

4.2 – SE/13/03353/FUL Date expired 17 February 2014

PROPOSAL: Proposed Chapel/crematorium, relocation of the ancillary car park and erection of a woodman's shed.

LOCATION: Watercrofts Wood, Old London Road, Badgers Mount, Kent

WARD(S): Halstead, Knockholt & Badgers Mount

### **ITEM FOR DECISION**

This application has been referred to Development Control Committee at the discretion of the Chief Planning Officer in view of the significant and controversial nature of the proposal.

**RECOMMENDATION:** That planning permission be REFUSED for the following reasons:-

The proposed development would constitute inappropriate development harmful to the openness and character of the Green Belt and the very special circumstances advanced are considered to be insufficient to clearly outweigh the harm caused to the Green Belt in principle and other harm and this scheme is therefore contrary to the provisions of policy GB1 of the Sevenoaks District Local Plan and paragraphs 79, 80, 81 and 89 of the NPPF.

The proposed development would constitute a large and bulky scheme set within a prominent location that would be harmful to the character and appearance of the surrounding countryside contrary to the provisions of policy EN1 of the Sevenoaks District Local Plan and policy SP1 and LO8 of the Core Strategy.

Insufficient information has been supplied in respect of the potential impact upon protected species to show that the impact is acceptable and this scheme does not therefore comply with the provisions of policy SP11 of the Core Strategy or paragraphs 109 and 118 of the NPPF.

### **Note to Applicant**

In accordance with paragraphs 186 and 187 of the NPPF Sevenoaks District Council (SDC) takes a positive and proactive approach to development proposals. SDC works with applicants/agents in a positive and proactive manner, by;

- Offering a duty officer service to provide initial planning advice,
- Providing a pre-application advice service,
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application,
- Where possible and appropriate suggesting solutions to secure a successful outcome,
- Allowing applicants to keep up to date with their application and viewing all consultees comments on line ([www.sevenoaks.gov.uk/environment/planning/planning\\_services\\_online/654.asp](http://www.sevenoaks.gov.uk/environment/planning/planning_services_online/654.asp)),

- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Working in line with the NPPF, the application was refused as the proposal failed to improve the economic, social or environmental conditions of the area.

### Description of Proposal

- 1 This application seeks permission for the erection of a chapel/crematorium building, a woodman's shed and ancillary car park. The red line encompasses only that part of the site including the access, the car park, the area immediately around the proposed crematorium/chapel and land along part of the frontage of the site. The majority of the site lies within the blue line.
- 2 The application proposes access to the site from Old London Road comprising a two lane access with a central planting bed separating the two lanes. Two sets of gates are shown, set back a minimum of 12m from the junction with the highway with fixed railings between. This leads to the car park on the southern side of the access and then onto an oval shaped driveway that passes beneath the porte cochere structure (roofed entrance leading to crematorium) and back round to the access.
- 3 The chapel/crematorium comprises a single building providing a single chapel, crematory and ancillary entrance/waiting area, office and interview room. Externally a covered exit from the chapel is proposed.
- 4 The building takes a contemporary approach with the use of more traditional materials in part. It is designed with a central larger, more prominent chapel and two ancillary lower height 'wings'. The scheme proposes a mono pitch sedum roof on each bay which sits within a 'frame' of white rendered and natural stone walls. The crematory lies within the southernmost wing and the ridge line is broken by the chimney. The chapel features a chimney like structure but which is in fact a rooflight providing illumination to the chapel below. The main section includes a line of rooflights which provide additional illumination to the entrance foyer and chapel whilst each wing also includes a rooflight to provide illumination to the crematory and office.
- 5 To the rear of the northern-most wing behind the office lies a covered exit from the chapel which comprises a line of timber clad posts supporting a flat roof. The porte cochere takes a similar approach with a flat roof canopy which projects some 6.5m in front of the building supported on three timber clad posts which sit on top of stone plinths. This has been reduced in projection to just project across the entrance road rather than extending some distance beyond the road.

- 6 Works to construct the vehicular entrance to the site have already commenced with a crossover, entrance gate and kerbstones lining the initial part of the access having already been constructed. These works were carried out to commence implementation of the planning permission for the use of the whole site as a cemetery.
- 7 The submitted plan shows land around the red line as comprising a cemetery approved by the Planning Inspectorate in an appeal during the mid 1990s. A 2008 permission confirmed that this permission is extant.

#### Description of Site

- 8 The site comprises an area of 0.55 hectares sited within woodland on the eastern edge of the village of Badgers Mount adjacent to the Old London Road (to the east/south east) and Watercroft Road (to the west/north west). The site is covered by designated ancient woodland (with some more recent tree growth to the front of the site) across all but those parts where the woodland has been cleared to provide the start of a vehicular access, a clearing where some excavation works have been carried out on the site of the proposed crematorium building and that part of the woodland through which the power lines run. The site rises up quite steeply from Old London Road levelling out broadly at that point where the crematorium building is proposed.
- 9 On the opposite side of Watercroft Road and part of Old London Road lie residential dwellings with agricultural land to the south and south west. Knockholt Station lies approximately 70m to the north west.
- 10 The site lies within the green belt, opposite an Area of Outstanding Natural Beauty (opposite side of Old London Road) and is the subject of a woodland Tree Preservation Order across the western side of the site.

#### Constraints:

- 11 Green Belt and AONB on opposite side of London Road A track is indicated on the ordnance survey map and exists on site running from the Watercroft Road boundary, although not marked on site and apparently not a public right of way.

#### Policies

##### *Sevenoaks District Local Plan*

- 12 Policies – EN1 NR10 GB1 VP1 T9 EN17B EN31

##### *Sevenoaks Core Strategy:*

- 13 Policies - L01 L08 SP1 SP2 SP9 SP10 SP11

##### *Other*

- 14 NPPF
- 15 SPD - Countryside Assessment

## Relevant Planning History

16	<i>SE/93/01575/OUT</i> Erection of a chapel, provision of car park with ancillary facilities and new vehicular access.	Refused. Appeal upheld.
	<i>SE/93/01576/OUT</i> Use of land as a cemetery with new vehicular access.	Refused. Appeal upheld.
	<i>SE/94/0377/OUT</i> Erection of a crematorium, chapel and provision of car park with ancillary facilities and new vehicular access.	Refused. Appeal dismissed.
	<i>SE/97/01988/REM</i> Reserved matters (siting, design and external appearance) application relating to <i>SE/93/01575/OUT</i> above.	Refused. Appeal upheld.
	<i>SE/97/02070/FUL</i> Woodman's store and maintenance shed.	Refused. Appeal upheld.
	<i>SE/99/02715/DETAIL</i> Details of surfacing of driveways, parking. Areas and paths (condition 2) and landscaping (condition 3) of <i>SE/93/01576</i> .	Granted.
	<i>SE/03/02138/FUL</i> Retention of permission for erection of woodman's storage/ maintenance shed approved on 28/10/98.	Granted.
	<i>SE/03/02139/FUL</i> Erection of a chapel & provision of car park & cesspool.	Granted.
	<i>SE/08/00954/LDCEX</i> LDC for existing use: to establish that planning permission <i>SE/93/01576</i> (for use of land as a cemetery with new vehicular access) was implemented.	LDC Refused
	<i>SE/08/02894/LDCEX</i> Lawful Development Certificate for existing use;- to establish whether planning permission <i>SE/93/01576</i> (for use of land as a cemetery with new vehicular access) was implemented. (Attached at Appendix 1)	LDC Issued
	<i>SE/10/0079/FUL</i> Erection of a Chapel and maintenance shed, car park and ancillary facilities. Amended by plans received 11.03.2010 showing amended siting of proposed buildings to take account of protected trees.	Granted 28.4.10
	<i>SE/13/0988/DETAIL</i> Discharge of condition 3 (materials) pursuant to <i>SE10/00079/FUL</i> ).	Granted 30.8.13
	<i>SE/13/0989/DETAIL</i> Discharge condition 4 bin store	Granted 30.8.13
	<i>SE/13/0990/DETAIL</i> Discharge condition 5 landscaping	Granted 30.8.13
	<i>SE/13/0991/DETAIL</i> Discharge condition 10 car park	Granted 30.8.13

## Consultations

### *SDC Environmental Health:*

17 Views awaited

### *SDC Tree Officer:*

18 In principle I have no objections to the frontage of this site being developed as applied for. The frontage of the site is in the main recently a naturally seeded area. The young trees growing there are I suspect within 20 years old at most. The proposals for the dual drive and the large roundabout in front of the proposed crematorium are grand in size and could be scaled back to be more in keeping with the location and the setting.

19 I do however have great concern over this application that this proposal will in time expand into the Ancient Woodland. I will not support any proposal that threatens this woodland. I would however be happy to work with the applicant to maintain and enhance the woodland.

### *SDC Policy:*

20 Paragraph 89 of the NPPF requires the local planning authority to consider the construction of new buildings within the Green Belt as inappropriate development, subject to certain exceptions. As the provision of a crematorium is not identified as one of these exceptions, the proposal is considered to be inappropriate development within the Green Belt. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

21 It is for the applicant to demonstrate 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. The provision of evidence submitted in relation to need will have to be weighed in this light against the harm if inappropriate development in the Green Belt.

22 Policy L08 of the Core Strategy is concerned with the conservation of the countryside and the protection and enhancement of the distinctive features that contribute to the special character of its landscape and biodiversity. The Policy also recognises the need for the conservation and enhancement of the distinctive character of the Kent Downs AONB and its setting. The Development Management team would need to be satisfied that the proposed development does not negatively impact on the countryside or its distinctive features, or negatively affect the character of the settings of the Kent Downs AONB, located close to the site.

23 The location of the proposed development suggests that it is a potential location for important habitats. The Development Management team would need to be satisfied that the development does not impinge upon the conservation of, or opportunities to enhance, biodiversity as per Policy SP11 of the Core Strategy.

24 I trust that the above is clear, however please do not hesitate to contact me should you wish to discuss the matter further.

### *KCC Highways:*

- 25 An initial highway assessment of this proposal was carried out following which the applicant's consultant submitted a further Technical Note in addition to the original Transport Statement which sought to address or clarify the issues raised.
- 26 Please note that the following assessment takes into account both the original Transport Statement and the subsequent Technical Note. Please also note that the following assessment is made on the basis of the potential uplift in vehicle movement and impact associated with the current proposal when assessed against the previously permitted cemetery proposals.

### Traffic Impact and parking:

- 27 The applicant has provided further explanation both verbally and through the subsequent Technical Note to clarify both the background flows and the projected additional flows relating to a crematorium use. Whilst it is normal practice to carry out background traffic flow surveys during 'typical' weekday conditions (i.e. during school term time) it is accepted that in this particular case the projected impact assessment is likely to be more robust when measured against background flows surveyed during a school half term break due to the likely resulting reduction in background traffic flows. Furthermore, impact is normally assessed against existing peak hour flows whereas the proposed use will predominantly result in off-peak vehicle movements as a result of the proposed times of services.
- 28 Projected daily services will increase from an average of 2 to an average of 5.5 as a result of the introduction of a crematorium use (this has been taken as a daily total of 6 services for the purposes of this assessment). Based on the applicant's projected numbers of vehicle movements per service (which is closely comparable to those projected for other similar recent crematoria applications) this would amount to a projected increase in daily 2-way vehicle movements of approximately 2.5% which is less than can be seen through daily background flow fluctuation and as such, not considered to be significant. Furthermore this projected increase in movements has no significant impact on either local or network capacity. The applicant has demonstrated that the potential increase in daily flows related to this proposal will not have significant impact on available highway capacity. Furthermore, the level of off-street parking provision being proposed in respect of the use is adequate for the projected maximum demand and consistent with both the KCC Vehicle Parking standards guidance and the methodology adopted in respect of other recent similar crematorium proposals locally.

### Access and Safety

- 29 It must initially be noted that the principle of accommodating movements associated with a burial and funeral service (as would also be seen with a cremation service) has already been supported and permitted at this site via the access arrangement which is being promoted with this current proposal. The access and safety impact of the current proposal is therefore measured in respect of the projected uplift in daily movements associated with the expected increase in services and not against the principle of carrying out such services via an access of this nature which is already accepted. It has also been noted that changes have occurred locally in respect of on street parking provision and amended parking restrictions since the cemetery use was permitted at this site

but such changes were subject to the County Council's own Technical and Safety Audit process prior to being permitted and should thus have been considered in light of any existing or permitted uses and/or accesses within the vicinity of such a scheme. Nevertheless it is still recommended that as a result of both the projected uplift in movements and those recent local parking alterations that the applicant arrange for a Stage 1 Safety Audit to be progressed at the earliest possible time in order for any potential issues of concern identified through the Audit to be addressed. It must however be noted that such future works associated with any potential planning permission will be required through condition to be delivered via Agreement with the Highway Authority and as such will automatically be subject to the required Safety Audit process at that later stage. Thus whilst it is recommended that such an Audit be carried out now, it would not be appropriate to recommend refusal in the absence of such an Audit at this stage (i.e. prior to a planning decision being made).

- 30 With regard to the technical arrangement of the proposed access, this has been assessed against current local and national junction design guidance and also in view of the potential uplift in movements associated with the crematorium use. Current junction design guidance in the Design Manual for Roads and Bridges (DMRB) indicates that a simple junction design (i.e. a priority junction as proposed without associated right turn lane facility and ghost islands) is appropriate in this context for accesses serving up to 300 daily movements (with no overriding requirement for a right turn lane until a level of 500 daily movements is exceeded). The projected maximum 2-way daily flow (taken at 6 full services) is equivalent in this case to 240 movements if the site were operating at capacity and so there can be no principle technical objection to a junction arrangement of this type.
- 31 In conclusion, there is no KCC Highways and Transportation objection to these proposals subject to:
- 1) The proposed access works and any associated making good of the adjacent highway verges in respect of such work or of the delivery of the required sight line visibility splays being delivered by the applicant via appropriate Agreement with the Highway Authority, Kent County Council.
  - 2) Appropriate wheel washing facilities being provided and maintained for use on site throughout the duration of construction works.
- 32 A further recommendation is made in respect of the applicant pursuing a Stage 1 Safety Audit of the access proposal at the earliest possible opportunity as discussed above.

