

## COMMITTEE REPORT

**Date:** 24 January 2019      **Ward:** Fishergate  
**Team:** Major and      **Parish:** Fishergate Planning  
Commercial Team      Panel

**Reference:** 18/01620/FUL  
**Application at:** York Cemetery Trust Kiosk, York Cemetery, Cemetery Road  
**For:** Single storey extension and alterations to building to form  
volunteers centre with associated facilities and tool store  
(resubmission).  
**By:** Dr. Richard Keesing  
**Application Type:** Full Application  
**Target Date:** 29 January 2018  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application site is York Cemetery, located to the south of York city centre, accessed off Cemetery Road, from Barbican Road (A19). The Cemetery was established in 1836-7 and covers 24.25 acres. To the north, west and south the Cemetery backs on onto residential gardens and to the east, the Cemetery leads into Low Moor Allotments.

1.2 The cemetery grounds are included on the Register of Parks and Gardens at Grade II\* by Historic England for their special historic interest. The emphasis of the register is on 'designed' landscapes rather than on planting or botanical importance. Within the Cemetery, there is the listed Chapel (Grade II\*) and Cemetery Lodge (also referred to as the Gatehouse) (Grade II) as well as a number of individually listed monuments. The Cemetery is bounded to the west by a listed wall, railings, gates and piers (Grade II). In 1837 James Pigott Pritchett, who has a long-established connection with York, prepared plans for the chapel, lodge, and fences in Greek Revival style and the formal layout of the grounds shortly after.

1.3 The site is located outside of any conservation area and any area of archaeological importance however it lies within the general extent of the Green Belt. The site is located within Flood Zone 1, meaning there is a low risk of flooding.

1.4 There is an existing single storey brick built building identified as 'the potting shed' on the plans which provides a tool shed, workshop, toilets and flower stall.

1.5 Planning permission is sought for extensions and alterations to the existing potting shed to form a 'volunteer's centre' with associated facilities and tool store. The application is a resubmission of a withdrawn scheme following concerns the building

was too large and in close proximity to the listed railings. This design of the current application has undergone some amendments since its original submission.

1.6 The toilet area of the existing potting shed will be retained; however there will be some internal re-arrangement of the toilets. The flower shop will be removed from the building in its entirety. The building will be extended primarily to the west (rear) and will provide a volunteers centre, tool store (including volunteer's tool store) and a table store. In addition there will be an entrance lobby/porch to the front of the building and cycle racks. The building, at its closest point will be positioned 2m from the boundary railings on Cemetery Road and the application now involves the retention of an existing willow tree and an additional cherry tree (to replace a Rowan tree) between the rear (western) elevation of the building and the railings.

1.7 Additionally, the application seeks consent for gates to restrict access between the proposed building and the Lodge and gates on the other side, between the building and the pond area.

1.8 The cemetery is open between 08:30 to 16:15 Monday to Friday and 10:00 to 16:00 Saturday and Sundays during the winter and 10:00 to 18:00 during the summer.

1.9 The application is accompanied by an application for Listed Building Consent Ref: 18/01621/LBC

### Planning History

1.10 18/00383/FUL & 18/00384/LBC Single storey extension to form visitors centre with associated facilities and tool store; Application withdrawn

## **2.0 POLICY CONTEXT**

### 2.1 PUBLICATION DRAFT LOCAL PLAN 2008

DP3	Sustainable Communities
SS2	The Role of York's Green Belt
D1	Placemaking
D2	Landscape and Setting
D5	Listed Buildings
D8	Historic Parks and Gardens
GI4	Trees and Hedgerows
GB1	Development in the Green Belt

### 2.2 DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

GP1	Design
GP9	Landscaping
NE1	Trees, Woodlands and Hedgerows

HE4	Listed Buildings
HE11	Trees and Landscape
HE12	Historic Parks and Gardens
GB1	Development in the Green Belt

### **3.0 CONSULTATIONS**

#### INTERNAL

##### Design, Conservation and Sustainable Development (Conservation)

3.1 The revised application addresses many previous concerns however amendments have been sought in respect to detailed design aspects of the scheme, including improvements to the solid flank (west) wall, clarification of gate designs and doors including the garage doors, materials including brickwork as well as the glass canopy detail.

