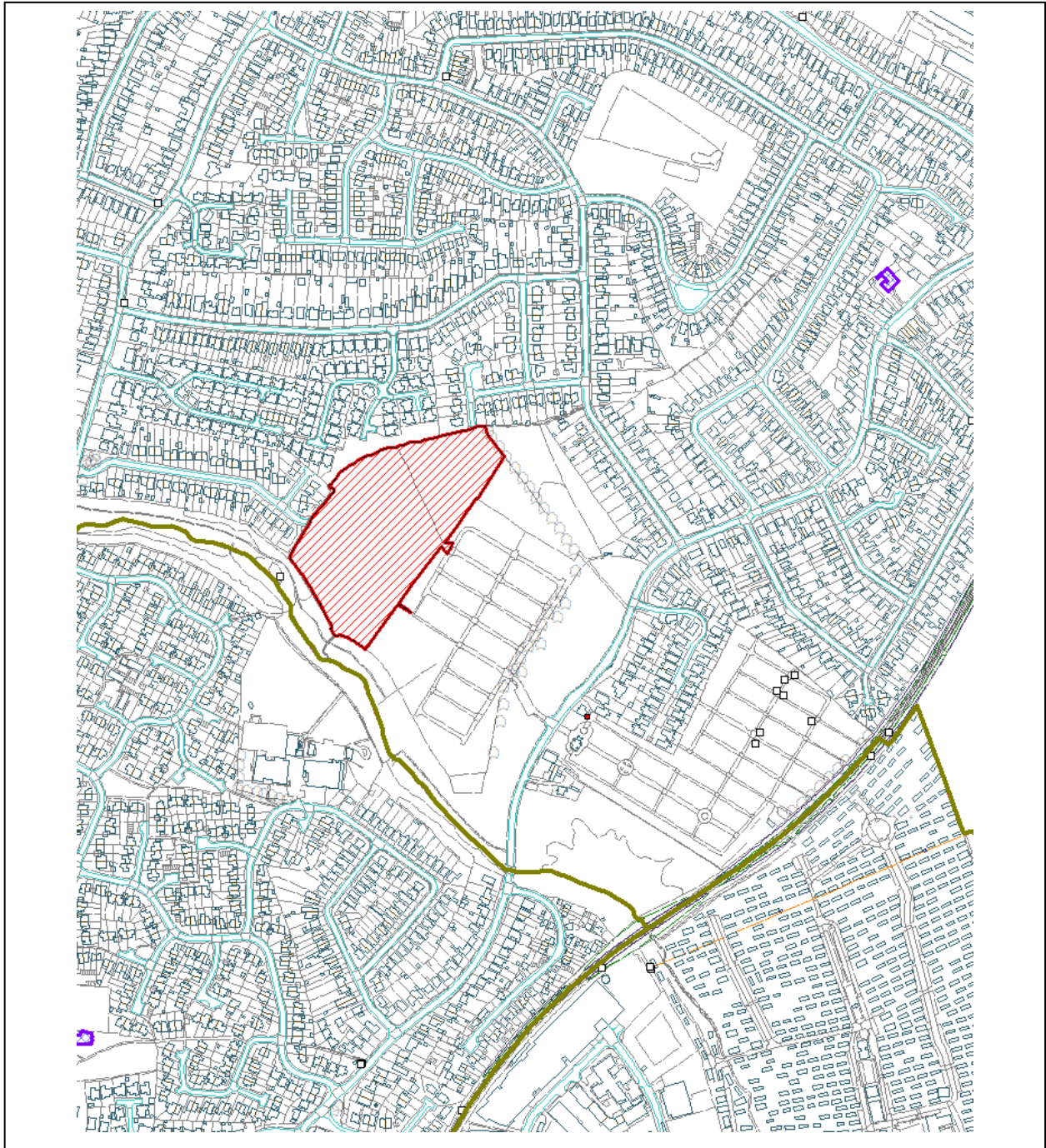


PLANNING COMMITTEE

16th February 2023

REPORT OF THE DIRECTOR OF PLANNING

A.3 PLANNING APPLICATION – 20/00377/FUL – LAND NORTH OF CEMETERY LAND BURRS ROAD CLACTON ON SEA CO15 4QX



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Application:	20/00377/FUL	Expiry Date:	11th June 2020
Case Officer:	Julie Ramsey	EOT Date:	17 th February 2023
Town/ Parish:	Clacton Non Parished		
Applicant:	Mr Ian Taylor		
Address:	Land North of Cemetery Land Burrs Road Clacton-on-Sea, CO15 4QX		
Development:	Proposed extension to the current cemetery site.		