*Public Rights of Way:*

- 33 There are no recorded public rights of way in Watercrofts Wood. However, we have recently received an enquiry from a member of the public who claims to have walked paths in these woods for 40 years.
- 34 At present no formal application to claim any rights of way has been made but if one is received and rights are found to exist then this may have an impact on the granting of planning permission for a crematorium. Under the Crematorium Act 1902 no crematorium building, chapel or parts of the grounds used for the disposal of ashes can be within 50 yards of a public highway.

35 I will advise you if we receive a formal application.

*KCC Archaeology:*

36 No comment

*KCC Ecology:*

37 Under the Natural Environment and Rural Communities Act (2006), "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity". In order to comply with this 'Biodiversity Duty', planning decisions must ensure that they adequately consider the potential ecological impacts of a proposed development.

38 The National Planning Policy Framework states that "the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible."

39 Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision."

40 Natural England has published Standing Advice on protected species and Ancient Woodland. When determining an application for development that is covered by the Standing Advice, Local Planning Authorities must take into account the Standing Advice. The Standing Advice is a material consideration in the determination of applications in the same way as a letter received from Natural England following consultation.

41 The Preliminary Ecological Appraisal has been submitted in support of the proposed development. There is potential for ecological impacts as a result of the proposed development and recommendations are included in the report. Precautionary approaches to ecological mitigation are proposed but we advise that further information is sought to ensure that Sevenoaks DC can be satisfied that there has been adequate consideration of the potential for impacts to protected species and no net loss of biodiversity.

42 The ecological report concludes that small areas of habitat with reptile potential will be lost as a result of the proposed development. This assessment of suitable habitat appears to discount the clearing area as providing reptile habitat, although the photographs provided within the report indicate that there could be some use of this area by reptiles. To inform whether the precautionary mitigation is appropriate, we advise that confirmation of the area of suitable reptile habitat to be lost is sought. While the precautionary approach would remove reptile habitat while minimising the potential for harm to reptiles, the proposals would ultimately lead to a reduction in the amount of available reptile habitat; if reptiles are present this will be to the detriment of the local population. A reptile survey would, as a minimum, confirm the presence or likely absence of reptiles and could provide evidence to support the appropriateness of the precautionary approach to mitigation.



- 43 The report concludes that there is potential for dormouse presence within the woodland but that a precautionary approach to mitigation will avoid impacts without the need for a European protected species mitigation licence. As with the potential reptile habitat, it is unclear which areas of habitat have been included in this assessment; it is not only the woodland that has potential to support dormice, but also areas of associated habitat including scrub, which does appear to be present and affected by the proposed development. We advise that confirmation is sought as to the extent of habitat that will be impacted by the proposed development and the measures that will be implemented to ensure that there is no loss of dormouse habitat.
- 44 Several trees with potential for bat use were identified during the ecological survey and the report recommends that further assessment work is undertaken in relation to these. This work has not yet been carried out and we advise that, to ensure that Sevenoaks DC is able to meet its legal responsibilities, the surveys must be undertaken and the results and any mitigation recommendations provided to inform the determination of the application.
- 45 The potential badger sett that was identified appears to be directly affected by the proposed development. While the sett was inactive at the time of survey, there is potential for badgers to move back in and ongoing monitoring of the sett and badger activity will ensure that badger use of the site can be properly addressed.
- 46 There is potential for nesting birds to be impacted by the proposed development and the timing of the works, if permission is granted, will need to ensure that the potential impacts are minimised. The western section of the woodland within which the proposed development is situated is designated as ancient woodland. While the report does not present this as a particular constraint, the National Planning Policy Framework states:
- "Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss". The proposed development will result in direct impacts to the area of ancient woodland, and there is also potential for indirect impacts that have not been assessed in the ecological report.
- 47 We advise that Sevenoaks DC needs to be satisfied that the needs test can be met by the proposed development; there does not appear to be information within the application specifically addressing this point.

*Environment Agency:*

- 48 *Views awaited.*

*Thames Water:*

Waste Comments

- 49 Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.
- 50 Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground,

water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater.

#### Water Comments

- 51 On the basis of information provided, Thames Water would advise that with regard to water infrastructure capacity, we would not have any objection to the above planning application.

#### *Kent Wildlife Trust:*

- 52 Views awaited.

#### *Natural England:*

- Statutory nature conservation sites – no objection

- 53 Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites.

- Protected landscapes – no comments

- 54 Having reviewed the application Natural England does not wish to comment on this development proposal.

The development however, relates to the Kent Downs AONB. We therefore advise you to seek the advice of the AONB unit. Their knowledge of the location and wider landscape setting of the development should help to confirm whether or not it would impact significantly on the purposes of the designation. They will also be able to advise whether the development accords with the aims and policies set out in the AONB management plan.

- Ancient Woodland

- 55 Natural England advises that the proposals as presented have the potential to adversely affect woodland classified on the ancient Woodland Inventory. Natural England refers you to our Standing Advice on Ancient Woodland [http://www.naturalengland.org.uk/Images/standing-advice-ancient-woodland\\_tcm6-32633.pdf](http://www.naturalengland.org.uk/Images/standing-advice-ancient-woodland_tcm6-32633.pdf)

- Priority Habitat as identified on Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006

- 56 The consultation documents indicate that this development includes an area of priority habitat, as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006. The National Planning Policy Framework states that ‘when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’

- Protected species

- 57 We have not assessed this application and associated documents for impacts on protected species.
- 58 Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.
- 59 The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.
- 60 The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Landscape enhancements

- 61 This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts

*Forestry Commission:*

- 62 From this, you will see it is Government policy to discourage development that will result in the loss of Ancient Woodland, unless the development offers overriding public benefits. Ancient woodlands are widely regarded as irreplaceable. They have great value because they have a long history of woodland cover, with many features remaining undisturbed.
- 63 This planning consultation response is in line with our usual procedures, providing no opinion supporting or objecting to the proposals. This response provides factual information on related policy which the planning authority may take account of when making its decision.

64 The majority of the woodland known as 'Watercrofts Wood' within the location of this proposed development is designated as Ancient Semi-Natural Woodland (as shown on the Ancient Woodland Inventory). It appears from the plans that there will be some loss of ancient woodland through the development within it.

65 These comments are based upon information available to us through a desk study of the case, including the Ancient Woodland Inventory (maintained by Natural England) and our general local knowledge of the area.

*Royal Borough of Greenwich:*

*(This advice was received in respect of the application for a crematorium on Land South of Orchard Barn in respect of their current operation levels and is therefore relevant to this proposal:)*

66 At Eltham Crematorium there are 20 available slots per working day. (09.00 – 15.30). During the busiest months we average 16 bookings per day. The earlier slots are generally the last to be booked. Over the period 5 months October 2012 – February 2013, there were 2058 possible slots available and 1737 (83%) were taken.

There are currently **no** plans to expand at Eltham Crematorium.

As we do not work at full capacity and there are early times available, we do not currently envisage extending our service times.

*London Borough of Bexley:*

67 Views awaited.

*London Borough of Bromley:*

68 No objection.

*London Borough of Croydon:*

69 Views awaited.

*Medway Council:*

70 No objection.

*(In response to a consultation on a previous application, but which is also relevant to this application, they advised as follows):*

71 Regarding the current capacity issues they are in the middle of a major improvement programme involving the closure of one of the chapels. Therefore they have supplied figures drawn from a 5 year average which demonstrates that they have not operated at capacity for the last 5 years. It would appear from the figures supplied that even during the winter they have 40% spare capacity – although it is not clear at what times these slots are available.

*Tonbridge & Malling BC:*

72 No objection

*Tunbridge Wells BC:*

73 Views awaited.

(In respect of the earlier application for Land South of Orchard Barn they provided the following information, but this is also relevant to this application):

74 As I am sure you'll be aware the key issues for the proposed siting of crematoria will be those of:

- Its likely proximity to existing private residences, location within the existing community, and community need,
- Crematorium Capacity, and
- Geography of surrounding transport infrastructure.

75 The issue of proximity to residences is obviously provided in legislation, and whilst the demographic and socio-economic status of the local population is no doubt significant to their own business rationale, it will inform your own considerations of the level of community need as well as the environmental impacts from its operation and patronage.

76 Additionally the following points are made:

- Express concern about the Funeral Director survey results of delays at the Kent & Sussex Crematorium. We average 61% utilisation of chapel capacity and 63% cremation capacity.
- Each winter we experience approximately a 30% upturn in demand. However this cannot be construed as operating near capacity
- Waiting times for service slots is a subjective assessment due to:
- Preference for a 10am – 3pm slot
- Availability of church and clergy if a church services is required
- Availability of the funeral directors
- A second chapel is proposed within 4 – 5 years to provide double the existing capacity.

*Tandridge DC:*

77 No objection

*Maidstone BC:*

78 No objection

*Crawley BC:*

79 Views awaited.

*Shoreham PC:*

80 Shoreham PC objects to this application for the following reasons:

1. The site lies within the Metropolitan Green Belt where strict rules of constraint apply.
2. The site is within close proximity to residential houses
3. The proposed building and large chimney is inappropriate development in this area of the green belt.
4. The visual amenity enjoyed by existing houses will be lost by the tree removal associated with the proposed development.
5. There is a lack of proven need for a crematorium in this area.

*Halstead Parish Council:*

81 The Parish Council STRONGLY OBJECTS to this planning application.

1. The proposed development is within the Green Belt where strict policies of restraint exist.
2. The proposal would be inappropriate development and harmful to the maintenance of the character of the Green Belt. Policies EN1 and GB1 relate.
3. Policy L08 of the Core Strategy states: 'that the extent of the Green Belt should be maintained. The countryside should be conserved and the distinctive features that contribute to the special character of its landscape and its biodiversity will be protected and enhanced where possible'.
4. At the Appeal Hearing held in 1995 the Inspector granted permission for the chapel, woodman's shed and car park. Consent was refused for the crematorium. The Inspector stated that there was no need demonstrated for a crematorium and no reason whatsoever for such a building to impinge on the Green Belt. The Parish Council believes that these circumstances have not changed.
5. Council has many concerns about the increase in traffic on the A224. The road is extremely busy due to the close proximity of the M25, the exit from this motor-way literally just over the road from the proposed entrance to the crematorium. Its closeness to the M25 will encourage people to travel into the village. The road that the wood is located in are is used by commuters and there are double yellow lines and parking bays all along the road due to the close proximity of the railway station.

This would mean a large car park would have to be provided for people using the crematorium which would cause further encroachment in the Green Belt.

6. The increase in traffic on this busy road would in-turn increase the pollution levels. As would the emissions from the chimney of the crematorium.

7. The footprint of the proposed development far exceeds that granted originally for the chapel, car park and woodman's shed. If there is an increase of

facilities on the site the development will definitely take up a far larger area. Members of the Parish Council have visited the site on numerous occasions usually in relation to planning applications. There are photographs provided of foundations. These are not newly created but were in place in 2010. The Parish Council believes that no work has been carried out on the land since that time and that not enough work was done at the time of the last application for LDCX to prove that the development was in progress.

8. The Parish Council believes there should not be any encroachment into the ancient woodland. In the past a record was made of the flora and fauna in the wood and Council believes that the applicant should have carried out an ecological report to accompany this planning application.

9. There are many trees with TPOs in the wood and on the land, many of these would be removed if this planning application was granted.

10. The properties in Watercroft Road are possibly within 200 yards which is the distance imposed by the Abatement Act 1902 where occupiers consent is required for a crematorium. As far as Council is aware there has not been any approach made to the residents of these properties by the applicant.

11. Council believes that the company that now owns the land was only formed in July/August 2013 and has not as yet registered the land with the land registry.

#### Representations

82 36 letters of objection from members of the public, including the Badgers Mount Residents Association raising the following issues:

- Contrary to green belt policy – inappropriate development
- Harmful to the openness of the green belt and therefore the character of the surrounding area and the village
- Would set a dangerous precedent for development in the green belt
- Add to traffic on the busy A224 which will increase further when Fort Halstead is developed
- Traffic hazards resulting from the slow speed of funeral traffic
- Additional pollution regardless of the proposed filtration system.
- There will be more than 4 or 5 services per day leading to increased traffic, pollution etc.
- Harm to character resulting from loss of ancient woodland
- The development would be highly visible because of the slope of the site
- Emotional distress to local residents at witnessing constant funeral processions.
- The site south of Orchard Barn is preferable to the use of this site

- Potential conflict with areas of the highway used for parking for the station
- Loss of agricultural land
- No proven need for such a facility
- No bus route close to the site
- Harm to wildlife: deer, badgers, foxes and pheasants
- Harmful to the nearby AONB

83 Letters of support from 2 local clergy/churches raising the following issues:

- The environmental cost of undertakers, mourners and clergy driving to south east London or Tunbridge Wells is too high. A crematorium at Halsted would benefit local residents
- The biggest problems experienced are by those having a church funeral followed by a committal because of the long distance to the nearest crematoria.
- This would reduce waiting times for a service because of the level of demand at surrounding crematoria and would allow longer service times which would be of benefit to mourners: a little less like a conveyor belt.
- The traveling time for local families to the surrounding crematoria are too long and very distressing just for a short service
- Saddened that members of the council have in the past dismissed the genuine concerns of those who stand up for the needs of the bereaved.

84 1 letter of objection from Dignity, the operators of the Beckenham and Surrey/Sussex crematorium raising following issues:

- The applicant has fallen woefully short of establishing a need for the proposed development sufficient to overcome Green Belt policy concerns and overcome concerns regarding its woodland location.
- A previous application for a crematorium on this site was refused and there would appear to be no additional evidence to alter this decision.
- Insufficient quantitative need without significant cannibalisation of capacity of neighbouring facilities
- Insufficient evidence of qualitative need: both Beckenham and Surrey/Sussex crematoria have capacity
- No sequential site analysis has been presented
- The woodland is unsuitable for such a use being unable to provide a memorial garden which is a key element of the facility



- 85 A letter from another crematorium provider (Memoria - applicant on the Land to the south of Orchard Barn) objecting on the following grounds:
- Significant adverse impact upon Ancient Woodland
  - Potential harm to protected species: with inadequate assessment having been made. The Council should not consider granting permission until the full impact on protected species is known.
  - The site should not be developed if any adverse impacts can be avoided through developing alternative sites which have less harmful impacts.
  - Inappropriate development in the green belt
  - Adverse impact on Kent downs AONB
  - Members refused the application on Land south of Orchard Barn and have to act consistently in their decisions: the vsc required would not appear to exist based upon the previous decision to allow the grant of permission here.
  - This proposal is not accompanied by an EIA submission and would appear to be very environmentally sensitive such as to require such a submission.
  - The application suggests that the site benefits from an extant permission for a chapel which we believe is not the case: development: a chapel cannot now be erected on the site without the grant of a further planning permission.