3.2 In respect to the glass canopy, this feature is considered to detract from the modest character of the existing building and as a virtually flat form and transparency could be difficult to maintain. This was suggested to be omitted. Whilst the applicant has omitted the glass canopy, it is replaced with an enclosed porch which looks ;'busy' and detracts from the simple form of the potting shed due to the amount of framing and the dual pitch roof extending in front of the pitched roof of the existing building. Alternative design options have been suggested to the applicant, however amended plans have not been forthcoming.

3.3 Whilst the plans have not been revised, the design, on balance is considered acceptable. Following an assessment made against the impact of the proposals upon the heritage significance of the Cemetery, the individually listed buildings contained within the Cemetery and it is not considered that the Cemetery or setting of listed buildings would be harmed by the proposals.

##### Design, Conservation and Sustainable Development - Ecology

3.4 A bat survey is not required, however small trees will be removed which could support nesting birds. An informative is recommended to ensure that these are removed outside of nesting season.

##### Design, Conservation and Sustainable Development (Landscape Architect)

3.5 The two existing trees along the frontage contribute to the screening of the existing potting shed, which is set back from the roadside. They are directly visible from Cemetery Road and add to the general amenity of the area and the frontage of the Cemetery grounds. It is important that the proposed building is set back sufficiently to allow foreground vegetation in the form of trees and /or shrubs to screen it from the road.

3.6 The applicant sought the removal of both these trees and whilst the application has been supported by a tree report, this does not provide any evidence that the trees are required to be removed for arboricultural reasons. Along with the removal of these trees, the applicant had suggested that they were not going to replace these trees due to the 'potential' effect on the wall. This is not accepted as a reason not to replace the trees.

3.7 However, following negotiation the applicant has revised the proposals, which now seeks to retain the willow tree and replace the Rowan tree with a cherry. The cherry tree is considered to be of a suitable species and along with the retained Rowan, they will mitigate the impact on the amenity of the cemetery grounds.

#### Highways Network Management

3.8 No highway implications arise from this development and therefore no objections are raised.

#### Flood Risk Management Team

3.9 No response received to date.

#### Fishergate Planning Panel

3.10 No response received to date.

#### Historic England

3.11 The cemetery has historic value as an early garden cemetery, of which the Chapel and lodge are an integral part. The cemetery also has aesthetic value for its landscape design and the buildings have aesthetic for their design. The site and buildings also have value to the community as a cemetery long in use and as a green open space, latterly expressed through the York Cemetery Trust constituted in 1986.

3.12 No objections on heritage grounds. Revisions have been made to the scheme and the revisions to the shape, size and architectural articulation of the tool store and the greater space between the new building and cemetery railings are welcomed.

3.13 Conditions are recommended to ensure the removal of the concrete garage/store to the north as soon as the new extension is completed, and the securing of appropriate planting along the boundary.

#### Garden History Society (Yorkshire Gardens Trust)

3.14 Yorkshire Gardens Trust is a member organisation of the Gardens Trust and works in partnership with it in respect of the protection and conservation of registered

sites, and is organised by the Gardens Trust to respond on the Gardens Trust's behalf in respect of such consultations.

3.15 In principle, the new buildings seem of a scale which will not impose too much on the adjacent listed Lodge. However concerns are raised that when viewed from within the cemetery and the proposed gates into the service yard are shut, the whole composition would appear as a linked group and result in substantial massing, detracting from the historic integrity of the cemetery. The setting to the adjacent Lodge does not appear to have been fully considered and are required by the NPPF (para 190). In addition, of concern is the view within the cemetery from the steps of the Grade II\* listed Chapel. The Chapel and Lodge are linked in terms of style and materials and physically linked by a serpentine drive which was part of the original landscape design. The location of the new building may draw the eye away from the lodge and impeded on the natural tension between the two buildings.

3.16 Furthermore, of concern are the glimpsed views to the Grade II\* Chapel between the railings, when walking along Cemetery Road. Additionally, the application does not seem to provide landscaping proposals for the area between the railings and the new building, following removal of a belt of trees adjacent to the railings. A planting scheme could soften the impact of the building and should use a range of plants sympathetic to the Victorian character of the Cemetery.

3.17 This area of the cemetery has historically been a utilitarian one and formerly housed the greenhouses for the cemetery. The removal of the pebble dash/concrete garage/store building which sits amid a very messy area strewn with bins and redundant materials is welcomed. It would be a great improvement if the area adjacent to the railings and behind the current store could be required to be cleaned up as a condition.

#### Publicity and neighbour notification

3.18 The application has been advertised via site and press notice and neighbour notification. No letters of representation have been received.