1. Executive Summary

- 1.1 The application is for the extension of the Clacton-on-Sea Cemetery at Burrs Road. The application site is on land allocated for the cemetery extension within the Tendring Adopted Local Plan. This extension would accommodate the identified local need for additional burial plots in the future. The application is presented at Committee as it is a Tendring District Council application on Council owned land.
- 1.2 The site is designated as a Local Wildlife Site (LoWS) and is bordered by Pickers Ditch to the north and west, with areas around the ditch falling into flood zones 2 and 3.
- 1.3 Matters concerning, flooding, SuDs and Ecology have taken significant time to determine particularly with regard to the Biodiversity Net Gain obligations and the identification of suitable compensation sites.
- 1.4 These matters are now satisfactorily resolved and subject to conditions there are no objections from the Environment Agency, Lead Local Flood Authority or ECC Ecology. There are no concerns raised with regards to highway safety or impact on residential amenity, therefore the application is recommended for approval.

Recommendation: Approval

- 1) That the Director of Planning be authorised to grant planning permission subject to conditions as stated at Paragraph 8.2 (or as need to be varied*) and those as may be deemed necessary by the Director of Planning; and,
- 2) The informative notes as may be deemed necessary.

**To account for any errors, legal and necessary updates*

2. Planning Policy

- 2.1 The following Local and National Planning Policies are relevant to this planning application.

National:

National Planning Policy Framework July 2021 (NPPF)
National Planning Practice Guidance (NPPG)

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SPL3 Sustainable Design
PPL1 Development and Flood Risk
PPL4 Biodiversity and Geodiversity
HP4 Safeguarded Local Greenspace
CP1 Sustainable Transport and Accessibility

2.2 **Status of the Local Plan**

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

3. **Relevant Planning History**

96/01128/FUL	(Burrs Road Cemetery, Burrs Road, Clacton on Sea) Erection of new cemetery store building to replace existing store. Store to be used for machinery used in the cemetery	Approved	08.10.1996
15/01219/FUL	Extension of existing cemetery for further burials.	Approved	03.12.2015
16/00565/DISCON	Discharge of condition 3 (Drainage details), 5 (Submission of a Biodiversity Mitigation, Enhancement and Management Plan), and 6 (Landscaping) of approved planning application 15/01219/FUL.	Approved	25.05.2016

4. **Consultations**

Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.

All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

Essex County Council Ecology

14.04.2020

Holding objection due to insufficient ecological information (designated sites, protected and Priority species)

No ecological report has been submitted as part of this application. The Design and Access Statement (CDS, February 2020) states that the site is designated as a 'Local Wildlife Reserve' and Local Nature Reserve.

Recommend that a Preliminary Ecological Appraisal (PEA) is undertaken to assess the likelihood of protected and Priority species and habitats being present on the site or affected by the proposal. The PEA should assess the impacts of the development and propose reasonable mitigation and enhancement measures.

Essex County Council Ecology

02.07.2020

Preliminary Ecological Appraisal Report (Syntegra Consulting Ltd, May 2020) submitted which states the application site forms part of Te100 Bursville Park Local Wildlife Site (LoWS). There is a presumption against development on Local Wildlife Sites in the NPPF and this proposal would result in the permanent loss of LoWS and Lowland Meadows Priority habitat should this development be consented.

The applicant would need to provide sufficient and appropriate compensation will be necessary to make it acceptable compensation for permanent loss of an area of designated site of importance for biodiversity and Priority Habitat.