### **Chief Planning Officer Appraisal**

#### Principal Issues

- 86 The main issues relate to:
- Assessment of planning history
  - The principle of this development within the green belt,
  - Consideration of any very special circumstances,
  - Impact upon character of surrounding countryside and adjacent AONB,
  - Impact upon ancient woodland
  - Noise
  - Air quality
  - Highways
  - Ecology
  - Public right of way
  - Neighbour amenity

*Assessment of Planning History:*

- 87 As can be seen from the Planning History there is currently an extant permission for the use of the whole site as a cemetery: the 2008 Lawful Development Certificate confirmed that sufficient work had been carried out to represent the commencement of development (the partial laying out of the entrance and kerbstones along the access drive). This LDC also confirmed that the applicant has permission to use the whole site, including the ancient woodland, for burials. This stems from the fact that the Planning Inspector in granting permission for the use of the site as a cemetery, did not attach any conditions confining the area to be used for burials to that part of the site shown on the submitted plans. Therefore in effect he conferred this right across the whole site.
- 88 The current application is quite clear therefore about the right to use the whole site for burials – it being shown on the submitted site plan and being referred to in the Planning Statement. At paragraph 3.9 we are reminded that *“burials can lawfully commence within the protected woodland area....the Local Planning Authority’s consent is not required for cutting down or carrying out works on protected trees if required to implement a full planning permission as the impact on trees would have been considered when determining to grant full planning permission.”* At paragraph 3.13 it is stated that there are *“no limits on the areas within which burials can occur, their number, frequency or hours of use.”* At paragraph 6.78 they advise *“that the site benefits from a lawful use across the entire site for burials. This may involve the removal of trees to facilitate this permitted use. The potential impact of burials associated with the lawful use of the site lies beyond the consideration of this application.”*
- 89 The Planning Statement also confirms the applicants belief that the site benefits from an extant permission for the erection of a chapel (dealt with in paras 3.10 – 3.13) and this is shown on drawing 3917 PL06 which shows the scheme approved in 2010 superimposed upon the scheme for which permission is now sought. The applicant considers that works commenced to excavate and lay foundations for the Woodmans Shed were carried out within 3 years of the date of the 2010 permission for the chapel and that this is sufficient to demonstrate the commencement of work. The submitted plans however demonstrate that the foundations have not been constructed in the correct place. The foundations that have been constructed lie more closely in the position of the shed now proposed rather than in the position of the shed approved by the 2010 permission. Consequently officers consider that the 2010 permission is not extant.

*Principle of Development in Green Belt:*

- 90 The Government attaches great importance to the Green Belt, the fundamental aim being to prevent urban sprawl by keeping land permanently open. The essential characteristic therefore being its openness and permanence. When considering any planning application local planning authorities (LPAs) 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.
- 91 At paragraph 89 the NPPF advises that:

*“A local planning authority should regard the construction of new buildings as inappropriate in the green belt “. Six exceptions to this are identified and none of those are applicable to this use/site.*

- 92 The NPPF is clear that a cemetery does constitute appropriate development within the green belt. Whilst a crematorium may include structures common to a cemetery, such as a chapel and structures associated with floral tributes, the main purpose of a cemetery is an open use of the land.
- 93 This distinguishes it from a crematorium where the built form is essential. Therefore a crematorium must be considered inappropriate development within the green belt. Paragraph 88 of the NPPF is clear that *“substantial weight should be given to any harm to the green belt and that 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.”*
- 94 Harm to the Green Belt in this case would be caused both by virtue of the inappropriateness of the development proposed and by virtue of the harm caused to the green belt at this point and would conflict with the purposes of safeguarding green belt land. The crematorium building would clearly harm the openness of the green belt and cause the encroachment into the countryside that the policies are designed to prevent. The ancillary access and parking area would not harm the openness of the surroundings but would clearly result in encroachment into the countryside. Additionally the increase in activity across the site would increase compared to its current use, which will have some impact upon the character of the green belt at this point.
- 95 Therefore within the green belt, use of a brownfield or previously developed site would be preferable to an undeveloped site in terms of the impact upon the openness of the green belt: either in terms of a change of use of existing buildings or through the demolition of existing buildings/structures that would ‘offset’ the harm to the openness of the green belt caused by a new crematorium building.
- 96 The applicant seeks to suggest that the Council must take account of the fact that there is an extant permission for a chapel and the impact upon the green belt of that building must be considered in respect of the impact of the building now proposed. That matter is considered further below in the consideration of very special circumstances.

*Very Special Circumstances:*

- 97 There have been a few decisions, determined by Local Planning Authorities and by the Planning Inspectorate relating to the provision of crematoria in the green belt. It is clear that very special circumstances can exist that outweigh harm, such that permission has been granted for new crematoria in the green belt.
- 98 The applicant considers that the test of acceptability rests with determining whether the harm to the green belt by reason of inappropriateness should be considered in respect of the crematorium element of the scheme only (i.e. the 80 sqm occupied by the crematory only) and that the material consideration to be afforded significant weight relates to the benefits of the scheme to the wider population by addressing a quantifiable need. Officers do not consider that the crematory element of the scheme can be separated from the rest of the scheme

to be considered in isolation but that the correct approach is to consider the scheme as a whole in terms of its appropriateness. The following matters are considered to comprise the potential very special circumstances for consideration in this case:

Any extant permissions

Qualitative need assessment

Quantitative need assessment

Existing crematoria provision

Capacity issues within existing crematoria network

Availability of alternative sites

Landscape and visual impact

Balancing material considerations

- 99 An assessment of whether these circumstances clearly outweigh the harm in principle and any other harm will be carried out later in this report.

*Sequential Approach:* In addition to the consideration of harm to the green belt caused by the scheme, the Council should also consider whether the green belt in general, and this site in particular, is the most appropriate site for this development. The NPPF sets out two formal uses of the sequential test (ie the sequence of tests to be applied when considering the location of new development)– in relation to retail development and in relation to development in areas at risk of flood. However it is also a helpful approach in terms of the application of green belt policy. In this case we need to consider if it would be possible to locate such a facility outside the green belt ie within the built confines of a town or village and if not, whether there is a more appropriate green belt site for such a use, if need is demonstrated. This latter point relates back to paragraph 89 of the NPPF and is considered more fully below.

#### *Impact upon the Character/Appearance of the Landscape and AONB*

- 100 Policy SP1 of the Core Strategy is clear that new development should be designed to a high quality and respond to the distinctive local character of the area in which it is situated. Outside settlements priority will be given to the protection of the countryside (*Policy LO8*) and any distinctive features that contribute to the special character of the landscape and its biodiversity will be protected and enhanced where possible.
- 101 The supporting text to SP1 identifies that new development must be accommodated without damaging the features that contribute to the quality of the urban and rural environment. Therefore it is important that development is designed to respect or improve the character and distinctiveness of the area in which it is located.
- 102 Policy LO8 advises that the countryside will be conserved and the distinctive features that contribute to the special character of its landscape and its biodiversity will be protected and enhanced where possible. *“Particular regard will*

*be given to the condition and sensitivity of the landscape character and securing recommended landscape actions in the SPD to ensure that all development conserves and enhances the local landscape character and that appropriate mitigation is provided where damage to local character cannot be avoided.”*

- 103 The Countryside Assessment identifies this site as lying on the edge of the Knockholt & Halstead Downs Character Area. The key characteristics are of mainly an agricultural use with plenty of horseculture and many small woodlands - the latter is notable as replanted and ‘other’ ancient woodland. Visually the landscape is described as poor with a low sensitivity to change: sensitivity is a measure of the ability of a landscape to accept change, (both beneficial change and change that may be brought about by a new land use) without causing irreparable damage to the fabric and distinctiveness of that landscape.
- 104 The landscape type is that of Wooded Downs which is identified as having many areas of pre 1801 coppice surrounded by fields. One of the bio diversity targets for such a site in this landscape is for existing native broad leaved woodland to be maintained and varied management methods to be introduced to diversify habitats.
- 105 The contribution this site makes to the character and appearance of the surrounding landscape is very much defined by the woodland. Officers difficulty in judging precisely the impact of this scheme lies in the fact that the majority of the site lies outside the ‘red line’ but mainly by the fact that the majority of the site, including all the ancient woodland, is denoted as being available for burials. The applicants intentions, as clarified in their Planning Statement and outlined earlier in this report, indicate that trees will be removed whilst elsewhere the Planning Statement ie paragraph 6.16, reference is made to the development being discretely located in an existing woodland setting. Whilst a ring of trees is shown to remain around the building perhaps earning the description of a woodland setting it is unclear how much beyond that is to remain. The applicant clearly emphasise that the woodland could be removed, but elsewhere the statement refers to the wooded nature of the site. Officers have sought to clarify the applicants precise intentions for the woodland, but such clarification had not been provided at the time of writing this report. Since the application places considerable weight on the ability to remove trees without further permission and the ability to use the whole site for burials, officers consider the current application must therefore be considered against the ‘worst case scenario’ ie the impact of this development if the full use of the site is made for burials and the woodland is removed.
- 106 The proposed crematorium building would provide a more contemporary design than the chapel previously approved. The size would be approx 50% larger than the approved chapel and if the areas beneath the porte cochere and the covered exit are included then the floor area is approximately double that of the chapel and store approved in 2010. In terms of overall height and width the proposed crematorium is approximately 7m wider (in total) than the approved chapel with a height of 8m to the ridge of the chapel within the crematorium compared to 6.7m ridge height on the chapel. Both designs include lower height single storey side additions and the ridge height of these on the crematorium would be 5m compared to 5.4 ridge height on the chapel. Clearly therefore the height and scale of the proposed crematorium would be significantly greater than that of the chapel.

- 107 The access to the approved chapel was a two lane access leading to the car park at the side and rear of the chapel. The proposed scheme now includes a car park for 50 cars sitting within the site on the hill adjacent to the access road and a large oval shaped driveway situated in front of the proposed building.
- 108 Judged against the 'worst case scenario' of the woodland being removed for burials, whilst acknowledging that landscaping would be required to soften the overall appearance of the site, the development would nevertheless be a significant feature on a sloping site that would be widely visible within the wider landscape. It is concluded that this would be very prominent and harmful to the character of the surrounding area and indeed the AONB that lies on the opposite side of Old London Road. Even assuming that a fresh permission is granted for the chapel, the proposed crematorium development would be significantly larger in scale and significantly more prominent within the landscape.
- 109 If it were assumed that the ancient woodland lying outside the application site were to remain, the visual impact of this development would be significantly reduced: the building itself not then being visible from surrounding land to the same degree although it would appear to still be visible from the public highway and given the greater scale and form would appear a more prominent feature that would not be so easily screened by intervening landscaping.
- 110 The scheme for the chapel was considered by two previous appeal Inspectors to be well screened by existing trees that would be unlikely to intrude significantly upon the landscape. The burial site on the slope facing towards Old London Road would remain open and be planted as each grave were created. In total the Inspector concluded that the visual amenities of the area would not be harmed by this. He considered that the access road would be a modest form of development unlikely to intrude significantly on the landscape.
- 111 As part of this scheme the open area shown for burials would be partially replaced with a car park and access drive which would be significantly more prominent within the landscape than the previous scheme. Whilst new planting could soften the appearance of the development it is considered overall that the scale of the scheme, and the lack of safeguards from the applicant to protect the existing woodland would be such as to be harmful to the character of the surrounding landscape.
- 112 The site does not lie within an Area of Outstanding Natural Beauty but the land on the opposite side of Old London Road does. Clearly new development within the AONB would have an impact upon the surrounding AONB. In this case however it is considered that the scale and form of the proposed works and the loss of the tree cover would be so significant as to harm the adjacent AONB.

*Impact upon Woodland:*

- 113 This woodland is identified as Ancient Woodland which is woodland that has had a continuous woodland cover since at least 1600AD and has only been cleared for underwood or timber production. The importance of these woodlands is not just related to the trees themselves, but also that they have had a long time to acquire species and to form flora and fauna communities, and that their soils have remained largely undisturbed. As at 1994 it was estimated that approximately 10% of the county area was made up of both ancient and secondary woodland.

- 114 The woodland is also protected by a Tree Preservation Order.
- 115 Officers are unclear about the precise designation date of the woodland as Ancient Woodland but it was designated as such when the Inspector considered the use of the site as a cemetery, for the erection of a chapel and a crematorium. The Inspector's decision indicates that only a little discussion took place about the future of the woodland and it appears that it was expected that the main body of woodland would be retained for the scattering of ashes for instance. It does not appear that it was expected that the woodland would be removed: the submitted plans showing the only area for burials as that area of land lying adjacent to Old London Road.
- 116 Policy SP1 seeks to ensure that new development creates safe inclusive development that maintains and enhances bio diversity whilst policy SP11 seeks to ensure no net loss of bio diversity.
- 117 Previous approvals have actively assumed the loss of trees around the area of the chapel and the loss of some trees and scrubland on the area of the woodland burial site, at the front of the site where adjacent to Old London road. No active consideration appears to have been made regarding the loss of the rest of the woodland, albeit this appears to have been the result of an unfortunately worded appeal decision notice anyway. The applicant is correct therefore to draw attention to the fact that the woodland could be removed to implement the cemetery.
- 118 On this basis the proposed scheme would not appear to cause any further loss of trees than has already been allowed.