## **4.0 APPRAISAL**

### 4.1 Key Issues:

- Principle of the development- assessment of harm to the Green Belt
  - Whether the proposal is inappropriate development within the Green Belt
  - The effect of the proposal on the openness of the Green Belt
  - Very special circumstances
- Heritage- Impact on Listed Buildings, and Park and Garden
- Design
- Landscape
- Ecology

## **Planning Legislation**

4.2 Section 38(6) of the Planning and Compensation Act 2004 requires determinations be made in accordance with the development plan unless material considerations indicate otherwise. In this area, the development plan comprises of the retained policies in the Yorkshire and Humber regional Spatial Strategy (RSS), saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013.

4.3 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant listed building consent for any works, the local planning authority shall 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.

4.4 In the exercise of an LPA's planning function with respect to any buildings or other land in a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area.

## **National Planning Policy Framework (2018)**

4.5 The revised National Planning Policy Framework (NPPF) (2018) was published on 24 July 2018 and sets out the government's planning policies for England and how these are expected to be applied. Paragraph 7 states that the planning system should contribute to the achievement of sustainable development. To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental.

4.6 In the absence of a formally adopted Local Plan the most up-to date representation of key relevant policy issues is the NPPF (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed. The NPPF sets out the presumption in favour of sustainable development unless the application of specific policies in the NPPF indicate development should be restricted.

## **Green Belt**

4.7 Section 13 of the NPPF relates to protecting Green Belt land. Paragraph 133 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence.

4.8 Paragraph 144 of the NPPF establishes that substantial weight should be given to any harm to the Green Belt. Paragraph 143 states that inappropriate development that is, by definition, harmful to the Green Belt, should not be approved except in very

special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

4.9 Paragraph 145 continues stating that the construction of new buildings in the Green Belt should be regarded as inappropriate. There are specified exceptions to this and part b) is relevant to the assessment of this application, stating that:

*“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 within it.”*

### Heritage

4.10 Section 16 of the NPPF considers the conservation and enhancement of the historic environment. Paragraph 190 of the NPPF requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal. Paragraph 192(c) of the NPPF requires local planning authorities to take account of the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 193 requires consideration to be given to the significance of a designated heritage asset with great weight given to the asset's conservation; the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

4.11 Continuing, paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.

### Achieving well designed places

4.12 Section 12 of the NPPF seeks to ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Paragraph 127 seeks to ensure that developments:

- a) will function well and add to the overall quality of the area;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, whilst not preventing or discouraging appropriate innovation or change;

- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and support local facilities and transport networks;
- f) create 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, and where crime and disorder and the fear of crime do not undermine the quality of life or community cohesion and resilience.

## **Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013**

4.13 Policies, YH9(C) and Y1(C1 and C2), relate to York's Green Belt and the key diagram, Figure 6.2, insofar as it illustrates the general extent of the Green Belt. The policies state that the detailed inner and rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

## **Publication Draft Local Plan 2018**

4.14 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF the Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

4.15 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

4.16 Policy GB1 will permit development on the Green Belt where:

- i. the scale, location and design of development would not detract from the openness of the Green Belt;*
  - ii. it would not conflict with the purposes of including land within the Green Belt; and*
  - iii. it would not prejudice or harm those elements which contribute to the special character and setting of York;*
- and it is for one of the purposes, which includes appropriate facilities for cemeteries. All other forms of development within the Green Belt are considered inappropriate. Very special circumstances will be required to justify."*



4.17 Policy D8 Historic Parks and Gardens will support development proposals where they:

- “i. do not harm the layout, design, character, appearance or setting of the park or garden, key views into or out from the park;*
- ii. are sensitive to the original design intention and subsequent layers of design and the functional evolution of the park or garden and do not prejudice any future restoration.*
- iii. would enhance or better reveal the significance of the Historic Park and garden or would help to secure a sustainable future for a feature within it.”*

### **Development Control Local Plan (2005)**

4.18 The Development Control Local Plan (DCLP) was approved for development management purposes in April 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations and can be afforded very little weight in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

### **PRINCIPLE OF DEVELOPMENT – ASSESSMENT OF HARM TO THE GREEN BELT**

#### Whether the development represents appropriate facilities

4.19 Paragraph 145 b) of the NPPF establishes that the construction of new buildings is inappropriate in the Green Belt unless one of a limited number of specific exceptions applies. One of those, excepts the provision of “appropriate facilities” for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. The proposal relates to an extension and alteration to an existing ‘potting shed’ to form a building that would provide a volunteer’s centre, tool shed and toilets. The existing potting shed is positioned between the Lodge and pond area, which is acknowledged to be the only reasonable siting for such a building; it is the only area not occupied with graves and takes into account the general open nature of the wider Cemetery. The volunteers centre can be described as a multi-purpose room to allow for refreshment for the volunteers who are undertaking work at the Cemetery, as well as providing an area to provide an educational programme and a place for groups to convene prior to and after visits to the cemetery and enable health and safety briefings. Currently, there are limited facilities on-site to provide these and any talks, briefings or training sessions subject to number, could be conducted outside.