A botanical survey of the LoWS site and Lowland Meadows Priority habitat using appropriate methodologies, as well as the provision of the Metrics calculations by a suitably qualified ecologist will be needed prior to determination.

Essex County Council Ecology

02.12.2022

The Habitat Survey and Biodiversity Net Gain Assessment report provided will allow us to remove our holding objection and conditions are required to make the proposal acceptable. This will include compliance with both the BNG report (as submitted) and the Reptile report, as well as the need to submit a final Biodiversity Compensation and Enhancement Strategy.

Essex County Council Ecology **01.02.2023**

I would now refer to the Jan 2023 version of the Geosphere report "Rapid Assessment of Potential Biodiversity Compensation Sites".

As further survey and assessment will be required to finalise management objectives and actions once sites to be take forward are agreed, a condition to secure submission of the final Biodiversity Compensation and Enhancement Strategy will be needed.

I'll let you judge when would be reasonable as a trigger, but the compensation and BNG is deliverable. Final calculations of biodiversity units for both onsite and offsite baseline and proposed habitats will be required once detailed proposals are available as part of this final report.

Lead Local Flood Authority (SuDS)

25.03.2020.

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position.

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission subject to relevant conditions in regards to the submission of a detailed surface water drainage scheme and scheme to minimise off site flooding, a maintenance plan and appropriate yearly logs undertaken.

ECC Highways Dept

03.04.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted that the proposed extension will use the existing cemetery entrance and parking, except for some additional parking spaces provided in the area to be extended therefore:

The Highway Authority does not object to the proposals as submitted.

Environment Agency

29.04.2020

Thank you for your consultation we have reviewed the plans as proposed and are raising a holding objection with regards to land contamination. This is a large extension with an estimated 200 burials per year and the risk from this extension still remains high.

Environment Agency

22.03.2021

Thank you for submitting additional information we have reviewed the information and consider this application could be granted if the condition below is appended to any permission given.

Ground Water

The concerns were addressed previously following additional consultation with technical specialists it was decided at that time that if the cemetery extension was constructed as designed, the proposed extension should not cause an unacceptable impact to the local environment and we had no additional concerns.

We also felt that owing to the theoretical nature of some of the calculations, and the bespoke nature of the cemetery drainage design, we would like the following planning condition to be imposed.

Condition

Inform us when the work is completed and when the first year of burials has taken place so that we can undertake an inspection.

Reason: To ensure that we are satisfied that it is functioning as expected and there is no discharge of pollutants from the site.

5. **Representations**

No representations have been received following a public consultation which included a press notice, site notice posted at the site and neighbouring consultation letters sent out to the adjacent properties.

6. **Assessment**

Site Context

- 6.1 The application site comprises of a parcel of land north-west of Burrs Road, Clacton-on-Sea and is adjacent to the existing cemetery on this side of Burrs Road. The site is within the settlement development boundary of Clacton-on-Sea and is a designated LoWS. The site is mainly made up of mixed grassland, with trees and vegetation to the boundaries. The site is currently used for recreational purposes.
- 6.2 The existing Cemetery extends out on both sides of Burrs Road with access from the highway on both sides of Burrs Road. The northern side of the Cemetery is set back from the main highway with a large grass verge extending along the frontage of the Cemetery. The site is adjacent to Pickers Ditch which runs along the south western boundary while a tributary ditch runs to the northwest with residential properties sited beyond this ditch.
- 6.3 The cemetery is open for vehicular access Monday to Fridays from 7.30am to 4.30pm and on Saturdays and Sundays from 10.00am to 4.30pm, 365 days a year. The site is open for pedestrian access 24hrs a day all year round.