#### *Noise*

- 119 The NPPF advises at paragraph 123 that planning policies should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development including through the use of conditions.
- 118 Policy NR10 advises that proposals for all forms of development should minimise pollution of the environment through careful design and layout of any buildings or land uses. This policy is clear that:
- Potentially polluting activities must be in a suitable location being sensitive to other land uses
  - Mitigate any possible land use including the effects on the natural environment, amenity or health
  - Control any noxious emissions or noise, dust, vibration, light or heat
  - Restore the land to an acceptable use after the use ceases
  - Protect natural resources including sites of nature conservation importance, wildlife habitats and to improve the physical environment

- 119 The issue of noise concerns the increase in noise generated by activities on and around the site and the noise from other surrounding uses and their impact upon the site.
- 120 In terms of the former issue the residences closest to this site are those lying on Old London Road and those in Watercroft Road. Those in Old London Road could be affected by any disturbance arising from additional traffic drawn to the site. However it is not considered that these levels would be such as to generate significant noise levels that would adversely affect those residents fronting onto what is an already busy highway. Residents in Watercroft Road are considered to be far enough away not to suffer the impacts of this traffic.
- 121 Such other noise as is created by the use of this site is likely to be minimal and the nearest houses are considered to be far enough away not to suffer any inconvenience or nuisance.
- 122 The issue of noise within the site from the adjacent highway has been an issue in other such cases but in respect of this site this has not been identified as an issue for the use of the site as a cemetery so it is not anticipated that this should be an issue in respect of a crematorium.
- 123 In terms of noise audible at other crematoria it is interesting to note that aircraft noise is identified by the funeral directors taking part in the applicant's survey as a feature of the Surrey & Sussex Crematorium and motorway noise is audible within the Medway site but such disturbance does not prevent either operating successfully.
- 124 Accordingly I am satisfied that this proposal complies with policies NR10 and the NPPF.

#### *Air Quality*

- 125 Policy SP2 seeks to ensure that *the design and location of new development will take account of the need to improve air quality in accordance with the Districts Air Quality Action Plan. Development in areas of poor air quality or development that may have an adverse impact on air quality will be required to incorporate mitigation measures to reduce impact to an acceptable level.*
- 126 Policy NR10 is referred to in the section above and details the Councils approach to air quality issues. The operation of a crematorium requires a permit under the Environmental Permitting Regulations which specifically considers the issue of air quality and such a permit cannot be issued unless the facility is in compliance with the regulations. The NPPF is clear at paragraph 122 that *the LPA should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.* The impact of emissions on the environment can therefore be adequately controlled under separate legislation.
- 127 The applicant has not submitted an air quality report and comments are still awaited from the Councils Environmental Health Officer. However a separate permit has to be issued by the Councils Environmental Health Officers and that will only be issued if the facility is in compliance with the relevant Regulations.



Were the submitted details to require material changes to the appearance of the building then a fresh application would be required. Therefore it is considered that this matter could be satisfactorily dealt with by condition.

- 128 This approach is consistent with the Inspectors decision in the Amber Valley appeal where he concluded that *I am satisfied that the environmental controls to which any new facility would be subject would ensure no harm would arise to nearby properties from emissions to air or noise. Matters relating to emissions are governed by Part B of the Environmental Protection Act 1990 and the Environmental Permitting (England & Wales) Regulations 2010 as a prescribed process and required authorisation. These matters are outside the planning process, covered under separate legislation and a licence to operate is required before the use can begin. The crematorium would require an environmental permit to operate. Any emissions would be closely monitored and any infringements would be governed by the Local Authority as licensing authority. The impact of emissions on the environment and nearby residents would therefore be adequately controlled. Appendix 2.*
- 129 Accordingly for these reasons I am satisfied that the proposals comply with policy SP2 of the Core Strategy, NR10 of the SDLP and the NPPF.

#### Highways:

- 130 Policy T9 advises that the Local Planning Authority will not permit any development which involves construction of new accesses on to the defined primary or secondary route network.
- 131 In respect of policy T9 the working of this policy is noted. However in the absence of any specific KCC policy constraint and in the light of the proposal meeting current KCC requirements, there would be no justification in KCC raising objections to a proposal on these grounds. It would therefore be for SDC to assess whether or not to raise a local policy objection in this regard.
- 132 Most crematoria in rural areas appear to be at least on the fringes of settlements or in more remote locations where public transport is not necessarily comprehensive. It is accepted therefore that the availability of public transport within reach of this site that this should not be considered such a dis-benefit as to warrant a refusal of the scheme.
- 133 It is clear from the site survey information, projected traffic flows and background vehicle flows that the proposals will not generate a level of vehicle movements which would be significant in respect of either available highway capacity or additional Network or local movements.
- 134 Concern has been expressed regarding the impact of slow moving funeral corteges upon the existing traffic. The proposed access can be delivered to the principal requirements of the Highways Authority for the use class in question and so there would be no justification for any concern of this nature to be raised. It should also be noted of course that an extant permission exists for the use of the site for a cemetery that will have equally slow moving processions of traffic. Furthermore prior to both the approval of design and commencement of works, the proposed highway improvements will be subject to the appropriate levels of principle and detailed technical and safety audit through our required Highway Agreements process.

- 135 It is noted that whilst the recommended Stage 1 Safety Audit has not been carried out that this is not considered to be a reason for refusal. Any changes to the access that may be required as a result of that audit may necessitate amendments to the scheme and if these are considered to be material to the scheme a fresh application would be required to consider the appropriateness of those changes.
- 136 Accordingly I am satisfied that this proposal complies with the relevant parts of the NPPF and policies T9 and EN1 of the Sevenoaks District Local Plan.

*Ecology:*

- 137 The NPPF states that *“the planning system should contribute to and enhance the natural and local environment by....minimising impacts on biodiversity and delivering net gains in bio diversity where possible”*.
- 138 Policy SP11 seeks to conserve the biodiversity of the district and seek opportunities for enhancement to ensure no net loss of bio diversity.
- 139 Policy EN17B refers to areas of nature conservation interest and the need to ensure that a loss of wildlife habitats and other features of nature conservation interest are not permitted.
- 140 One of the principles of the National Planning Policy Framework is that *“opportunities to incorporate biodiversity in and around developments should be encouraged”*. This application refers only to the site within the red line and gives no indication of the impact of the scheme upon the wider site, albeit the wider site benefits from an extant permission. Of particular concern is that insufficient information has been supplied in respect of the impact upon protected species. For instance in respect of reptiles and dormice, confirmation of the extent of habitat to be impacted is required; whilst for bats, only two trees are highlighted in the ecological report’s target notes as having bat potential, although the report states that ‘several trees’ have potential. The two that have been highlighted are within close proximity to the proposed buildings and an understanding of the use of these by bats (if at all) is necessary to understand whether there are likely to be impacts to bats. The ancient woodland is also likely to provide additional opportunities for roosting bats, and the potential for impacts here has not been sufficiently quantified.
- 141 The impacts of the scheme upon the site and wider woodland remain unclear and contrary therefore to both local and national policies. The scheme is considered unacceptable in this respect.

*Neighbour Amenity:*

- 142 The NPPF is clear that planning should be a means of finding ways to enhance and improve the places in which people live their lives. We should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 143 Policy EN1 seeks to ensure that no new development would adversely affect the existing area either in terms of any built form or in terms of the operation of any uses.

- 144 The 1902 Cremation Act sets out parameters for the location of the crematorium in relation to existing dwellings and the public highway. At present this scheme complies with those parameters.
- 145 The nearest residents would be those in Watercroft Road and Old London Road.
- 146 Issues specifically related to the impact of noise in respect of neighbour amenity are considered above. However it must be recognised that the increased level of activity associated with this use could still adversely affect nearby residents and occupiers. In this instance the nearest occupiers, it is considered, would be sufficiently far from the access and car park so they would not be adversely affected by the increase in noise and disturbance that would arise. The general levels of activity anticipated on the adjacent highways are likewise not considered to be so severe as to justify a refusal on the basis of harm to local residents.

### *Sustainability*

- 147 At the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision taking. Whilst the NPPF offers support for the use of sustainable travel modes it also offers encouragement to solutions which support reductions in greenhouse gas emissions and reduce congestion. This could be accomplished by both improved public transport but also by locating development where the need to travel will be minimised.
- 148 Policy SP2 likewise supports measures to reduce reliance on travel by car.
- 149 The most significant issue regarding the matter of sustainability is the impact of traffic drawn to the site. At present those needing the services of a crematorium need to drive outside the district to sites in excess of a 30 minute drive time. Judging by comments made by Clergy and others involved in such services the drive time can often be considerably in excess of 30 minutes.
- 150 Clearly therefore the siting of a crematorium within the District will facilitate shorter driving times. Whilst there is a balance to be considered in this matter, shorter journey times must be considered a more sustainable development overall, although of course this will mean more traffic in and around this district.
- 151 Whilst this scheme will involve more car journeys within the district, overall it will reduce the amount of travel and therefore must be considered a sustainable proposal.

### Other Issues

#### *Access Issues*

- 152 Would be dealt with as part of any building regulations submission.

## Assessment of Very Special Circumstances

### - Extant permissions

- 153 Planning permission was granted for the erection of a chapel and a maintenance shed on 30 April 2010 and subject to the imposition of 10 conditions including condition 1 which required work to commence within 3 years. As discussed above it is not considered that the works that have been implemented do accord with the permission and therefore a meaningful start to commence this permission has not taken place.
- 154 Although an extant permission is not in place the applicant does of course have the right to re-submit an application seeking to gain permission for the chapel. Previous applications have been considered against the policy background of amongst others Planning Policy Guidance 2 - Green Belts. Although that guidance has been superseded it advised that “*essential facilities for outdoor sport and outdoor recreation, for cemeteries and other uses of land which preserve the openness of the Green Belt*”...were appropriate development. As outlined above two previous appeal inspectors have considered the chapel to be acceptable in terms of green belt policy with the Inspector noting in the 1998 decision (SE/97/1988 and SE/97/2070) that a “*chapel of the proposed size can reasonably be regarded as an essential facility for the cemetery.*” Neither the size nor the siting were such as to make the proposed building inappropriate development in the green belt. Similarly he concluded that the woodman’s shed would be essential for the proper management of the site and therefore appropriate development.
- 155 Even were a fresh permission for the chapel to be granted, the proposed crematorium is not ancillary to the use of the cemetery, remains clearly inappropriate development and, as described above, would be considered to have an unacceptable impact upon the character and appearance of the surrounding area as well as a significantly greater impact upon the openness of the green belt.
- 156 I conclude therefore that even if there was an extant permission for a chapel that the current scheme would still be unacceptable for the reasons above and that the existence of a permission for a chapel would not be a factor to that would clearly outweigh the harm to the Green Belt.

### - Quantitative Need:

- 157 Is concerned with matching the demographic evidence of death in the local population, its distribution, the number likely to require cremation and the capacity and distribution of existing facilities in the area concerned. An assessment is required regarding the ability of existing crematoria to cope with the need for their services, taking account of the standards of service that are expected.
- 158 The evidence submitted by the applicant in this matter draws attention to:
- the 30 minute drive time issue ie as a rule of thumb this is the time considered acceptable to reach a crematorium

- places this in the context of the number of people required to support a crematorium (150,000) (as evidenced by the Institute of Cemetery and Crematorium Management).
- an increase in the number of cremations between 1960 – 2012 – taking the percentage of deaths dealt with by cremations from 34.7 – 74.28%
- The fact that Kent has the 6th highest cremation rate nationally
- That the population within the 30 minute drive time and residing closer to the proposed crematorium than any other , would be 216,069
- That as of 2011, 97,734 people within Sevenoaks District would live closer to the proposed site than any other crematorium
- Future trends suggest that the number of cremations for residents within the District would be 1,370. Taking account of future population trends this is anticipated to rise to a need for 1,602 cremations in 20 years.

- *Catchment Area:*

159 In an appeal decision relating to a proposed crematorium in Camborne the Inspector concluded that a population of approximately 150,000 people would be within realistic travel time of the facility and that would be sufficient to ensure its long term future. The district of Sevenoaks has a population of just under 115,000 (2011 census). Taking the 150,000 as a benchmark, the applicant's submission indicates that a population of 216,069 people would live closer to the application site than any other crematorium. This figure represents a catchment area that extends beyond the boundaries of Sevenoaks and includes residents from Bromley, Tandridge, Tonbridge/ Malling and Dartford. This appears to be an accepted approach in the determination of planning applications and planning appeals ie that a demonstration of need does not only have to relate to the district within which the crematorium is sited, but also to those surrounding districts. Appendix 3.

- *Capacity/Waiting times:*

160 Part of the applicants case refers to evidence presented in respect of the previous case for a crematorium on Land South of Orchard Barn, in particular their survey of Funeral Directors (FDs) which identified a number of issues:

- That between 30% - 100% of the FDs had used the crematoria at Kent & Sussex, Beckenham, Eltham, Medway, Maidstone, Lewisham and Surrey/Sussex over the past year.
- The frequency of use seems to depend upon proximity of the FDs to the crematoria
- 5 of the crematoria have been identified as working near to capacity in the winter months in terms of waiting time for a convenient slot.

161 As was drawn to members' attention during consideration of the last application

- The crematoria had been contacted and both Medway and Kent and Sussex refute the suggestions that they have capacity problems:

- Medway advises that it is in the midst of a major improvement programme which results in the closure of one chapel necessarily affecting its service delivery. Over a 5 year period they consider that on an average basis they have not operated at capacity over the last 5 years although there may be the occasional day when they have operated at capacity.
  - Tunbridge Wells Borough Council advise that in respect of the Kent and Sussex Crematorium that they average 63% utilisation of the full capacity of the crematorium. They acknowledge an upturn of some 30% during the Jan-March period each year.
- 162 They went on to set out the circumstances which may account for the perception that they are operating at full capacity at certain times:
- The preference for services times during the central part of the day even though other service times may be more readily available
  - the funeral directors ability to deal with multiple bereaved families ie the funeral directors may not have the available staff to accommodate a service due to other commitments
  - availability of the church and the minister, in addition to the funeral director and crematorium.
- 163 Against this needs to be considered the fact that:
- These assessments do not provide a detailed analysis of the capacity of slots during the central part of the day
  - That the anecdotal evidence from those clergy who have contacted the Council is that there is pressure during the winter months
- 164 In a case in Camborne the Inspector concluded that the *accounts of funeral directors and the clergy are persuasive* – albeit that comment was in respect of the traveling times to other crematoria. Elsewhere in that decision the Inspector refers to representations from the same group regarding waiting times in gaining services at the preferred time. The experiences of those professionally involved in arranging or conducting funerals is a material factor in support of the application scheme and this approach was confirmed by the Amber Valley appeal decision.
- *Cremation Rates and Burials:*
- 165 The applicant's data indicates that since the mid 1990s the cremation rate has increased very slightly and sits around a figure of 75% of deaths being dealt with by cremation. Evidence considered in respect of the previous application indicated that Sevenoaks has a relatively older population with slightly higher levels of deprivation and more residents in the higher socio economic group compared to the local authority average. The application site will serve other authorities (based on the minimum drive time) and the information from the Office for National Statistics indicates that with the exception of Tandridge the other districts and Sevenoaks will have an ageing population. This in crude terms implies that death rates overall are likely to increase across the catchment area of the site.

