

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Westerleigh	<p>Application to vary condition 2 of planning permission 17/01429/FUL, made under s.73 of the Town and Country Planning Act 1990, to allow revisions to fenestration layout, revisions to roof design (retaining permitted maximum height), along with gas cooling unit to allow a reduction in the chimney height and amendments in the site layout resulting in a reduction in hardstanding across the site.</p> <p>Land Adjacent New Inns Lane Rubery Birmingham</p>	13.03.20	19/01625/FUL

Councillor Mcdonald has requested this application be considered at Planning Committee rather than being determined under delegated powers

RECOMMENDATION: That planning permission be **GRANTED**

Consultations

Worcestershire Regulatory Services

The revised chimney height calculation appears satisfactory.

Highways - Bromsgrove

No objection.

Birmingham City Council

No response received

New Frankley In Birmingham Parish Council

No response received

Publicity

A total of 208 letters were originally sent on 15th January 2020 which expired on 8th February 2020.

A site notice was displayed on 16th January 2020 and expired on 10th February 2020. The application was advertised in the Bromsgrove Standard on 24th January 2020 and expired on 10th February 2020.

A total of 7 representations have been received as a result of the publicity of the application. Of these 6 are recorded as objections and 1 supports the proposal.

The matters raised in objecting to the application are summarised as follows:

Green Belt Policy

- Inappropriate development in the Green belt

Visual Amenity

- Unacceptable visual impact on the landscape

Traffic and Parking

- Changes to the area of hardstanding within the site may have repercussions to parking and movement of traffic within the site, and therefore impact on the surrounding roads.
- poor access
- would generate more traffic and danger to pedestrians close to school and children's football pitches

Other matters

- Evidence suggests that neighbouring crematoriums are not working to full capacity and therefore development is not needed
- Changes to plans and addition of a cooling unit is unacceptable
- Crematorium permission achieved by stealth following approval of a cemetery
- Pollution to the atmosphere

Councillor McDonald requested that the application be determined by the Planning Committee. He said that he had been approached by a number of residents who felt that the proposed changes were major of which he agreed.

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles

BDP4 Green Belt

BDP16 Sustainable Transport

BDP19 High Quality Design

BDP21 Natural Environment

Others

NPPF – National Planning Policy Framework

NPPG – Planning Practice Guidance

National Design Guide

High Quality Design SPD

Relevant Planning History

17/01429	Application for non-material amendments to approved development .	Refused	19.12.19
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17/01429	Change of use of maintenance/chapel building approved under planning permission 12/0448 (but not yet built) to allow for cremations to take place, reduction in scale of building and hard standing and reduced operating times.	Refused Allowed at appeal Costs appeal allowed	12.03.18 23.08.19 01.07.19
16/0581	Change of use of maintenance/chapel building approved under 12/0448 to allow for cremations to take place, reduction in scale of building and hardstanding.	Refused Dismissed at appeal Costs appeal allowed	7.09.16 02.08.17 02.08.17
14/0575	Variation of Condition Number 2 and 24 of Application Reference Number: 12-0448 to allow cremations to take place within the approved cemetery maintenance building and to allow the installation of cremation facilities within part of the approved maintenance building.	Refused	11.11.14
12/0448	Change of land use from Pasture Land to a Cemetery development including a Chapel and Maintenance building.	Approved	25.10.2012

Assessment of Proposal

Site and surroundings

The site comprises open pasture land bounded to the north by New Inns Lane, which also forms the administrative boundary between Bromsgrove District and Birmingham City Council. To the south east there are properties accessed off Romsley Close and to the east playing fields which are designated open space. To the west lies open countryside, which in part forms the Waseley Hills Country Park and one dwelling, Waseley Hill Cottage. The site lies within the Green Belt.

Proposal

The application seeks to make minor amendments to the planning permission allowed on appeal last year, under reference 17/01429/FUL. Following a detailed design review and analysis of the technical requirements for the crematorium equipment, a number of small amendments and adjustments to the design of the approved building are needed, together with minor alterations to reduce the amount of hard surfacing.

The minor amendments now proposed are for the following components:

1. Addition of a cooling unit
2. Reduction in the height of the approved chimney flue
3. Changes to the roof profile
4. Changes to the windows and doors
5. Reduction in the amount of proposed hard surfacing

Cooling Unit

The proposed external cooling unit would be located within the screened service yard to the rear of the building and will be attached to the building via pipework.