Proposal

- 6.4 The application seeks planning permission for the extension of the existing cemetery. The site covers an area of approximately 3.5ha. The proposal seeks to development the western side of the site, with the eastern side, safeguarded for future expansion of the cemetery.
- 6.5 Access to the cemetery will remain from Burrs Road, with a new central extension road formed from the main site. This will lead into a roundabout with a spur road off to the left, leading to a parking area, comprising of 20 parking spaces (including 2 disabled spaces). The access road also continues straight from the roundabout through the centre of the site.
- 6.6 Associated landscaping and drainage works are also proposed.
- 6.7 The application is submitted with the following supporting information:
 - CDS_TEN_CLA_04 Rev 06 – Drainage Layout Plan
 - CDS_TEN_CLA_09 Rev 00 – Drainage Details
 - CDS_TEN_CLA_07 Rev 00 – Proposed Planting Scheme
 - CDS_TEN_CLA_08 Rev 00 – Planting Schedules
 - Design and Access Statement, 20th February 2020, Ref: 618072, 217058
 - Flood Risk Assessment
 - Landscape Management Plan

- Landscape Management and Maintenance Plan, 26th February 2020, Ref: 618072, 217058
- Planning and Needs Assessment Report, February 2020
- Reed Bed Design, March 2020
- Design of Attenuation Capacity for a Restricted Outfall, March 2020
- Tier 2 Ground Water Risk Assessment, February 2020
- Preliminary Ecological Appraisal Report – Syntegra Consulting, May 2020, Ref: 20-6861
- Reptile Presence and Absence Report – Syntegra Consulting, June 2021, Ref: 20-6861
- Botanical Survey – Syntegra Consulting, September 2021, Ref: 20-6861
- Habitat Survey and Biodiversity Net Gain Assessment – GEO, 28th November 2022 Ref: 7106,EC,BotBNG,AC,TA,PD,28-11-22,V1
- 7016 EC onsite metric, GEO 28th November 2022
- Rapid Assessment of Potential Biodiversity Compensation Sites – GEO, 05th January 2023, Ref: 7106, EC, Comp,AS,AC,05-01-23,V1.

Principle of Development

- 6.8 Local Plan Policy HP4 seeks to protect safeguarded open spaces from development. Cemeteries and Church yards are considered to provide a degree of open amenity space for community use. Parcels of land have been specifically designated in the Tendring Adopted Local Plan for the future expansion of the Weeley Crematorium, the Burrs Road Cemetery (Clacton), Dovercourt Cemetery and the Kirby Cross Cemetery. These areas are shown on the various Policies Maps and Local Maps for these areas. The black dotted area on the map below shows the land that has been designated for the extension of Clacton, Burrs Road Cemetery.



- 6.9 The current burial rate is around 140-160 per year and is expected to slightly increase from this rate over the coming years due to an ageing and increasing population. At current burial rates the existing space could be full within 5 years. Though the Council operate three additional cemeteries this is the only one within the town and is a valuable amenity for the community.
- 6.10 The application site comprises of this parcel of land and therefore the principle of development, namely the extension of the cemetery in this location is accepted subject to detailed considerations against other relevant Local Plan policies and any approved Neighbourhood Plans.

Character and Appearance

- 6.11 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.
- 6.12 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness.
- 6.13 The proposed site is to be developed into a burial cemetery which closely matches the current design and layout of the existing cemetery area to the south. The extension would provide additional capacity for traditional burials and the burial of cremated remains. Buffer strips and a detailed landscaping scheme along both the northern and western ditches is considered to further maintain the existing character and habitat value. The access roads would also be planted with a range of native trees and shrubs to complement the young trees in the buffer strips and additional trees are to be planted in key positions within the new burial area.
- 6.14 The main objectives of the development are as follows:
- To mitigate any impact resulting from the development of this site, specifically relating to the construction of the access roads.
 - To protect the two ditches by intercepting all drainage water from both the deep drain and surface water drains, attenuating flows and treating via a reed bed ahead of discharge into the ditch.
 - To enhance the biodiversity within the site by protecting and managing the hedges and creating new wetland areas within the detention basin.
- 6.15 Other design concepts which are included in the proposal are the use of colour to improve the character and appearance of the cemetery site. This is to be achieved through the use of low maintenance tree and shrub species using a blend of evergreen and deciduous trees to provide seasonal colour variation that is complementary to the existing boundary features, back drops and would also provide new screening where required in a range of harmonious colours and textures. The use of reinforced grass pathways further minimises the visual impact of the development.
- 6.16 Roadways and pathways are to be durable, of low maintenance and be soft on foot and eye and it is considered that where possible permeable surfaces are used (porous grass pavers and crushed stone car parking spaces).
- 6.17 The proposed areas allocated for the memorial gardens and ashes interment are sited along a central strip of the new cemetery area, which would utilise an area which has a deep drain installed to remove water from a localised perched water table ahead of any burials in this area and in order to comply with Environment Agency requirements, no burials can take place within 10m of this drain. This strip would also include the access road and parking area and is considered to create a central line of symmetry for the new site acting as a visual focus for the whole development. Considered planting has been proposed for this area, which links to the boundary hedges on the other borders and would together result in an informal tree-line path that links the lower hedge line to the top of the site.
- 6.18 Therefore, the overall concept of the design of the proposed cemetery extension is considered to create a sustainable and aesthetically pleasing open space which complements the existing landscape, maintains its semi-rural setting and can provide a range of burial options sensitive to modern, formal and multicultural burial practice.