*- Qualitative Need:*

- 166 Covers a range of issues that relate to the experiences of mourners. Little fresh evidence has been presented on this issue rather reference has been made to the submission of Funeral Directors whom the applicants seeking permission for a crematorium on the site of Land South of Orchard Barn contacted and the following issues were identified:
- 100% of FDs thought they had to travel in excess of 30 minutes to reach crematoria
  - 4 sites were considered to have issues regarding traffic congestion
  - 1 site has issues regarding the size of the cremator
  - 2 crematoria suffers from noise associated with noise of motorways and aircraft

- 167 These assessments were considered to be subjective and two of the crematoria have responded to a consultation by the Council addressing some of these issues as detailed above.

*- Travel Distances/Times:*

- 168 In previous crematorium applications/appeals an industry standard, or “rule of thumb” has been adopted as 30 minutes travel time for a funeral cortege to the crematorium being generally acceptable. In applying this standard the speed of a cortege is corrected by a factor of 0.6 of average travelling speeds. In the Camborne appeal decision the Inspector took this as a starting point for his assessment.
- 169 The applicant has referred to evidence submitted on a previous application on this matter as summarised above. Basically the majority of Sevenoaks District lies outside a 30 minute drive time to an existing crematorium.
- 170 The provision of a crematorium should not be considered solely against its ability to meet a need within this district but account should also be taken of its ability to meet a need outside the district. In this case the provision of a crematorium on this site would bring parts of adjoining districts within the 30 minute travel time to Badgers Mount. Some of those areas currently lie outside the 30 minute drive time to any other crematoria whilst some lie within the travel time to an existing crematorium. Those areas that currently lie outside the travel time to any other crematoria must be considered as part of the population that would serve this facility. Those that lie within the catchment area of existing crematoria and cannot be considered as part of the population required to serve this facility, do not therefore contribute to any assessment of need. Rather they could be considered to contribute to an assessment of demand for this facility ie this facility would provide a readily accessible alternative facility for families who already have ready access to an existing crematorium. In this case that overlap with other crematoria exists along the north western boundary of the District and includes an overlap with the crematoria at Beckenham, Lewisham, Eltham, Maidstone and Medway.

- Other sites:

- 171 The applicant has not submitted evidence of a site search referring only to the two applications submitted on land south of Orchard Barn and the site to the North of Oak Tree Farm. They conclude that since 93% of the District lies within the green belt that it would be reasonable to conclude that any accepted need for a crematorium is likely to be met outside the developed confines.
- 172 In respect of the Land South of Orchard Barn attention is drawn to the open green belt location and the harm to openness by the development. The site on Land to the North of Oak Tree Farm is concluded to cause harm to the openness of the surrounding green belt and a question is raised regarding the compatibility of the proposed use with the noise and disturbance associated with the nearby crushing and recycling plant.
- 173 It is concluded at para 6.55 of the Planning Statement that *given an established need for crematorium and having regard to the two alternatives before the Council for consideration it is held that the need can be best accommodated by a site that already benefits from a lawful use as a cemetery and with an extant permission for a chapel building, maintenance store and associated parking.*
- 174 Officers assessment of this point is discussed above.
- 175 An assessment of the merits of the Oak Tree Farm site is not contained in this report, but is set out in full elsewhere in this agenda. It contains a full report on that site and members are invited to read that report for the assessment of that proposal.

- Landscape and Visual Impact:

- 176 The key issue that could in principal ensure that any development on this site has less impact upon the openness of the surrounding green belt and less impact upon the visual amenities of the surrounding landscape is the fact that at present the site of the proposed crematorium sits within a woodland clearing and that an alleged permission exists for a chapel on the site.
- 177 If the surrounding woodland were retained that would certainly reduce visibility within the wider landscape of any proposed new building and it would appear that at least one appeal Inspector reached this conclusion when considering the scheme. Unfortunately for reasons detailed above there is no certainty that the woodland will remain and therefore no certainty regarding the extent of visibility of the building. When taken with the larger size and bulk of the proposed crematorium this scheme cannot be considered to be less harmful and therefore to be preferable to the other sites the applicant refers to. Likewise there would appear not to be an extant permission for a chapel and this factor also cannot be considered to suggest this scheme would be preferable in landscape or indeed other terms to those other schemes referred to.
- 178 The harm identified in this case is the principle of building the proposed crematorium in the Green Belt, which would be inappropriate development and the harm this would cause to the openness of the Green Belt. The report has identified that other harm including to the character and appearance of the landscape and the AONB is caused by the application.



- 179 Essentially the very special circumstances identified relate to the demonstration of need, being both a quantitative and qualitative assessment, location of and effectiveness of existing crematoria, availability of other sites and the impact upon the landscape.
- 180 The assessment submitted regarding the quantitative and qualitative need for such a facility is somewhat sparse – relying in large part on evidence submitted as part of another application on a different site. It is impossible therefore to provide an independent and detailed evaluation of the evidence. However despite this officers consider that a need for a crematorium has been demonstrated – if not by this application certainly by the application on land South of Orchard Barn which provided more comprehensive evidence rather than just a selection of summary points. Given the recent date of that submission the need demonstrated by that application will not have changed.
- 181 It is clear from examination of other appeal decisions that this issue is capable of representing the very special circumstances needed to overcome harm caused by virtue of inappropriateness.
- 182 There is no suggestion that any site search was undertaken and clearly there are other sites that are under active consideration for the siting of a crematorium, as evidenced by the previous item on this agenda and the appeal currently under consideration by the Planning Inspectorate for the crematorium on Land South of Orchard Barn. The recommendation attached to the application for the other crematorium on this agenda indicates that officers consider that a more beneficial scheme exists on Land North of Oak Tree Farm. In this case the need aspect of the very special circumstances consideration is affected by the fact that a favourable recommendation is made on the Oak Tree Farm scheme. If a permission is granted for the scheme at Oak Tree Farm this is considered to adversely affect the demonstration of need on this site.
- 183 In this case the manner in which the need for such a facility is affected by the potential approval of the Oak Tree Farm scheme means that very special circumstances advanced are not considered to be sufficient to outweigh the harm to the green belt by virtue of inappropriateness. However, if permission is not granted for the scheme on Land to the North of Oak Tree Farm, it is still considered that the very special circumstances advanced are insufficient to outweigh the harm caused the proposed development.

#### *Summary of Claim for Very Special Circumstance*

- 184 This scheme proposes a new crematorium with associated parking and landscaping on a green belt site on land within Watercroft Wood. The site has been assessed in terms of its impact upon the adjacent highway and it could be accommodated without causing adverse impact to local road users. Likewise it is not considered that the residents neighbouring the site would be adversely affected by the proposal.
- 185 In terms of the amenities of the area although evidence has at this stage still to be fully assessed regarding environmental factors of noise and air quality it is considered that these could be adequately covered by alternative legislation/condition.

- 186 It is considered that the scale and design of the proposed scheme would be very prominent and would be harmful to the visual amenities and landscape character of surrounding land and the nearby AONB.
- 187 The proposed scheme seeks permission for a single crematorium building which includes a chapel which has to be considered as a single entity in terms of the harm it causes to the green belt and surrounding countryside. The development for a crematorium is clearly inappropriate development within the green belt where openness and permanence are both essential characteristics which would be damaged by the development proposed. Very special circumstances must be demonstrated to clearly outweigh the harm caused to the green belt by virtue of the inappropriateness in principle and any other harm. For reasons discussed in the report it is not considered that the very special circumstances have been demonstrated.

## **Background Papers**

Site and Block Plans

Contact Officer(s): Lesley Westphal Extension: 7235

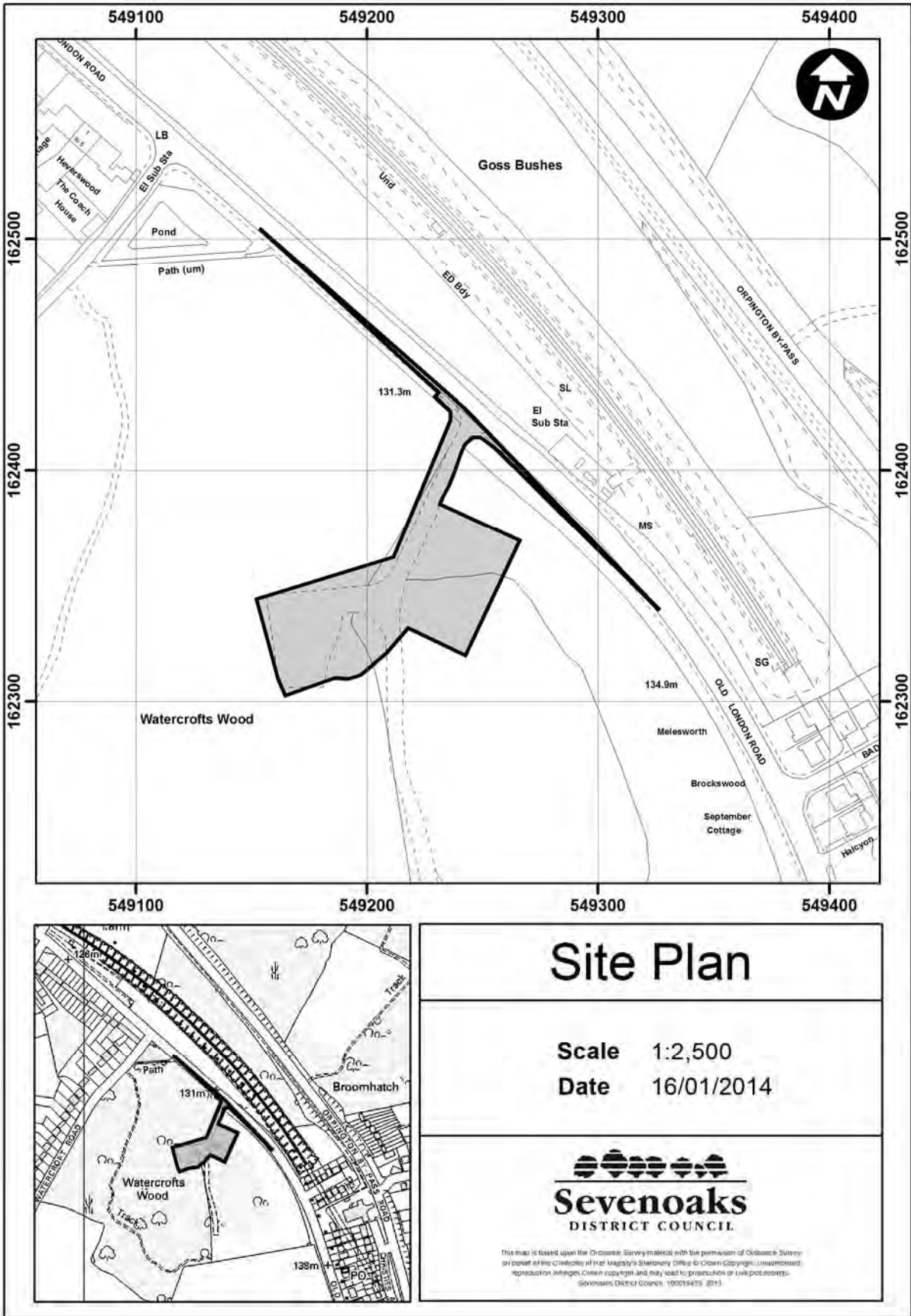
**Richard Morris**  
**Chief Planning Officer**

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MW5SPWBK0L000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MW5SPWBK0L000>





Deputy Chief Executive and  
Director of Community and Planning Services:  
Kristen Paterson



Keith Jackaman  
C/O The Downes Planning Partnership  
21 Westmount Road  
Eltham  
London SE9 1JB

SE/08/02894/LDCEX  
Valid on 23rd October 2008

**TOWN AND COUNTRY PLANNING ACT 1990**

**TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE)  
ORDER 1995**

**GRANT OF CERTIFICATE OF LAWFUL EXISTING USE/DEVELOPMENT**

**Site :** Watercrofts Wood Old London Road Badgers Mount Sevenoaks  
Kent

**Development :** Lawful Development Certificate for existing use;- to establish  
whether planning permission SE/93/01576 (for use of land as a  
cemetery with new vehicular access) was implemented.

Sevenoaks District Council, as the District Planning Authority, pursuant to powers in the above mentioned Act and Order, HEREBY CERTIFY, that on the date of the application given above, that the use/development described in the First Schedule, in respect of the land specified in the Second Schedule and stippled grey on the attached plan was lawful within the meaning of Section of the Town & Country Planning Act 1990 (as amended), for the following reason(s):

- 1) The evidence does on a balance of probabilities concludes that planning permission SE/93/01576 (for use of land as a cemetery with new vehicular access) was implemented. That burials are permitted over the whole site by the 1995 permission.

**FIRST SCHEDULE**

- 1) Lawful Development Certificate for existing use;- (for use of land as a cemetery with new vehicular access) in accordance with planning permission SE/93/1576.