4.20 What constitutes “appropriate facilities” in connection with the operation and maintenance of York Cemetery is a matter of fact and degree. There is little case law that governs this issue in respect to existing cemeteries. The test is not one of being ‘essential’ but rather that the facilities, would be appropriate. There are existing facilities on site in the Lodge. The Lodge provides an office and it is usually the first

information point for visitors to the Cemetery. The applicant also explains that within the Lodge the top floor and one ground floor room are let to provide income to pay salaries of staff. The remaining three ground floor rooms are used for administration purposes in connection with the cemetery business with two basement rooms used for general purpose meeting room and staff refreshment.

4.21 It is unlikely, given that these buildings are heritage assets in their own right (the Chapel is Grade II\* and the Cemetery Lodge is Grade II) that they could be adapted or extended to provide a multi-purpose room of a suitable size to accommodate the facilities required by the Cemetery Trust to continue the work they do without causing significant harm. No information has been presented to determine whether this had been explored however it is evident that there are significant heritage constraints prior to any investigation.

4.22 It is acknowledged that the maintenance of an area as large as 24 acres (9.7 hectares) requires sustainable mechanical equipment, on a scale similar to that of an agricultural farm. The applicant has provided a list of the types of machinery and other associated storage requirements (such as chemicals and fuel) required for the maintenance of the grounds and monuments/buildings. There will also be a smaller tool store for the volunteers to access their gardening equipment, independently of the larger tool store. It is not disputed that the provision of a tool store to securely store such equipment is appropriate. Furthermore, the provision of public toilets, which can be independently accessed (without having to access the volunteer's centre) by the public, is also deemed to be appropriate, and a facility that is already required.

4.23 In respect to the volunteer's centre, this is intended to provide a multi-purpose teaching and refreshment area for volunteers in connection with the management and maintenance of the cemetery. The requirement to provide teaching space is part of the Trust's objectives set out when they took over the freehold from the Crown.

4.24 Whilst the extension to an existing tool stores and toilet provision are considered to be appropriate facilities for the cemetery in principle, the second limb of paragraph 145b of the NPPF states that to fall within the exception, the proposal must preserve the openness of the Green Belt and not conflict with the purposes of including land within it.

#### Harm to openness and purposes of the Green Belt

4.25 The NPPF states that openness is an essential characteristic of Green Belts. The site is screened by trees from Cemetery Road; however it is not dense for its full length, it does provide a reasonable level of screening. The nature of the development would mean that the development would add to a building that is already in situ, and surrounded by existing development, including the Lodge to the north and a pond and ecological area to the south. However, whilst the building is single storey and would be retained as such, the extensions and additions/alterations to the

existing building would represent significantly large additions, doubling the size of the building, and further compromising the open aspect along Cemetery Road and would result in a significant visual impact on openness.

4.26 York Cemetery abuts Walmgate Stray (commonly known as Low Moor) to the south; however the Cemetery itself appears to be identified as a 'Green Wedge' in the City of York Local Plan - The Approach to the Green Belt Appraisal (2003) which the Council produced to aid in the identification of those areas surrounding the City that should be kept permanently open. It is also identified as such in figure 3.1 Historic Character and Setting of York in the City of York Local Plan- Publication Draft (February 2018). Green Wedges are broad areas of undeveloped land usually bounded on three sides by urban development part of which may comprise of the historic strays and 'ings' and river floodplains. They are important for the following reasons;

- i) undeveloped open space with a rural feel reaching close to the centre of the city.
- ii) allow an open aspect and views towards important city landmarks including the Minster.
- iii) physical separation between urban form of a different character.
- iv) open areas which build upon the presence of the strays and form a more pronounced separation between areas of different urban form, character and history.