Flood Risk and Surface Water Drainage

- 6.19 Paragraph 167 of the Framework is clear that when determining any planning applications Local Planning Authorities should ensure that flood risk is not increased elsewhere. Criterion g) of Part B of Policy SPL3 states that opportunities should be taken to incorporate sustainable drainage within development, creating amenity and biodiversity.
- 6.20 The site is located within Flood Zone 1, however the Environment Agency Flood Map for Planning indicates that the area around Pickers Ditch, adjacent to the site, is within Flood Zone 2 and 3. Also the application constitutes a major application and due to the nature of the development, due consideration of the surface water is paramount, therefore a flood risk assessment has been submitted with the application along with detailed drainage plans and assessment.
- 6.21 The Environment Agency (EA) stipulate that no burials can take place into standing water. Therefore, the central section of the cemetery cannot be used for burials unless they are 10m away from this section. A plan has been submitted to the EA showing the intention to place one deep drain through this central area to drain it. The EA have agreed that this approach is acceptable subject to the 10m limit and all water from the drain is treated via a reed bed. This approach has been adopted and is part of the combined SuDS scheme for the site which has been submitted in a separate report.
- 6.22 The proposed development of the cemetery site would include some impermeable and semi permeable surfaces associated with the proposed access roads and car parking area. It is considered that the runoff from these surfaces could pose a surface water flood risk to neighbouring sites if uncontrolled. The submitted reports show a SuDS scheme for the site which would restrict flow to the modelled greenfield flow rate for this site to minimise this risk. The SUDS scheme would utilise a detention basin for the majority of the flow and a swale for a smaller area. The detention basin would take water from the central deep drain as well as from the access road outfalls and funnel them into a reed bed designed to attenuate any pollutants that might have been transported through the soil to the deep drain.
- 6.23 The constraints imposed on the site through the need to protect the ditches and reduce the risk of water pollution and flooding have been integrated into the site design to minimise visual impact through the retention of important hedges, to retain the mosaic value of grassland, isolated trees and hedges and to maintain formal and informal public access around and through the site.
- 6.24 The EA have removed their initial holding objection to the scheme following additional consultation with technical specialists and concluded that if the cemetery extension was constructed as designed, the proposed extension should not cause an unacceptable impact to the local environment. Due to the unavoidable theoretical nature of some of the calculations, within the submitted information and the bespoke nature of the cemetery drainage design, the EA have requested a condition requiring an inspection to take place when installed and again after the first year of burials to ensure that the drainage provision is operating as it should. This can be added to any grant of planning permission and is adjusted to ensure it complies with the required tests of conditions.
- 6.25 It is also noted that the Lead Local Flood Authority have no objections to the scheme subject to conditions regards to the submission of a detailed surface water drainage scheme and scheme to minimise off site flooding, a maintenance plan and appropriate yearly logs undertaken. Necessary conditions can be added to any grant of planning permission.