**SECOND SCHEDULE**

- 2) Watercrofts Wood, Old London Road, Badgers Mount, Sevenoaks

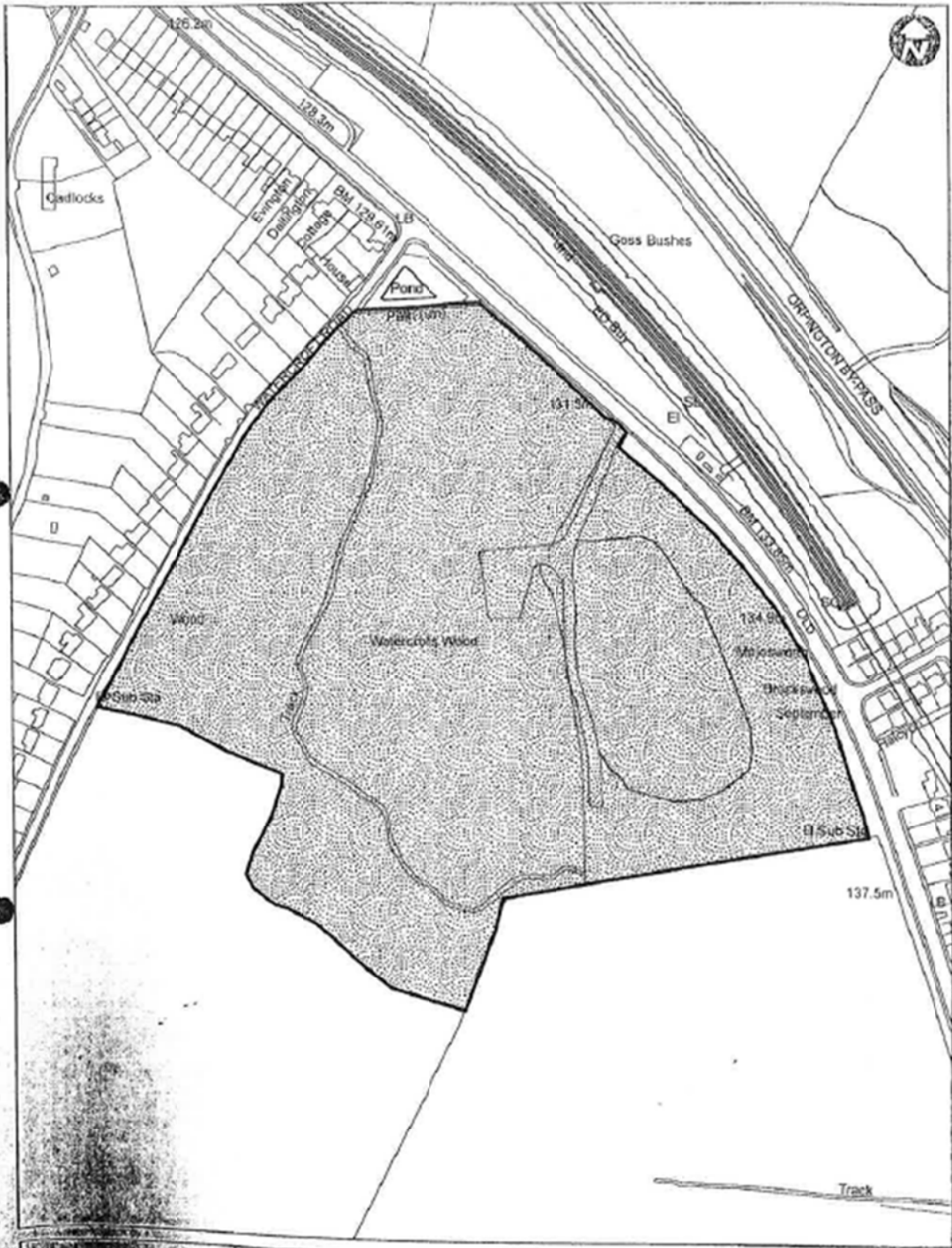


Kristen Paterson

Community and Planning Services Director DATED THIS: 10th day of November 2009

INFORMATIVES

1. This certificate is issued solely for the purpose of section 191/192 of the Town & Country Planning Act 1990 (as amended).
2. It certifies that the use/development specified in the First Schedule taking place on the land described in the Second Schedule was lawful, on the specified date and, thus, was not liable to enforcement action under section 172 of the 1990 Act on that date.
3. This certificate applies only to the extent of the use/development described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.



Scale 1:3,000  
Date 11.11.2009

LAWFUL DEVELOPMENT CERTIFICATE	
SE/08/02894/LDCEX	Watercrofts Wood, Old London Road, Badgers Mount

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## Appeal Decision

Inquiry held on 4-6 June 2013

Site visits made on 6 and 7 June 2013

by **Harold Stephens BA MPhil Dip TP MRTPI FRSA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 July 2013

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**Appeal Ref: APP/M1005/A/12/2188880**

**Land east of Derby Road, Swanwick, Derbyshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Memoria Ltd against the decision of Amber Valley Borough Council.
  - The application Ref AWA-AVA/2011/1199 dated 8 December 2011 was refused by notice dated 19 November 2012
  - The development proposed is the construction of a new crematorium together with associated highway works, car park, garden of remembrance and provision of land for natural burials.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the construction of a new crematorium together with associated highway works, car park, garden of remembrance and provision of land for natural burials on land east of Derby Road, Swanwick, Derbyshire in accordance with the terms of the application, Ref AWA-AVA/2011/1199, dated 8 December 2011 and the plans submitted with it, subject to the conditions listed at Annex A.

### Preliminary matters

2. I held a Public Inquiry on 4-6 June 2013 and I inspected the appeal site on 6 June 2013. On 7 June 2013 I visited existing crematoria at Markeaton, Bramcote, Mansfield and Chesterfield. On 7 June 2013 I also visited the Charnock Richard Crematorium, Preston Road, Chorley.
3. At the outset of the Inquiry the main parties agreed that the appeal should be determined on the basis of the following drawings: (i) Site Location plan: 1:1250 scale November 2011; (ii) Site Layout Plan No. 1095-02B - 1:500 scale - June 2011; (iii) Floor Plan No 1095-03 - 1:100 scale - September 2011; (iv) Elevations Plan No 1095-04A -1:100 scale - August 2011; (v) Illustrative Sketch Elevations Plan A3; (vi) Illustrative Masterplan Plan No 508.10/03 (HDA4) May 2013; and (vii) Proposed Access Arrangement Plan No 4053/001A - August 2011.
4. The application was supported by various reports including a Landscape and Visual Assessment, a Baseline Ecological Survey, a Planning Design and Access Statement, a Flood Risk Assessment, a Transport Assessment, an Archaeological Desk Based Assessment, a Statement of Community Involvement, a Coal Mining Risk Assessment, a Site Conditions Report and Technical Specifications.



5. Two Statements of Common Ground (SoCG) were submitted. The first was agreed between the Appellant and the LPA. The second was agreed between the Appellant and the Swanwick Parish Council and Swanwick Residents Association (SPC/SRA).

#### **Main Issue**

6. I consider the main issue is whether, in the light of the development plan, national guidance and other material considerations, the appeal proposal would be an acceptable form of development within the open countryside.

#### **Reasons**

7. The appeal site comprises a rectangular parcel of land situated to the east of the B6179 Derby Road and consists of grazing land surrounded by a combination of tree and hedge planting to its boundaries. Immediately to the east of the site is a copse of woodland with a house known as Sleetmoor House to the south east corner of the site. To the west, north and south there are open agricultural fields. Further to the west, on the other side of the B6179 are open fields. The site extends to about 3.1 hectares and lies about 1.4kms south of the centre of Alfreton and 1km from Swanwick village centre.
8. Further to the north of the site lies commercial development, including a petrol filling station, fire station, and hotel, while further to the east there is the Thornton's Chocolate Factory. To the south beyond the field and Sleetmoor Lane there are residential properties. The land rises from west to east by about 24m.

#### *The proposal*

9. The application seeks full planning permission for the development of the entire site to provide a private crematorium with associated car park, gardens of remembrance and access road together with the provision of land for natural burials. The crematorium would take the form of a single storey building that would be constructed using smooth render for the elevations together with natural stone features, dark plain concrete tiles for the roof, and oak doors, posts and window frames. The maximum ridge height would be 6.8m tall with the eaves height at 2.9m high. The chimney stack would rise to a height of 8.5m.
10. The location and orientation of the proposed building on the site are governed by the Cremation Act 1902, which determines the distances that must be achieved between the Crematorium building, residential development and local highways.
11. Access for the disabled to both the gardens of remembrance and main building would be provided. All entrances into the building would have level thresholds and toilet facilities would be provided for ambulant as well as wheelchair users. Hearing loops would be installed so that all aspects of the building would comply with Part M of the Building Regulations. The building internally would provide a tranquil environment for mourners.
12. Internally, the main building would comprise three distinct components. The chapel building would form the focal structure on the site. Between the chapel and the entrance would be located an administrative building, which would comprise a waiting area, book of remembrance room, lobby and

toilet facilities. To the south of the chapel would be the main crematory equipment, transfer chamber and accommodation for the mercury filtration system. A screened external yard would lie further to the south of the main building.

13. To the east of the crematorium building would be an area designated for natural and woodland burials. Flat stone burial areas would also lie immediately to the east and north-west of the building while formal memorial gardens would be located immediately to the north of the building. The submitted plans show the provision of 37 dedicated car parking spaces within the main parking area adjacent to the crematorium building. A further 36 car parking spaces would be provided in an overflow car park.
14. The single point of access to the site would be provided from Derby Road, which is the main road running between Swanwick and Alfreton and linking with the A38 immediately to the north. This access would be constructed in accordance with the details provided within the Transport Assessment document.<sup>1</sup>

*Relevant planning policies*

15. The National Planning Policy Framework (NPPF) was published in March 2012. The NPPF largely carries forward existing planning policies and protections in a significantly more streamlined and accessible form. It also introduces the presumption in favour of sustainable development<sup>2</sup> and makes adjustments to some specific policies. The NPPF is a material consideration in determining planning applications and appeals.
16. An Order to revoke the East Midlands Regional Strategy in its entirety came into force on 12 April 2013. The development plan consists solely of the suite of saved policies in the Amber Valley Borough Local Plan 2006 (LP). A full list of the policies that are relevant to this proposal is set out in both SoCG. It is not necessary for me to repeat that list here. From the evidence that is before me the two main policies in this case are Policy EN1 and EN5. I consider that these LP policies are broadly consistent with the NPPF and should therefore be afforded due weight. I deal with Policy EN1 first and Policy EN5 thereafter.
17. Much Inquiry time was spent debating the component parts of Policy EN1 and its reasoned justification. Policy EN1 is a general policy of restraint for new development in the countryside. Satisfaction of any of its 3 criteria will mean compliance with the policy. The most relevant of the 3 criteria in this appeal is criterion (b). Self-evidently, its requirements are different to criterion (a) which allows development deemed essential to forestry and agriculture. As such, criterion (b) cannot be and is not directed at development which is needed in the context of forestry and agriculture. The Appellant does not rely on criteria (a) or (c) of Policy EN1.
18. In relation to criterion (b) a judgement has to be made as to whether the Appellant has demonstrated that the proposal is necessary within the countryside and cannot reasonably be located within an existing settlement. If this can be demonstrated and there is no suitable and available site within a settlement to meet that need, then the proposal can be considered to be acceptable in principle. The additional layer of policy that Mr Jenkin suggests

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<sup>1</sup> Appendix F to Mr Roberts Proof of Evidence

<sup>2</sup> Paragraph 14

should be imposed, that the development should support the rural economy, appears nowhere within the policy and should not be implied.

*Quantitative and Qualitative Need*

19. The Council advances no evidence to the effect that need has not been demonstrated in this case. The SoCG1<sup>3</sup> records the fact that need is not contested in the context of the reason for refusal albeit the Council argued that there is no need for a crematorium at the appeal site. In my view that distinction is not about questioning need, but rather about whether or not there is some alternative site on which that need should be met. Moreover, it is clear to me that the Council appointed experienced consultants - Roger Tym and Partners (RTP) - to examine specifically the question of need. The suggestion by some interested persons that RTP's assessment was tainted by the fact that the Appellant was required to pay for the work is misplaced. There is no reason to doubt the integrity of RTP's work. The analysis was comprehensive. The existence of need was verified by reference to RTP's own assessment of population, geography and travel times. Mr Lomas on behalf of SPC/SRA did not contest this.
20. In light of that thorough assessment RTP concluded that there was both;
  - (i) a quantitative need in that the overall number of people that the new scheme would serve would be very substantial, and,
  - (ii) a qualitative need in that existing facilities faced unacceptable delays for funeral services in the winter months and the fact that many people who currently fall outside of a 30 minute drive of existing facilities would fall within 30 minutes drive of the appeal scheme (together with the fact that only 1 of the 4 existing crematoria offered the facility of accommodating coffins of more than 33 inches wide).
21. The Council accepted that assessment at the time of determination of the planning application. Mr Jenkin confirmed that the Council continues to accept that assessment and he provided no alternative level of need in his evidence.
22. From the evidence that is before me it is clear that a need for a new crematorium was identified as long ago as 2006 within the ICCM<sup>4</sup> report commissioned by the Council.<sup>5</sup> The interpretation of that report, and the subsequent Council Committee report,<sup>6</sup> to the effect that it did not demonstrate need is erroneous. It found a clear need. However, at that time, the reason why no crematorium proposal proceeded was simply because ICCM could not justify provision *solely* for residents of Amber Valley and the Council was not willing to support a controversial scheme that met a need which stretched beyond its boundaries. Of course, the appeal proposal is not promoted in order to cater solely for the needs of Amber Valley.
23. In simple quantitative terms, there are well over 170,000 people who will live closer to the appeal scheme than any other crematorium. This figure was not disputed by the Council or the SPC/SRA. Over 93,000 people who live beyond 30 minutes of an existing crematorium (at funeral cortege speed), will live

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<sup>3</sup> INQ3

<sup>4</sup> Institute of Cemetery and Crematorium Management

<sup>5</sup> Appendix 5 of Mr Hodgson's Proof of Evidence

<sup>6</sup> Appendix 6 of Mr Hodgson's Proof of Evidence

within 30 minutes of the appeal proposal. I am aware that the recently approved scheme in Gedling Borough would have no effect on this finding. The 30 minute threshold has been used in other crematorium cases as a "rule of thumb." It has not been applied rigidly, for example in the sparsely populated areas of Cornwall, but for good reason.