4.27 The fundamental purpose of Green Belt policy is keep land permanently open. The concept of 'openness' in this context means the state of being free from development, the absence of buildings, and relates to the quantum and extent of development and its physical effect on the site. The enlarged footprint as a result of the extensions would result in increased urban form along the eastern side of Cemetery Road, which would reflect the development that is present on the western side of Cemetery Road. The proposed development of the volunteer's centre would be unduly prominent in the context of the general open space provide by the Cemetery. This would result in harm to the openness and permanence of the greenbelt and is therefore considered to be inappropriate development in the Green Belt. As the site is identified as a 'Green Wedge', the proposal is considered to harm two of the five purposes of Green Belts outlined in paragraph 134 of the NPPF. Specifically, part C which relates to the purpose of assisting in safeguarding the countryside from encroachment and part D which sets out to preserve the setting and special character of historic towns. The proposal gives rise to harm to the Green Belt by reason of inappropriateness which should not be approved except in very special circumstances. The NPPF states that local planning authorities should ensure that substantial weight is given to any harm to the green belt. 'Very special circumstances' will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

## HERITAGE- IMPACT ON THE HISTORIC PARK AND GARDEN, AND LISTED BUILDINGS WITHIN THE CEMETERY

4.28 The relationship of the building to the railing and Cemetery Road have improved following revisions to the shape, size and architectural articulation of the tool store to the rear of the volunteer's centre. There would be greater space between the new building and cemetery railings. Historic England welcome these revisions.

### Impact on historic park and garden

4.29 The heritage significance of the Cemetery, as a registered Historic Park and Garden, lies in its origins as a cohesive designed landscape. The registered park and garden designation applies to the northern portion of the current Cemetery site, including the cholera burial ground lying to the immediate south of the Chapel and following the east-west avenue of trees to the immediate south eastern corner of the Chapel. JP Pritchett designed the Lodge, Chapel and the layout of the eastern portion of the site in 1837, dividing the area into two. To the east of the axial path to the front of the Chapel a formal layout of concentric circles was adopted and consecrated for burials; to the west a more informal layout of unconsecrated ground. Further to the east, the first in a succession of Cemetery extensions took place in 1848.

4.30 As a grade II\* listed heritage asset, the registered landscape has exceptionally high significance in terms of its aesthetic design values and historical illustrative and associative values. The list description identifies the following elements of significance which contribute to its high level designation: as an early garden cemetery (1836-37) for a provincial city; for the interest of the landscape design by James Pigott Pritchett, a renowned local architect who later contributed to several other cemetery designs; for the Grade II\* Greek Revival chapel which forms the focus of the layout, between the formally laid out consecrated section and the more informal unconsecrated area; for the surviving C19 structural planting; because the site survives largely complete; for the local and national social interest expressed in burials and a variety of artistically notable monuments including that of the Terry family, confectioners of York.

4.31 Historic maps and images reveal that the particular application site has a long history of ancillary utilitarian use in connection with the functional operation of the Cemetery. From the O/S map of 1891 onwards, various iterations of ancillary buildings occupied the site, including solid structures and greenhouses, becoming more extensive in area until the 1962 map which depicts four structures in the vicinity of the site. Both the 1852 and 1891 editions show extensive vegetation on the western boundary which would have screened the buildings from Cemetery Road.

4.32 The proposed scheme would therefore occupy a site which has historically served ancillary utilitarian functions and would not intrude into the surviving formal or informal elements of Pritchett's original design. The scale and form of the proposal is subservient to the Lodge, low-rise and incorporates glass, brick and slate, and can be

considered to have an affinity with the form of development which has occupied the site since at least the late 19<sup>th</sup> century. Consequently, it is considered that the siting of the proposed building would not harm the landscape and design heritage significances of the garden cemetery.

#### Views within Cemetery/from Chapel and relationship with the Lodge

4.33 The Yorkshire Gardens Trust express concerns that the additions and extensions to the building, along with the gates attached to the Lodge, would result in the effect of a linked extension to the adjacent Lodge, and would constitute a scale of building which would detract from the setting of the Chapel by diminishing the 'tension' between the two buildings in views down the drive from the steps of the Chapel. Whilst these concerns are acknowledged, the proposals involve extensions and alterations to the existing tool store and toilet building, predominantly on the eastern (front), southern (side) and western (rear) of the building. There are no proposed extensions to the northern elevation or re-siting of the existing tool store and toilet building and therefore the distance and spatial relationship between the existing building and Lodge would be maintained as existing. The proposed development would not intervene between the Chapel and the Lodge in views down the drive. The application initially proposed solid timber gates between the front corner of the existing building and the Lodge. Following negotiation, this has been replaced with gates of a traditional rail design set back from the facade of the existing building, which is considered to better preserve visual permeability between the two buildings, respecting their separate architectural identities.