The cooling unit is 5m long and 0.6m high. It would be sat on legs which are no more than 0.8m high so that air can circulate around the unit.

The overall height of the unit is 1.4m.

The cooling unit is required in order to meet DEFRA and Environment Agency Process Guidance Notes 5-2 (12) which is the statutory guidance for crematoria (September 2012).

Chimney Flue

The new proposed design, which includes the use of the cooling unit, allows a shorter chimney flue to be installed.

The new chimney flue would be reduced in height by 0.4m from the approved height.

Roof Profile

The building design can best be described as two overlapping pitched oval discs.

In order to accommodate the internal flue ducting and facilitate the reduced chimney flue height, the maximum height of the roof will be retained but the pitch of the discs will be reduced.

The overall maximum height of the buildings remains unchanged from the 2019 permission but with the roof pitch reduced, the middle of the roof profile needs to be raised by 0.5m.

Windows and Doors

Additional windows are proposed to be inserted into the North West elevation and the shape of the chapel window and exit door is proposed to be altered. Three round windows on the South West elevation are proposed to become rectangular windows.

Hard Surfacing

Further reductions in the amount of hard surfacing have been made, involving a rearrangement of internal roadways and the reduction in the amount of turning areas

within the site along with a reduction in the number of paths and with some parking spaces moved away from existing trees.

The makeup of the parking has changed slightly with additional disabled spaces being included.

Approved parking: 116 visitor spaces and 2 disabled spaces
8 staff parking spaces with 2 disabled spaces
3 reception visitor spaces and 2 disabled spaces

Proposed parking: 123 visitor spaces and 4 disabled spaces
4 staff parking spaces and 2 disabled spaces

The total number of parking spaces remains unchanged at 133 spaces.

Determining the application

This application for a minor material amendment has been made under s.73 of the Town and Country Planning Act 1990 (which allows changes to the conditions applying to existing permissions). In this case, it is to amend the planning condition from the extant planning permission, which listed the approved plans, to enable a new list of plans to be approved which incorporate the proposed changes, as described above.

Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to the amended plans list condition. A new permission would sit alongside the original permission, which would remain intact and unamended. It is open to the applicant to decide whether to implement the new permission, should it be approved, or the one originally granted.

There is no statutory definition of a 'minor material amendment' but Government guidance states that it is likely to include an amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved. With this in mind, your officers are entirely satisfied that the proposal qualifies as a 'minor material amendment' under the terms of the guidance.

Green Belt

The addition of crematorium facilities to the extant planning permission for a cemetery was allowed on appeal in August 2019 (17/01429/FUL), and the consent remains extant until 23rd August 2022. The Planning Inspector concluded that the proposal was inappropriate development in the Green Belt and that it would also be harmful to the openness and one purpose of the Green Belt. She said that it was likely that the harm to the openness and purpose, would be lessened when compared with the extant planning permission. This, together with the compelling need that had been demonstrated for a new crematorium, led her to conclude that other considerations in the case clearly outweighed the harm she had identified. She was satisfied that very special circumstances existed which justified the development and that it should be determined other than in accordance with the development plan.

The extent of the amendments have been carefully assessed and I am satisfied that there would be no material harm to Green Belt openness and purpose as compared to the extant 2012 and 2019 permissions. A compelling need for a new crematorium, as confirmed by the Planning Inspector, remains unchanged and, given the modest nature of the amendments, clearly outweighs the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, including Green Belt openness and purpose. The 'very special circumstances' identified by the Planning Inspector, therefore, exist unchanged.

Other matters

All other material planning considerations raised by local residents have already been fully considered by the Planning Inspector in reaching her decision and I am not aware of any material change in circumstances that might alter her conclusions. Nothing has been raised that may justify refusal of the application or the imposition of further planning conditions. Furthermore, Members will note I am not in receipt of any technical objections to the scheme on highway or pollution matters from the relevant professional consultees.

Conclusion

I am satisfied that very special circumstances exist which justify the development and the proposed amendments would not alter that conclusion.

RECOMMENDATION: That planning permission be **GRANTED**

Conditions:

- 1) The development to which this permission relates must be commenced not later than 23rd August 2022.

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 in accordance with the following approved plans: 810c 11B, 812c 06C, 2016 Main Entrance Plan, 812c 14B, 812c 07D, 812c 15B, 812c 08D, 812c 18 C, 812c 04 E, 812c 17B, 812c 10D, 812c 16B, 812c 09D, 812c 12B, 812c 20B, 812c 203C

Reason: To define the permission and to ensure that the development meets the design quality and environmental requirements of the Bromsgrove District Plan (2011-2030)

- 3) No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following.
 - i) Risk assessment of potentially damaging construction activities.