24. Mr Jenkin advances no evidence that a 30 minute drivetime is inappropriate in this instance when assessing need. Any difference between Mr Roberts' 30 minute isochrones and those in the latest LM report<sup>7</sup> is immaterial. Plainly the evidence shows there is a large gap in provision where currently there is no facility within 30 minutes drivetime. The appeal proposal would fill that gap. In coming to this view I agree that the Appellant has correctly applied a factor of 0.6 to normal road traffic speeds to take account of cortege speeds.
25. Furthermore, it is noteworthy that the consensus amongst 25 local funeral directors confirms that during busy winter months, there are unacceptable delays in securing funerals at convenient times of the day.
26. The achievement of more sustainable travel patterns receives express support in the terms of the NPPF. Even if 276,000kms per annum is the maximum degree of saving, the likely carbon saving over the life of the crematorium would be very substantial. I agree that no off-setting for emissions from the crematorium is required since those cremations would occur in any event, albeit at more distant facilities.
27. The SPC/SRA argues that four existing crematoria in the area are within a 30 minute catchment area of the site and that the existing provision is adequate. However, the evidence submitted is based on isochrones which show driving distances based on speed limits. They take no account of traffic, junctions (whether roundabouts, signal controls, or give way signs), the need to accelerate or decelerate, pedestrian crossings, or any other feature of the highway network that prevents a driver from driving at the maximum lawful speeds at all points on a journey.
28. The SPC/SRA isochrones include those which apply the factor of 0.6.<sup>8</sup> That factor is accepted as legitimate by Mr Lomas, and although queried by the Council, Mr Jenkin produces no evidence to support any doubt about its use. However, the factor of 0.6, to reflect the slower speeds of funeral vehicles which attend at every funeral, is applied by SPC/SRA to its isochrones that are based on speed limits. The 0.6 factor is not and cannot be applied by SPC/SWA in an attempt to remedy the deficiencies of its isochrones.
29. At the Inquiry, Mr Lomas tried to suggest that the Appellant's isochrones were at fault by reference to anecdotal experience of driving around on the local road network. It is noteworthy that the Appellant's isochrones were produced some 18 months ago as part of the Transport Assessment whereas Mr Lomas did not raise this point until the last day of the Inquiry. Mr Lomas has only produced the isochrones at his Appendices 7 and 8. He produces no alternative isochrones that purport to show distances based on his anecdotal evidence, nor is there any criticism of the independent GIS analysis by RTP.

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<sup>7</sup> Appendix 1 to Mr Hodgson's Proof of Evidence - Amber Valley Crematorium Quantitative Needs Analysis - A report by Leisure Markets November 2011

<sup>8</sup> Appendix 8 of Mr Lomas' Proof of Evidence

30. With regard to the adequacy of the existing crematoria provision, Mr Lomas spoke to an employee or operator of each of the 4 existing crematoria. By contrast, the Appellant surveyed 25 funeral directors - a methodology expressly accepted by RTP. The consensus amongst funeral directors was that unacceptable delays of 2 or 3 weeks are encountered during the winter months. The employees or operators of the existing crematoria disagree. However, those employees or operators have a vested interest in painting a rosy picture of their own operations. The funeral directors have no such vested interest. Interestingly, the ICCM's consultation exercise in 2006 was not restricted to crematorium operators. It included funeral directors and clergy. That exercise confirmed a need in 2006. It also recognised the existing crematoria may face capacity issues in the winter months. Since then service times have been extended, making convenient slots more scarce.<sup>9</sup>
31. SPC/SRA's case is based on declining death rates which they claim are falling nationally and locally. Death rates are falling, but overall cremation rates are high and the absolute numbers of cremations locally are set to rise using a conservative cremation ratio of 70%.<sup>10</sup> The 4 existing crematoria have technical capacity when looking at their operation over any particular year but the fact that Chesterfield crematorium, for example, has plenty of availability in the summer months, or at 1630 hours on a winter's afternoon is of little comfort or use to those needing to book a funeral at the busiest time of the year at a time of day that would actually allow friends and family to attend. The technical capacity of the 4 crematoria does not bring people who currently live beyond a reasonable distance to a crematorium any closer to that crematorium. Plainly, there is a quantitative and qualitative need in this case.

*Alternative Sites*

32. The question posed in Policy EN1(b) is whether there are alternative sites within settlements that could accommodate this much-needed development. Policy EN1 seeks to control development outside of the built framework of settlements. I note that there are no settlement policy boundaries on the Proposals Map. However, Policy H3 of the LP also includes the term "built framework" of specified settlements. That term is defined in the reasoned justification<sup>11</sup> and makes it clear that it includes only areas within the limits of continuous or contiguous development forming the existing built up area of a settlement. There is no other definition for "built framework" in the LP, and no reason to adopt some different definition in the context of Policy EN1.
33. There was considerable debate at the Inquiry as to which settlements should be examined. In my view any such settlement must be located so as to sustainably meet the identified need. Settlements towards the periphery of the identified gap in provision or within the more sparsely populated area to the west would fail to achieve that requirement. The Appellant examined sites in Alfreton and Ripley (including Swanwick, Leabrooks, Riddings and Codnor).
34. The Appellant's approach receives support from the ICCM report 2006 when considering a proposal for a new crematorium at Alfreton Park.<sup>12</sup> Alfreton is described as an ideal choice for new crematorium development being broadly equidistant from existing crematoria. The Council did not identify any other

<sup>9</sup> Appendix 5 of Mr Hodgson's Proof of Evidence

<sup>10</sup> Appendix 3 of Mr Hodgson's Proof of Evidence paragraph 3.13

<sup>11</sup> Appendix 5 of Mr Mitra's Proof of Evidence paragraph 3.44

<sup>12</sup> Appendix 5 of Mr Hodgson's Proof of Evidence

settlements that should have been included in the search. A brief reference was made to Belper, Heanor and Matlock but no consideration was given to the sustainability consequences of locating a new crematorium in any of those 3 settlements. Clearly a new crematorium in any of these 3 settlements would not meet the identified need in a sustainable way being either too close to existing facilities or too far from the main centres of population that fall within the gap in provision.

35. I found the evidence of Mr Straw to be more than adequate. There is no cogent competing evidence to suggest that his site search was inadequate. The criteria which he applied, including distance from dwellings and highways, a reasonable degree of tranquillity and a site size of around 2 hectares minimum, are all perfectly reasonable. The search, which used his own market knowledge, a circular to agents that was sent out twice, and the Council's own SHLAA<sup>13</sup> and ELR,<sup>14</sup> was exhaustive. It identified no suitable and available site. Possible land values or viability played no part in Mr Straw's search for sites.
36. In the face of that comprehensive search there is no site advanced by any of the opposing parties at the Inquiry as a serious candidate to accommodate a new crematorium within one of the relevant settlements. A site suggested by Mr Soudah at Nottingham Road, Somercotes was discarded by Mr Straw as being within 200 yards (182.8m) of residential property. I consider Mr Straw's evidence to be cogent and compelling. It is noteworthy that of the 25 planning permissions granted since 1996 for new crematoria development all fall outside of settlements.
37. Given the absence of any alternative site within settlements, it was suggested that Policy EN1(b) might require a wider search for alternative sites outside of settlements or, there is some sequential requirement to use previously developed land or existing buildings outside of settlements ahead of the appeal site by reference to Policy LS1 of the LP or the NPPF. Those suggestions are thoroughly misplaced. First, it is absolutely clear from the terms of Policy EN1(b) that it requires a search only for sites within settlements. Secondly, there is no sequential requirement whether in NPPF or Policy LS1 to use previously developed land or existing buildings ahead of greenfield sites. Paragraph 17 of the NPPF expresses encouragement and Policy LS1 expresses a preference to use such land. If that encouragement or preference is not fulfilled there is no policy breach. In any event, neither the Council nor other objectors advance previously developed land or existing buildings said to be suitable and available for new crematorium development. Taking all of these matters into account the proposal accords with Policy EN1.

*The Separate Identities of Settlements: Policy EN5*

38. Although not included in the reason for refusal much Inquiry time was spent discussing Policy EN5. There is a direct link between policies EN5 and EN1. The wording of the policy is clear. If a development meets the terms of Policy EN1 then it will be permitted pursuant to Policy EN5. The Council and other objectors to the appeal proposal may wish to add in some further layer or requirement to the policy, but there is none. Whatever the intention of the Local Plan Inspector as recorded in his report, the terms of the policy are

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<sup>13</sup> Strategic Housing Land Availability Assessment

<sup>14</sup> Derby Housing Market Area Employment Land Review

unequivocal. This point was accepted by Mr Lomas in cross examination. In any event if there is any tension between the reasoned justification and the wording of the policy the latter prevails.

39. The Council attempted to augment Policy EN5 by equating it with Green Belt policy. Mr Jenkin in his proof at paragraph 3.19 refers to inappropriate development and the need to demonstrate very special circumstances. Those terms do not appear within Policy EN5 and there is no policy requirement to demonstrate very special circumstances. Likewise Policy EN5 was not prepared in the context of the NPPF and its advice on Local Green Space.<sup>15</sup> Accordingly, it is entirely inappropriate to have recourse to that 2012 advice in attempting either to interpret or add further requirements to the policy.
40. I have already accepted that there is no conflict with Policy EN1. It follows then applying the plain words of Policy EN5, there is no conflict with Policy EN5. Furthermore, the appeal scheme does not infringe the underlying objective of Policy EN5, namely to maintain the separate identity of the 3 specified settlements - Alfreton, Somercotes and Swanwick. Any assessment of the effect of the appeal scheme on those separate identities, must consider the extent of built development within the scheme, its layout, and landscaping. Both Mr Jenkin and Mr Lomas accepted that their evidence considers none of those things and mentions neither cars nor people.
41. Mr Duckett has given careful consideration to the proposed extent and siting of built development, the overall layout of the site and the proposed landscaping scheme. The built and hard surfaced footprint would account for about 8% of the appeal site and the remaining 92% would be retained as grassland or gardens of remembrance. Mr Duckett has analysed the extent of visibility of the scheme. The area of the site which is visible and makes a visual contribution to the open land occupies the eastern half of the site. This area would be meadow grassland and would largely be retained as open land free from built development. The western half of the site would not be open to view and does not contribute significantly to the open character of the land between Swanwick and Alfreton.
42. Mr Duckett has shown by transparent analysis, that the separate identities of the 3 settlements would not suffer unacceptable harm. I agree. Given the scale, design and location within the site of the proposed crematorium building and its associated highway works and car parking, together with the proposed retention and enhancement of landscaping within the site, I consider that the proposal would maintain the settlements' separate identities. The provision of a crematorium or the activity on the site would not be harmful to this area of protected open land given that the building is to be located to the front of the site and the remainder is to be landscaped into memorial grounds.

*Precedent and prematurity*

43. Mr Lomas attempted to advance arguments in relation to both prematurity and precedent objections. As far as precedent is concerned, whether on the field to the north or that to the south, any development proposal would have to meet the terms of policies EN1 and EN5. With regard to prematurity, self-evidently the appeal proposal is not of a scale or significance to prejudice the Council's emerging LP which remains at a very early stage.

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<sup>15</sup> Paragraphs 76-78 of the NPPF

*Objections from Interested Persons/Parties*

44. I appreciate that over 500 letters of objection and a petition were submitted at the application stage with further letters at the appeal stage. The various grounds of objection can be summarised, as follows: the principle of the development, the need for a crematorium, alternative sites, highways, pollution, landscape, visual impact, site suitability and ecology. For the most part, these objections do not extend beyond those already advanced by the SPC/SRA which I have addressed above. The supporting information submitted with the application together with the evidence of the Appellant's witnesses have demonstrated that the proposal would not cause unacceptable harm to the local environment in terms of highway safety, pollution, design and layout, landscape, impact on neighbouring properties, visual impact, ecology, archaeology, flood risk and site stability. Indeed there would be a net gain in hedgerow and tree planting. There is no technical evidence to support an objection on any of those grounds.
45. Few dwellings would be affected by the proposal. The nearest residential properties would be Sleetmoor House, which is located to the south east and Lilly Cottage, which is located to the north west. The other properties are on the opposite side of Sleetmoor Lane. Insofar as there is any impact on residential amenity, Mr Duckett has shown that such impact falls well within the bounds of acceptability. Given the separation distances between these properties and the crematorium building, together with the existing topography of the landscape and the proposed landscaping, the proposal would not cause harm to residential amenity in terms of privacy, overlooking, visual impact, traffic or emissions. All of these matters were confirmed at the site visit. In coming to this view I have considered the Lavender Test that arose in the context of the impact of wind turbines on residential amenity.
46. Thornton PLC raised concerns about the risk of reputational damage to the brand if the crematorium was built. In particular, concern was expressed about how social media might damage the brand through erroneous reporting linking the product with the crematorium. It was argued that this could risk employment and investment. However, the appeal proposal would not cause any direct physical impact on Thornton's operation. There may be fear about reputational damage but this could only arise from reckless and inaccurate statements. In my view such concerns do not comprise a proper material consideration. In any event, there is no proper assessment of the likelihood of reckless and inaccurate statements being made. The 4 examples advanced by Thornton's have nothing whatsoever to do with crematorium development. I attach little weight to these concerns in the determination of this appeal.
47. I am satisfied that the environmental controls to which any new facility would be subject would ensure no harm would arise to nearby properties from emissions to air or noise. Matters relating to emissions are governed by Part B of the Environmental Protection Act 1990 and the Environmental Permitting (England and Wales) Regulations 2010 as a prescribed process and require authorisation. These matters are outside the planning process, covered under separate legislation and a licence to operate is required before the use can begin. The crematorium would require an environmental permit to operate. Any emissions would be closely monitored and any infringements would be governed by the Local Authority as licensing authority. The impact of



emissions on the environment and nearby residents would therefore be adequately controlled.

#### **Other Matters**

48. I have taken into account all other matters raised including a number of appeal decisions which were referred to by the parties during the Inquiry.