4.34 With regards to the effect of the proposals on the relative scale of the respective buildings, the extended building would remain one of single storey, of the same height as the existing, and be constructed using brick and glass, with slate and zinc to the roof differentiating between the forms of the three distinct elements: toilets, volunteers' centre and tool store. The tool store constitutes a building of comparable scale to the existing block, the two elements linked with a transverse structure of aluminium frame and plate glass construction, which would have a comparably lightweight appearance with something of a 'pavilion' character in views from within the Cemetery. This design approach is considered to have an affinity with the scale, character and materials of development historically present on the site.

4.35 There has been a reduction to the size of the proposed extensions since the withdrawn application. Whilst further reductions, particularly in relation to the large porch, have been requested, these have been resisted by the applicant. On balance, it is considered that the extensions and alterations to provide a volunteer's centre, tool store and toilets would result in a building of cohesive form, scale and character that would continue to constitute a subordinate building to the larger two-storey and more architecturally and historically significant Lodge. Consequently, it is not considered that that setting of the Lodge would be harmed as a result of the current proposals.

## View from Cemetery Road

4.36 The Yorkshire Garden Trust also raises concerns about the visual impact of the new building when viewed from Cemetery Road, citing that currently there are glimpses of the listed Chapel between the railings, which will be obscured following the proposed development. Officers consider that existing views from Cemetery Road in the vicinity of the application site are extremely limited as a result of the existing building and the vegetation bounding the site, in addition to the Chapel being positioned approximately 100m into the cemetery. The proposed Tool Store extends only a short distance south of the existing building, the Volunteers' Centre is a transverse building ranged between the two, and the height of new buildings matches that of the existing. Therefore the effect of the proposed scheme on views from Cemetery Road towards the Chapel would be marginal.

4.37 In addition, the historical utilitarian function of this site and the evidence for historical planting on the adjacent boundary would suggest that designed views of the Chapel were not intended from Cemetery Road in this location. Glimpsed views of the Chapel from the main gateway north of the Lodge are significant and would be unaffected by the proposed development.

4.38 The replacement building is of a size to provide a functional space to allow activities that assist with the maintenance and upkeep of the Cemetery to take place. There has been some reduction to the footprint of the building from the previous application. It is also acknowledged that space within the Cemetery is at a premium and this is the most reasonable siting for a building of this use without compromising further harm to the Green Belt, listed buildings (including the railings) and the character and appearance and setting of the Historic Park and Garden as a whole. The applicant has also provided evidence to suggest that buildings in some form (greenhouses and subsidiary buildings) have been positioned in this part of the Cemetery, however it is acknowledged that the form, size and permanence of these buildings does vary greatly to the proposed building. Therefore, it is considered that the siting of the proposed building would not harm the landscape and design heritage significances of the garden cemetery and the setting of the Lodge would not be harmed as a result of the current proposals. The proposal does not result in harm to any of the heritage assets identified.

## DESIGN

4.39 The design has been revised, during the course of this application and has also evolved following the withdrawn application. The main change has been the greater space between the new building and the cemetery railings, along Cemetery Road. In addition there have been revisions to the shape, size and architectural articulation of the tool store.

4.40 Design changes also include the addition of paired buttresses to the western blank wall, which faces Cemetery Road. The design and conservation officer had suggested the addition of high level clerestory windows and omitting the number of buttresses, however the applicant do not consider that these alterations would be of benefit to the scheme as a whole and result in additional cost. They further consider that these alterations satisfy Historic England's previous concerns.

4.41 There has been much discussion in respect to the provision of a canopy/entrance lobby. This originally took the form of a flat, transparent feature. Concerns were raised that the feature would detract from the modest character of the existing building, in addition to being difficult to maintain and shabby if not regularly cleaned. Officers had suggested that a glazed lobby could be including within the immediate entrance area of the volunteer centre or as an alternative a metal clad roof canopy over the entrance door. In response, the applicants advise that the glass canopy is an important feature of the volunteers centre and also provides a functional element including allowing access to the toilets without going outside during periods of incremental weather. They further advise that there are security risks and potential for odour issues to providing a connecting door from the main volunteer's room to the toilet area.