Ecology and Net Biodiversity Gains

- 6.26 Paragraph 174 of the Framework requires that planning decision should contribute to and enhance the natural and local environment, by minimising impacts on and providing net gains for biodiversity. Paragraph 180 d) states that opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.27 Local Plan Policy PPL4 requires that sites designated for their international, European, and national importance to nature conservation will be protected from development likely to have an adverse effect on their integrity. The policy states that as a minimum there should be no significant impacts upon any protected species. Where a development might harm biodiversity, an ecological appraisal will be required to be undertaken, and the potential for harm should be considered and addressed in any application. Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value.
- 6.28 As noted earlier in the report a number of extensive reports and surveys have been submitted in regards to the ecology on site, with regards to protected species and the botanical value of the site. Works have also been undertaken to identify sites within the district to offset the loss of this Local Wildlife Site and also to increase the biodiversity within the site in order to achieve the objectives of a net gain in biodiversity.
- 6.29 The main enhancements on site are by way of the formation of a detention basin would create a seasonal wetland and by the formation of some micro-ponds within this area, sites suitable for amphibians will be created, maintaining some of the wetland value of the site throughout the year. The detention basin will discharge into the ditch via a small reed bed designed to treat any pollutants arising from the deep drain and the reed bed would add a further layer of interest to the site by providing additional texture and structure to the site in the form of reeds.
- 6.30 Various buffer strips around the site are required to minimise risk of water pollution, including 10m strips alongside Pickers Ditch and the adjoining ditch and a 10m buffer protecting the central deep drain. The buffer strips would increase habitat value and maintain a natural feel to the development without compromising grave space as access routes including a road are necessary. The design and layout has sought to minimise the impact of the development on the site by retaining valuable habitat features of the site, introducing new potential habitats within the detention basin in the form of micro-ponds and reed bed, and improving the habitat value of the parkland created by encouraging seeding from the setting soil material and sowing with grass species that are already in the sward rather than using a perennial ryegrass dominated mix. By working with the constraints and using these requirements to protect and enhance current features of habitat value it is felt that a good balance between the works necessary to develop an accessible and useful cemetery space with recreational value and those to protect the current habitats can be achieved.
- 6.31 In summary Essex County Council Ecology have withdrawn their holding objection and consider the findings within the submitted Habitat Survey and Biodiversity Net Gain Assessment (BNG) report, along with conditions, including compliance with both the BNG report (as submitted) and the Reptile report, as well as the need to submit a final Biodiversity Compensation and Enhancement Strategy to finalise management objectives and actions once sites to be take forward are agreed. They conclude that the compensation and BNG is deliverable and final calculations of biodiversity units for both onsite and offsite baseline and proposed habitats will be required once detailed proposals are available as part of this final report. This can be secured via conditions added to any grant of planning permission.

Highway Safety/Parking

- 6.32 Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried forward within Policies SPL3 and CP1.
- 6.33 The development would utilise the existing access from Burrs Road and an additional 20 car parking spaces are to be provided within the extended cemetery area along with two turning areas.
- 6.34 ECC Highways have been consulted on the application and raise no objections to the proposal. Therefore the proposed development is considered to be acceptable in regards to highway safety and parking.

Trees and Landscaping

- 6.35 Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. The design and layout of the proposed development should maintain or enhance important existing site features of landscape, ecological, heritage or amenity value.
- 6.36 The main body of the application site is set to rough grass and is designated a local wildlife site (Lows). The site boundaries are demarcated by established hedgerows some of which contain large, mature trees. The site is enclosed by the natural vegetation.
- 6.37 The north western corner of the application site has been planted with a number of trees and these have become relatively well established.
- 6.38 In terms of the impact of the development proposal on the existing vegetation and the character and appearance of the area the applicant has provided information relating to the impact of the change of use of the land and details of new soft landscaping including tree planting.
- 6.39 It appears that, apart from the removal of a section of hedgerow to facilitate the new vehicular access to the proposed cemetery extension the remainder of the boundary vegetation will be retained. Some of the younger trees in the North West corner appear to be identified for removal although this is not considered to have a significant adverse impact on the appearance of the area.
- 6.40 Taking into account the current use and amenity value of the land as well as the measures that will be put in place to mitigate harm caused by the removal of existing trees and hedgerow it is considered that the information provided adequately demonstrates that the development proposal can be implemented without causing permanent harm to the character or appearance of the area. The submitted landscaping and planting details therefore can be secured by condition to any grant of planning permission to ensure that they are implemented in full.

