to result in frequent day to day visits from the public, the use of the site as a cemetery is not considered any more harmful to neighbouring amenity compared to the previous allotment use.
- 6.14 The proposed is therefore considered to accord with Policy 33(2) of the HDPF.

Highways Impacts

- 6.15 Policy 40 of the Horsham District Planning Framework states that transport access and ease of movement is a key factor in the performance of the local economy. The need for sustainable transport and safe access is vital to improve development across the district. Policy 41 of the Horsham District Planning Framework states that development that involved the loss of existing parking spaces will only be allowed if suitable alternative provision has

been secured elsewhere. Adequate parking facilities must be provided within the developments to meet the needs of the anticipated users.

- 6.16 The proposal is not anticipated to result in an increased use of the site over and above the pre-existing arrangement. Given the former allotment use, it is likely that the additional burial plots would result in fewer day to day trips to and from the site. In addition, the proposed use would not require the need for any additional parking. The existing parking to the west of the site (approved in 2007) was granted for the entirety of the southern portion of the site, and not just the section already in use. Therefore, the need for parking for the proposed area is thus already considered to have been met.
- 6.17 With the above in mind, the proposal would not result in any adverse impact to the safe use and operation of the highway network, and is therefore considered to accord with Policies 40 and 41 of the HDPF.

Other Matters

Flooding / Pond

- 6.18 Officers note that a balancing pond has been constructed within the north-western corner of the development site. The pond has been installed to capture surface water run off from the entire site, which is known to experience high level of surface water runoff. Members are advised to note that Schedule 2 Part 12 Class A of the General Permitted Development Order allows for 'development by local authorities', stating:

'A. The erection or construction and the maintenance, improvement or other alteration by a local authority or by an urban development corporation of—

(a) any small ancillary building, works or equipment on land belonging to or maintained by them required for the purposes of any function exercised by them on that land otherwise than as statutory undertakers;'

- 6.19 The pond is considered to fall under an 'other alteration' on land owned by the Council, and therefore does not require planning permission in itself. The pond serves a function, and is not ornamental, therefore providing public benefit for a statutory use. Therefore, it would be unreasonable to request further details or to attach conditions to the decision notice relating to the pond.

Contamination

- 6.20 The Environment Agency (EA) initially raised concerns regarding the extension to the cemetery, relating to the water levels below ground level. As above, the attenuation pond has been installed to alleviate any potential ground water issues. The Council had contacted the EA following these concerns, explaining how the current burials are managed with regards to ground water soakage. Further correspondence was received on 08 August 2023 from the EA confirming that further permit would not be required for the extension to the cemetery.

Fence

- 6.21 Officers note neighbouring concerns relating to the fence to the Southern Boundary. As above, planting long the boundary has recently been established, and will provide a level of screening over time in addition to forming a natural boundary between the site and its neighbours. In addition, any fences backing into the site are not owned by the Council, and are thus not responsible for repairs. However, the planting should provide the necessary security in time.

- 6.22 The Neighbourhood Council's comments regarding access from the south of the site are acknowledged. However, there is no access from the south side of the cemetery and there are no plans to create a new entrance from that side of the cemetery (Wakehurst Mews/ Hazlehurst Crescent). The only possible access from these streets will be from a garage/car park area which is private, and would not be readily available for the public to use.

Water Neutrality

- 6.23 The application site falls within the Sussex North Water Supply Zone as defined by Natural England and which includes supplies from groundwater abstraction which cannot, with certainty, demonstrate no adverse impacts upon the defined Arun Valley SAC, SPA and Ramsar sites.
- 6.24 Given the nature of the proposed use, the proposal is not considered to result in the increased abstraction of water over and above the pre-existing arrangement. The proposal is therefore considered to be water neutral.

Conclusion

- 6.25 Whilst the proposed would result in the loss of public allotments, the proposed expansion of the cemetery use (on land previously allocated for such a use) would improve a needed community use, especially given the limited availability of uninterred plots within Horsham. The proposal has been designed as a continuation of the existing cemetery and would thus appear contiguous with the existing arrangement. Details of specific planting will be selected by the Council at a later date (in consultation with the public/neighbours), and the submitted construction plan illustrates that the protected trees nearby would be unaffected by the development. Given the use of the proposal, the development is not anticipated to result in an adverse harm to neighbouring amenity, nor result in any increase in trip generation or parking issues that would affect the safe use and operation of the highway network. Officers therefore recommend to members that the application is approved subject to the below conditions.

7. RECOMMENDATIONS

- 7.1 Officers therefore advise that the application is approved subject to the following conditions:

Conditions:

1 **A List of the Approved Plans**

- 2 **Regulatory (Time) Condition:** The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- 3 **Pre-Commencement Condition:** No development shall commence until an ecological mitigation and enhancement plan has been submitted to and approved by the Local Planning Authority in writing. The approved provisions shall be implemented before development commences and shall thereafter be retained and maintained in accordance with the approved details.

Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the Local Planning Authority to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

- 4 **Regulatory Condition:** All works relating to any new roadways and footpaths shall be undertaken in strict accordance with the submitted Proposed Layout – Road Construction Plan, reference: PL/HC/106 (received by the Council on 09.05.20213).

Reason: To ensure the successful and satisfactory protection of important trees, shrubs and hedges on the site in accordance with Policies 30 and 33 of the Horsham District Planning Framework (2015).

- 5 **Regulatory Condition:** No trees or hedges on the site shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the Local Planning Authority until 5 years after completion of the development hereby permitted. Any trees or hedges on the site which die or become damaged during the construction process shall be replaced with trees, hedging plants or shrubs of a type, size and in positions agreed by the Local Planning Authority.

Reason: To ensure the retention and maintenance of trees and vegetation on the site unsuitable for permanent protection by Tree Preservation Order for a limited period, in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 6 **Regulatory Condition:** If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy has been submitted to and approved by the local planning authority detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

- 7 **Regulatory Condition:** No external lighting or floodlighting shall be installed other than with the permission of the Local Planning Authority by way of formal application.

Reason: In the interests of the amenities of the locality and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 8 **Regulatory Condition:** No works for the implementation of the development hereby approved shall take place outside of 08:00 hours to 18:00 hours Mondays to Fridays nor at any time on Saturdays, Sundays, Bank or public Holidays

Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015).