## LANDSCAPE

4.42 The Council's Landscape Architect has considers that the two trees (willow and Rowan tree species) within the site and visible from Cemetery Road contribute to the general amenity of the area and the frontage of the cemetery grounds. These trees contribute to the screening of the existing tool shed and more importantly the setting of the Lodge. One of the trees, the Rowan is considered to be worthy of a tree preservation order because of its public visibility and the contribution it makes to the attractive cemetery grounds. The Gardens Trust also raises concerns in respect to the landscaping proposals, stating that a planting scheme could soften the building from all elevations and would assist in preserving the setting of the new building and adjacent Lodge.

4.43 In respect to the landscaping proposals, the applicant has reconsidered their proposal to remove both trees but without any replacement planting. They have now stated that it is their intention to retain the willow tree and replace the Rowan tree with a cherry. This is satisfactory in terms of retaining tree coverage to Cemetery Road and does not raise any objections from the Council's Landscape Architect. Subject to conditions to secure landscaping proposals; it is considered that the application in respect to landscaping is acceptable and would preserve the general amenity of the area.

## ECOLOGY

4.44 The Council's ecologist does not raise any objections to the proposed development stating that a bat survey is not required. The loss of the trees however

could support nesting birds and an informative is recommended to ensure that any trees are removed outside of nesting season.

## THE APPLICANT'S CASE FOR VERY SPECIAL CIRCUMSTANCES

4.45 The proposed extensions to the existing building to provide a multi-purpose room along with the re-provision and extension of a tool shed and toilets would provide appropriate facilities for the Cemetery, however the extensions and alterations would have a harmful effect on the openness and permanence of the Green Belt. It is therefore inappropriate development in the Green Belt. In accordance with the Framework, inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. Substantial weight is to be given to any harm to the Green Belt.

4.46 The applicant is the York Cemetery Trust who took over the ownership, management and running of York Cemetery in 1987, after the Cemetery was devolved to the Crown in 1979. The objectives of the Trust are to operate and maintain the cemetery for the public benefit; development, conservation and management of the graves, monuments, buildings, grounds and landscape including the plants and natural life and to advance the education of the public for the study of the lives and significance of those buried in the cemetery. When the Trust was granted a new freehold of the site, it was agreed with The Crown Commissioners that emphasise should be placed on running educational activities from the site. These activities have been running for the past 30 years with limited facilities, that only being the public toilet provision.

4.47 Prior to York Cemetery Trust taking over, the previous owners and managers, York Cemetery Company had a financial model that was based upon dividends that were paid from the sale of burial land. As the land is a non-renewable resource, when the land ran out, so did the profits. The Trust therefore had to develop a completely different and unique model for running the cemetery; the money from the sale of 99 year leases on the remaining burial plots are put into reserves, with the income to pay the salary and expenses of a full time warden, who will organise teams of volunteers to maintain the cemetery. This position has not yet been achieved and the role of volunteers and community involvement remain critical to the success of running the cemetery.

4.48 The applicant has provided details of the volunteer involvement in running/maintaining the Cemetery. Volunteer help is received in gardening and physical work on site, guided walks, provision of refreshments accompanying activities and events organised in the Chapel and is mostly organised by the Trust's sister charity, Friends of York Cemetery. Volunteer numbers for each of the tasks can vary and fluctuate from 1 or 2 for walking tours to up to 40 or 50 for gardener groups. In 2017 volunteers worked 3447 hours. Currently all voluntary activity is based in the Chapel, although



this has no facilities for catering for the needs of the volunteers and unsuitable for the running of the Trust's voluntary activity programme. The attempts by the Trust to run educational programmes have been frustrated by the lack of facilities to provide classroom facilities, which are currently undertaken outside and are subjected to incremental weather.

4.49 The additional space, particularly in relation to volunteer's centre would provide a multi-functional space, to carry out an educational programme, allow for health and safety briefings prior to groups and volunteers visiting the Cemetery and provide refreshment for volunteers and visitors. The ability to provide an educational programme would be a significant improvement on the existing limited facilities and enable the Trust to achieve their objectives outlined and agreed by the Crown Commission, when granting a freehold. The educational programme and the volunteers are key to the continuing operation of the Cemetery and have been outlined above.