Impact on Residential Amenity

- 6.41 The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.42 Policy SPL3 seeks new development that would not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

6.43 The cemetery extension is located to the north west of the existing cemetery and is therefore closer to the residential dwellings, albeit still some distance away which border the site to the north, east and west. The site, however is considered to be well screened and both the retained and proposed planting to the boundaries of the site would provide additional screening, mitigating the limited visual impact to the neighbouring properties.

7. Conclusion

7.1 The proposed cemetery extension would ensure that the existing Burrs Road cemetery would have sufficient capacity to serve the needs of the local community in future years. In addition it is noted that the applicant has gone to great lengths to ensure that local biodiversity features are retained and a biodiversity net gain is achieved. Therefore subject to conditions the proposal is considered to mitigate the harm to the LoWS brought about by the development.

8 Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

8.2 Conditions and Reasons

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents, and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may be subsequently approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard:

- CDS_TEN_CLA_04 Rev 06 – Drainage Layout Plan
- CDS_TEN_CLA_09 Rev 00 – Drainage Details
- CDS_TEN_CLA_07 Rev 00 – Proposed Planting Scheme
- CDS_TEN_CLA_08 Rev 00 – Planting Schedules
- Design and Access Statement, 20th February 2020, Ref: 618072, 217058
- Flood Risk Assessment
- Landscape Management Plan
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- Tier 2 Ground Water Risk Assessment, February 2020
- Preliminary Ecological Appraisal Report – Syntegra Consulting, May 2020, Ref: 20-6861
- Reptile Presence and Absence Report – Syntegra Consulting, June 2021, Ref: 20-6861
- Botanical Survey – Syntegra Consulting, September 2021, Ref: 20-6861
- Habitat Survey and Biodiversity Net Gain Assessment – GEO, 28th November 2022 Ref: 7106,EC,BotBNG,AC,TA,PD,28-11-22,V1
- 7016 EC onsite metric, GEO 28th November 2022

- Rapid Assessment of Potential Biodiversity Compensation Sites – GEO, 05th January 2023, Ref: 7106, EC, Comp,AS,AC,05-01-23,V1.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Prior to the commencement of the development hereby approved, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, must be submitted to and approved in writing by the Local Planning Authority. The scheme should include but not be limited to:
 - Limiting discharge rates to 2.4l/s for all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
 - Demonstrate that all storage features can half empty within 24 hours for the 1:30 plus 40% climate change critical storm event.
 - Final modelling and calculations for all areas of the drainage system.
 - A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
 - A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
 - A timetable for implementation

The scheme shall be carried out as may be agreed in its entirety.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to ensure the effective operation of SuDS features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to the local water environment.

Note: Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

4. Prior to the commencement of development, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following.
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) 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) including precautionary method statements of nesting bird and small mammals.
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.
 - i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

5. Prior to the first use of the cemetery extension hereby approved, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, must be submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided. The plan shall be carried out in full as may be approved.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Note: Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

6. Prior to the first burial, the LPA and Environment Agency are to be notified in writing to allow the opportunity for an inspection of the site when the drainage works are completed, and again after the first year of burials has taken place.

Reason: To ensure that the Environment Agency and LPA are satisfied that the drainage system is installed correctly and is functioning as expected and there is no discharge of pollutants from the site.

7. Prior to the first burial a Biodiversity Compensation and Enhancement Strategy must be submitted and approved by the Local Planning Authority. The works are to be implemented as approved and maintained as such at all times.

Reason: To secure the necessary biodiversity compensation required to mitigate the loss of the LoWs.

8. All biodiversity mitigation and enhancement measures and/or works shall be carried out in accordance with the details and timings contained in the:

- Reptile Presence and Absence Report – Syntegra Consulting, June 2021, Ref: 20-6861
- Botanical Survey – Syntegra Consulting, September 2021, Ref: 20-6861

This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

8.3 Informatives

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

9 Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10 Background Papers

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.