- ii) Identification of “biodiversity protection zones”.
- iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- iv) The location and timing of sensitive works to avoid harm to biodiversity features.
- v) The times during construction when specialist ecologists need to be present on site to oversee works.
- vi) Responsible persons and lines of communication.
- vii) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- viii) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: The agreement of a CEMP prior to the commencement of development is fundamental to ensure that protected species are not harmed by the development having regard to the Wildlife and Countryside Act 1981, Natural Environment and Rural Communities Act 2006, the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017) and Policy BDP21 of the Bromsgrove District Plan (2011-2030)

- 4) A landscape and ecological management plan (LEMP) shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first occupation of the development. The content of the LEMP shall include the following.
- i) Description and evaluation of features to be managed.
 - ii) Ecological trends and constraints on site that might influence management.
 - iii) Aims and objectives of management.
 - iv) Appropriate management options for achieving aims and objectives.
 - v) Prescriptions for management actions.
 - vi) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - vii) Details of the body or organization responsible for implementation of the plan.
 - viii) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (*where the results from monitoring show that conservation aims and objectives of the LEMP are not being met*) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To provide enhanced ecological habitats and to provide for the long term management of ecology and landscape having regard to Policy BDP21 of the Bromsgrove District Plan (2011-2030).

- 5) No development shall commence until a scheme of surface water and foul water disposal, which shall follow the principles of sustainable drainage as far as practicable, has first been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such approved details prior the first use or occupation of the building hereby permitted and shall be retained thereafter.

Reason: In order to safeguard against pollution and flooding, having regard to Policy BDP23 of the Bromsgrove District Plan(2011-2030).

- 6) Prior to the erection, installation, fixing, placement and/or operation of any external lighting on the site (including on the building itself), details of such external lighting shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the equipment and supporting structures, positions, sizes, heights, type, luminance/light intensity, direction and cowling of all external lights to the buildings and other parts of the application site and the hours at which such lighting is to be operated.

The work shall thereafter be carried out in accordance with the approved details and shall thereafter be retained in that form and under no circumstances shall it cause light pollution.

Reason: To preserve the rural and residential amenities of the locality having regard to Policy BDP1 and BDP19 of the Bromsgrove District Plan (2011-2030).

- 7) Notwithstanding the plans hereby approved, no development shall take place until a package of highway measures have been submitted to and approved in writing by the Local Planning Authority. The package of measures shall include the formation of the vehicular and pedestrian access to the site, turning areas and parking facilities. The development shall not be first brought into use until all such highway measures have been completed in accordance with the approved details. The approved access visibility splays shall thereafter be kept free of obstacles.

Reason: Reason: To ensure safe access to the site in the interests of highway safety and public convenience, having regard to Policy BDP16 of the Bromsgrove District Plan (2011-2030).

- 8) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
- i) The parking of vehicles of site operatives and visitors
 - ii) Loading and unloading of plant and materials
 - iii) Storage of plant/machinery and materials used in construction of the development

- iv) Construction hours restricted to between 0830 and 1800 Monday to Friday and 0830 and 1530 on Saturdays. No working shall take place on Sundays or Public or Bank Holidays
- v) Noise control devices (silencers, SMART reversing alarms etc)
- vi) Wheel washing facilities
- vii) Measures to control emissions of dust and dirt during construction
- viii) A scheme for the recycling/disposing of waste resulting from demolition and construction works

Reason: The agreement of details of a Construction Management Plan prior to the commencement of development is fundamental to ensure a satisfactory level of environmental protection; to minimise disturbance to local residents; the prevention of harm being caused to the amenity of the area; and in the interest of highway safety during the construction process, having regard to Policies BDP1 and BDP19 of the Bromsgrove District Plan (2011-2030).

- 9) No development shall take place until the implementation of a programme of archaeological works has been secured in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted to and approved in writing by the Local Planning Authority. The works shall be undertaken in accordance with the approved details. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation.

Reason: Reason: The agreement of archaeological works prior to the commencement of development is fundamental to ensure that an appropriate investigation of potential archaeological deposits is secured, having regard to Policy BDP20 of the Bromsgrove District Plan (2011-2030).

- 10) Other than shown on the approved plans, no trees or hedges on the application site, or the branches or roots of trees growing onto the site from adjacent land, shall be topped, lopped, felled or uprooted.