## **ASSESSMENT OF THE APPLICANT'S CASE FOR VERY SPECIAL CIRCUMSTANCES**

4.50 In terms of the above case that is relevant to this particular development, the applicant had demonstrated how volunteers are critical to the maintenance and upkeep of the Cemetery. The existing facilities currently provided are limited and have an impact upon the ability of the volunteers to continue their work. York Cemetery Trust have set objectives, agreed with the Crown Commission when they undertook a new freehold for the site. The volunteers centre will be a multi-functional space that will enable the Trust to develop, conserve and manage the graves, monuments, buildings, grounds and landscape including the plants and natural life and to advance the education of the public for the study of the lives and significance of those buried in the cemetery with the overriding objection of operating and maintaining the cemetery for the public benefit. The building will help to continue the existing work that the volunteers are doing and also allow to introduce an educational programmes, which has been an aspiration of the Trust. The proposed facilities are specific to the Cemetery and are unlikely to set a precedent for other development within the Green Belt. These considerations are relevant and significant in weighing against the harm to the green belt and any other harm resulting from the proposal.

## **5.0 CONCLUSION**

5.1 The application site is located within the general extent of the York Green Belt and serves a number of Green Belt purposes. As such it falls to be considered under paragraph 143 of the NPPF which states that inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. National planning policy dictates that substantial weight should be given to any harm to the Green Belt.

5.2 National planning policy (para. 145) states that the construction of new building in the Green Belt should be regarded as inappropriate unless it falls within one of the exceptions to this outlined in paragraph 145 b of the NPPF. The proposal has been assessed to represent appropriate facilities for the cemetery, however, the development is inappropriate development because, for the reasons outlined above in this report, it fails to preserve the openness of the Green Belt and conflicts with the purposes of including land within the Green Belt, namely parts C and D of policy 134 of the NPPF (assisting in safeguarding the countryside from encroachment and preserving the setting and special character of historic towns), contrary to paragraph 145b of the NPPF.

5.3 York Cemetery is a Grade II\* listed Historic Park and Garden and contains a number of individually listed buildings, most notably the Chapel (Grade II\*), Lodge (Grade II) and the railings along the boundary with Cemetery Road (Grade II). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It is considered that the siting of the proposed building would not harm the landscape and design heritage significances of the garden cemetery and the setting of the Lodge would not be harmed as a result of the current proposals. The proposal does not result in harm to any of the heritage assets identified.

5.4 It is also acknowledged that space within the Cemetery is at a premium and this proposal represents the most reasonable siting for a building of this use without further harming the Green Belt or causing harm to listed buildings (including the railings) and the character and appearance and setting of the Historic Park and Garden as a whole.

5.5 The extensions and alterations to an existing tool shed and toilet provision to provide a multi-purpose room would provide suitable facilities to assist volunteers in operating and maintaining the cemetery for the public benefit. Having attached substantial weight to the harm to the Green Belt, it is therefore considered that the considerations set out in paragraphs 4.45 to 4.50, 5.3 and 5.4 above would collectively clearly outweigh the harm to the Green Belt. No other harm has been identified and that the very special circumstances necessary to justify the proposed development exist.

COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans:-

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3290/100.1E Plan + Site - As Proposed

3290/100.2E Elevations - As Proposed

3290/100.3C Plan as Proposed

3290/100.4C Plan as Proposed

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 LAND1 IN New Landscape details

4 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development above foundation level. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

5 A 1 x 1m sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the coursing, mortar, bonding, colour and texture of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works above foundation level. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location and to protect the special architectural or historic interest of this listed building and to comply with paragraph 132 of the NPPF.

6 Prior to the volunteer's centre and tool store being brought into use, the concrete garage/store shall be removed in its entirety.

Reason: To ensure that the development protects the special architectural or historic interest of this listed building, the Green Belt and general amenity of the area and to comply with paragraph 132 of the National Planning Policy Framework (NPPF) (July 2018).

7 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development above foundation level and the works shall be carried out in accordance with the approved details.

- a. gates and railings
- b. aluminium framed glazing
- c. windows
- d. doors (including garage doors)

Reason: To ensure that the development protects the special architectural or historic interest of this listed building, the Green Belt and general amenity of the area and to comply with paragraph 132 of the National Planning Policy Framework (NPPF) (July 2018).

8 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, details of all new external hardsurfacing shall be submitted to and approved in writing by the Local Planning Authority prior to the laying of any new hardstanding. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance and to ensure that the development protects the special architectural or historic interest of this listed building and to comply with paragraph 132 of the National Planning Policy Framework (NPPF) (July 2018).

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

-Negotiation in respect to design and landscaping, particularly in relationship to listed buildings and the historic park and gardens.

2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as  
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amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

**Contact details:**

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