Reason: To ensure the well-being of the trees to be retained and continuity of tree cover and maintaining and enhancing ecological, environmental and biodiversity benefits, having regard to Policy BDP19 of the Bromsgrove District Plan (2011-2030).

- 11) Measures for the protection of trees and hedgerows during the construction phase of the development shall be carried in accordance with the Harper Tree Consulting report: Arboricultural Impact Assessment Arboricultural Method Statement Tree Constraints and Tree Protection Plan (2015055.3 2/12/2017)

Reason: To ensure the well-being of the trees to be retained and continuity of tree cover and maintaining and enhancing ecological, environmental and biodiversity benefits, having regard to Policy BDP19 of the Bromsgrove District Plan (2011-2030).

- 12) Prior to the occupation or use of any part of the development hereby permitted, a landscaping scheme of tree and hedge planting and wildlife habitat creation or enhancement shall be submitted to and approved in writing by the Local Planning Authority. This landscaping scheme shall include:
- i) planting plans (to a recognized scale) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting;
 - ii) the method and specifications for operations associated with planting establishment, protection, management and maintenance of all retained and new tree, hedge and shrub planting;
 - iii) written specifications including cultivation and other operations associated with tree, plant and grass establishment;
 - iv) existing landscape features such as trees, hedges, shrubs and ponds which are to be retained and/or removed, accurately plotted (where appropriate);
 - v) existing and proposed finished levels (to include details of grading and contouring of earthworks and details showing the relationship of proposed mounding to existing vegetation and surrounding landform where appropriate);
 - vi) the means of accommodating change in level (e.g. retaining walls, steps, railings, walls, gates or other supporting structures, ramps);
 - vii) location, type and materials to be used for hard surfacing where applicable for permeable paving, tree pit design, underground modular systems, sustainable urban drainage integration and use within tree Root Protection Areas (RPAs), including specifications and details of manufacturer, type and design, colour and bonding pattern where appropriate. Samples may be required to be submitted and approved;
 - viii) the position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedge(banks)), where appropriate;
 - ix) a timetable for the implementation of the soft and hard landscaping scheme.

There shall be no excavation or raising or lowering of levels within the prescribed root protection areas of retained trees.

The approved soft and hard landscaping scheme shall be carried out strictly in accordance with the approved timetable of implementation and shall thereafter be protected, maintained and managed in accordance with the approved details.

Reason: To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits, and to enhance the setting within the immediate locality, having regard to Policy BDP 19 of the Bromsgrove District Plan (2011-2030).

- 13) Except for any trees, hedges or shrubs that may be identified for removal on the approved landscaping plans and schedule, approved pursuant to condition 12, if within a period of five years from the date of the completion of the building works OR completion of the landscaping scheme pursuant to condition 12 (whichever is later), any retained tree, hedge or shrubs are felled, removed, uprooted, destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged, diseased or defective, it/they shall be replaced by planting as originally approved. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.

Reason: To ensure the environment of the development is improved and enhanced, having regard to Policy BDP 19 of the Bromsgrove District Plan (2011-2030).

- 14) Prior to construction of any buildings, which forms part of the development hereby permitted, a schedule of materials and finishes (including samples and trade descriptions/brochure details where appropriate) of materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be constructed in accordance with the approved details and completed before the development is first occupied or used and thereafter shall be retained and maintained in that form.

Reason: Reason: To ensure that the new materials are in keeping with the surroundings, having regard to Policy BDP19 of the Bromsgrove District Plan (2011-2030).

- 15) The cemetery and chapel / reception building shall not be open to the public outside the hours of 0900 to 1800.

Reason: To ensure there is no detrimental effect upon the amenities of the area, having regard to Policies BDP1 and BDP19 of the Bromsgrove District Plan (2011-2030)

- 16) No burials or cremation services shall take place outside the hours of 0900 to 1700 Monday to Friday and at no time on Saturdays, Sundays and Bank Holidays.

Reason: To ensure there is no detrimental effect upon the amenities of the area, having regard to Policies BDP1 and BDP19 of the Bromsgrove District Plan (2011-2030)

- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no works set out in Class A and B, Part 2 of Schedule 2 to the Order shall be carried out.

Plan reference

Reason: To enable the Council to retain control over proposed boundary walls and fences and any new means of access to the site having regard to Policies BDP4 and BDP 19 of the Bromsgrove District Plan (2011-2030).