#### **Conclusion**

49. I conclude that the proposal would be an acceptable form of development within the open countryside. It accords with the development plan, including Policies EN1 and EN5, and the other policies set out in the SoCG1. I consider on balance that the proposal would constitute sustainable development and is acceptable having regard to the policies set out in the NPPF. The proposal would meet an identified need which in turn would lead to more sustainable travel patterns. I conclude that the appeal should be allowed.

#### **Conditions**

50. Conditions were put forward by the Council within the SoCG1. These were discussed and revised at the Inquiry. I have considered the latest version in the context of the requirements of Circular 11/95. In addition to conditions relating to timescale, securing the plans and submission of sample materials, I have imposed conditions requiring a surface water drainage scheme, details indicating proposed floor levels and a scheme to dispose of foul water drainage as no details have been given on how effluent will be treated. A condition requiring a Construction Method Statement is necessary in order to mitigate the impact of the development upon the highway network and the surrounding neighbourhood. As the site has been subject to past coal mining activity and coal mining legacy poses a risk to the proposed development, I have imposed a condition requiring intrusive site investigation works prior to development in order to establish the exact situation regarding ground conditions and to inform foundation design.
51. I have imposed conditions relating to the provision of pedestrian and vehicular access to the site and for the parking and manoeuvring of vehicles in the interests of highway safety. A condition is required to secure details in relation to external lighting in the interests of residential amenity. I have imposed a condition that no burials should take place within close proximity of a spring, watercourse or field drain in order to protect controlled waters. I have imposed a condition regarding opening hours of the crematorium and a condition restricting the times of construction works, movement of traffic and deliveries in the interest of residential amenity. The site has some archaeological potential so I have imposed a condition to address this matter. I have imposed conditions requiring a scheme for hard and soft landscaping, details of the new boundary wall to Derby Road and matters relating to ecological and landscape management to ensure that the development does not have an adverse impact on the appearance and character of the area.

*Harold Stephens*

INSPECTOR



## Appeal Decision

Inquiry opened on 14 July 2009

Site visit made on 17 July 2009

by **Mike Robins** MSc BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Decision date:  
19 August 2009

**Appeal Ref: APP/D0840/A/09/2098108**

**Land at Race Farm, Puggis Hill, Treswithan, Camborne, Cornwall TR14 0PU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Crematoria Management Ltd against the decision of Kerrier District Council now replaced by Cornwall Council.
- The application Ref PA07/01094/FM, dated 28 June 2007, was refused by notice dated 6 November 2008.
- The development proposed is a crematorium, provision of an access road, parking and servicing areas.

**Summary of Decision: I allow the appeal subject to conditions**

### Procedural Matters

1. Notwithstanding the original description of development, it was agreed between parties that the junction improvements, namely the mini roundabout, were not part of the scheme; I have altered the description accordingly.
2. At the inquiry a revised set of plans were submitted. In these, the appellants had responded to information which required the relocation of the crematorium building to maintain statutory minimum distances from dwellings as identified by the Cremation Act 1902. Although parties had limited opportunity to consider these revisions, they did not involve any significant change in the scale, layout or design of the building. While it would have been preferable for the matter to have been addressed earlier, I am satisfied that the revisions were not made to specifically address any substantial planning concerns regarding the scheme, and that no interests would be prejudiced by my acceptance of the revised plans. I have considered the appeal on the basis of these plans.
3. A Statement of Common Ground, (SOCG) was submitted at the inquiry, dated 14 July 2009. This addressed agreed details of the site and surroundings, confirmation of matters not in contention and an agreed set of conditions.

### Main issues

4. I consider that there are two main issues in this case: firstly, the effect on the character and appearance of the surrounding countryside with regard to national and local policies; and secondly, the effect on the local ecology, particularly protected species, including dormice and badgers.

### Reasons

5. The appeal site comprises all of one and a large part of a second field, both of semi-improved grassland currently used for livestock or equine grazing. The fields are

enclosed by substantial hedgerows and lie on a slope falling to the east down to a wooded valley of a tributary of the Red River.

6. The site lies in open countryside to the west of Camborne, the main urban centre of which lies beyond the A30 trunk road, which at this point forms a boundary to the urban area. This boundary is not however, continuous and in some areas, notably further east at Tolvaddon, there is significant development to the west of the road.
7. The site is proposed to be accessed from the A30 (T) via a road along the western boundary of the site which leads to Kehelland village. Beyond the proposed access onto the site itself, a network of roads also lead out to the north coast, while along the northwest boundary, a lane, Puggis Hill, leads down to the small hamlet of Reskadinnick, approximately 150m from the site boundary. There are public footpaths in the area, including one that extends out from the town of Camborne towards Reskadinnick and on towards the coast which passes approximately 300m to the east of the site.

#### **Character and Appearance**

8. The site does not lie within any locally or nationally designated areas for landscape, and it is accepted by the main parties that it will not have an adverse impact on the Area of Outstanding Natural Beauty, (AONB), approximately 1 km to the north. The site does, however, lie within an area classified by the Cornwall Landscape Assessment, 1994, as characteristic of the Camborne-Redruth Mining Area. This Landscape Character Area (LCA) is summarised as being a rolling, sheltered landscape with post industrial mining relics, a strong field pattern and many built structures giving the landscape a cluttered feel.
9. Locally there are no buildings currently on the appeal site itself but the surrounding countryside is not entirely undeveloped, having a range of isolated dwellings, hamlets and villages, as well as the nearby Race Court commercial units and the Rosewarne Agricultural College.
10. It is not contended by the Council that the proposal compromises the countryside character as set out in this assessment, but that it detracts significantly from the existing site and immediately surrounding greenfield agricultural land, due to the proposed introduction of incongruous building forms and landscaping.
11. The crematorium would be a substantial building with associated roads, parking areas and a large and regularly laid out water feature, with further areas of formal landscaping. I concur with the Council's view that there would be harm to the countryside character and appearance and these concerns are supported by national policy. Planning Policy Statement 7 - *Sustainable Development in Rural Areas* (PPS7) seeks to strictly control development with the aim of protecting the intrinsic character and beauty of the countryside. These aims are supported by Policy 2 of the Cornwall Structure Plan, adopted 2004, (the Structure Plan) which, in accordance with aims in Planning Policy Statement 1 - *Delivering Sustainable Development* (PPS1), seeks to protect and enhance the quality of the natural and built environment, retaining important elements of the landscape including natural and semi-natural habitat.
12. There are, however, elements of the scheme that weigh in favour of this proposal as regards the effect on the character and appearance of the countryside. It has been generally accepted that due to the constraints imposed by other legislation,

particularly The Cremation Act 1902, most new crematoria require a rural or countryside location. The appellants have carried out a comprehensive Landscape Visual Assessment from which the final design and layout have been determined. Consequently, the orientation of the main building, while by necessity responding to the contours of the sloping site, also presents its narrowest profile to the long views from the urban areas of Camborne.

13. The materials proposed would be appropriate to the area, and the building, while larger than others nearby, would be kept relatively low with an unobtrusive chimney and would be set against a backdrop of the sloping ground and landscaping. Proposed tree and hedgerow planting would assist in integrating the building in accordance with approaches encouraged in the LCA assessment.
14. Much of the landscaping is proposed to incorporate natural species and the majority of the existing hedgerows would remain, with further planting included in the scheme. The use of meadows rather than more managed landscaping for large areas would also help to integrate the development into the countryside. Notwithstanding this, the proposal still represents a significant change which would introduce a more urban character in the form of roads, parking and buildings to this countryside setting.
15. The new entrance would introduce a substantial gateway and signage onto a rural road, although the site layout would prevent views through this entrance of the parking areas and building. This road currently has entrances off it serving two house and the commercial units at Race Court. Further along the network of roads, entrances to farms and other small industrial units, such as at Kieve Mill, can also be found. I do not therefore consider that the entrance would materially detract from the appearance of the area.
16. Turning to the main building and the hard and soft landscaping, the immediate local views are significantly restricted by the substantial hedgerows surrounding the site. For users of the road passing the entrance and down Puggis Hill, the structures would be well screened. Some views would be available from Race Court and Race Farm, but again existing hedgerows, supplemented by additional landscaping could adequately address this.
17. Views are available from further vantage points such as the nearby footpath and the A30 (T). I had the opportunity to take views from both these locations during my site visit. Those from the A30(T) are inevitably limited by the speed of travel and oblique angle, Direct views are not available from the west and those from the east screened by the extensive shelter belt planting associated with Rosewarne. Views from the footpath would be at some distance and only of significance during the winter due to the belt of trees between the footpath and the site. These views do, however, encompass much of the site and add weight to my concerns over the harm to the character of the area.
18. Other views to the site, for example from vantage points between buildings on the Weeth Road within Camborne or further into the town, are at increasing distance and may perceive change, but not significant harm to the appearance of the area when viewed against the wider pattern of development including the Race Court complex and the extensive areas of the Rosewarne College fields and buildings.
19. I conclude therefore that this proposal would lead to harm to the character and appearance of the countryside, contrary to Policy 2 of the Structure Plan in this

regard. The Kerrier District Local Plan, Revised Deposit Draft, Policy ENV1 seeks to prevent development which would lead to significant harm to the countryside unless outweighed by the need for the development and benefits to the economic and social wellbeing of the community and this is reinforced in relation to the design of buildings in Policy B.EN14. This plan was abandoned in 2004 and was not progressed to public local inquiry and as such I cannot afford it significant weight, nonetheless these policies are reflective of Policy VIS2 of RPG10 which seeks to meet the economic and social needs of the rural community, itself reflective of national guidance in PPS7. Accordingly it is appropriate to consider the need for this new crematorium at this location in Cornwall and whether this outweighs the harm I have identified above.

*Need*

20. Cornwall has a current population in excess of 500,000 people and is somewhat different to the rest of the country in that, as a peninsular county, it has no immediate neighbours other than to its eastern boundary. Practically this means that services that extend beyond just local provision will often be at some distance from the population, who have no choice or recourse to services available in neighbouring counties.
21. Nationally Cornwall is shown to have one of the lowest levels of crematoria by area, although this is unsurprising considering the low population density in what is predominantly a rural area. It is much closer to the average in terms of crematoria per head of population. Considered at a more local level the existing crematoria at Penmount and at Bodmin serve a dispersed population. Because of its location Penmount provides the only realistic choice for approximately 300,000 people, although it is agreed that a large proportion of these, notably those to the southwest on the Lizard and those to the west, in Penzance and beyond, are at some considerable distance from the facility.
22. The appellants suggest that not only is a further crematorium required to meet the needs of this population who are at distance from Penmount, but also that Penmount itself is at its maximum capacity and unable to deal, at certain times, with existing demand. This situation, they suggest, will be exacerbated by increasing population numbers and possibly death rates in this part of Cornwall. I will therefore consider in more detail the quantitative and qualitative aspects of need for a new crematorium at this location.

*Quantitative Need*

23. Penmount is identified as having a capacity for 4,000 cremations per year. Although annual numbers vary it has carried out approximately 2,500 cremations per annum, with more prior to the opening of the Bodmin Crematorium in 1989. This would suggest there is significant additional capacity to deal with future demographic changes. However, I do not consider that it is entirely realistic to suggest that every available time slot, especially those in the early mornings or late afternoon, could or would be utilised and consequently the practical capacity of the crematorium would be less than the Council's theoretical figure.
24. However, even when considering the preferred core time periods it is apparent that approximately 75% of time slots on average across both chapels are used. This therefore suggests that there would be the potential for Penmount to take increased numbers of cremations.

25. Both parties suggest that there will be an increasing population within this area, and cremations have increased at Penmount from 2454 in 06/07 to 2631 in 08/09. Further factors which may also increase the number of cremations include changing death rates and an increased preference for cremation over burial. While the latter factors are difficult to predict, I note the appellants have been relatively conservative in their projections, utilising 2001 census data and static death and cremation rates.
26. The emerging Regional Spatial Strategy, (RSS), identifies much of the area for urban growth, with between 20 and 35% increases in population across central and west Cornwall. While the RSS has not been formally published nonetheless the population estimates are based on factors unlikely to be significantly changed by issues currently delaying its publication.
27. Both parties have projected an increase in the number of cremations as a result of demographic change resulting in excess of 3,000 cremations per year at Penmount. Such figures would remain within theoretical capacity, however, they would significantly increase the use of the preferred core times, resulting in pressure on service delivery and potentially delays in achieving appropriate and timely cremations, I therefore turn to qualitative matters.

*Qualitative Need*

28. It is unreasonable to suggest that a crematorium can realistically serve an unlimited spread of population, and as I have already identified a significant proportion of the population currently served by Penmount are at some distance from the facility. It could therefore be argued that a catchment approach could equally well contribute to the assessment of quantitative need. However, in this case, Penmount currently serves all of West Cornwall as there is no viable alternative. The question to my mind is therefore whether provision at such distance is appropriate considering the qualitative needs of the bereaved.
29. In previous crematorium cases an industry standard, or "rule of thumb", has been applied at 30 minutes travel time for the funeral cortege. It has not been rigidly applied in all cases and in this area, with its dispersed, low density population, I consider it need not be definitive of the populations served by the facility. Nonetheless it provides a starting point for the assessment of the quality of service provided to the bereaved.
30. Two estimates of travel time were put to the Inquiry, the first an Isochronal study from a previous appeal in this area, ref APP/Y0815/A/98/295605, at Killivose, Camborne, the second an Isochronal study submitted by consultants for this appeal. The studies do not conform, even allowing for the different locations across Camborne. That submitted to the Killivose appeal would appear to show 30 minute drive times with no allowance for the slower speeds associated with the funeral cortege. While this is not explicit in the decision it is supported by the report accompanying the study.
31. The study submitted with this appeal is corrected for cortege speeds, a factor of 0.6 has been applied. It is, however, flawed, identifying similar journey times for points along the same road, apparent for the A30 at Scorrier but even more so for the A390 from St Austell where 3 consecutive points are reported to be on the 30 minutes limit.

32. My conclusions on the matter are therefore only informed in part by the studies but also by submissions from funeral directors and the clergy. I consider that the industry accepted travel times for Penmount, particularly including some flexibility for this rural area, would encompass Newquay and St Austell to the east and Falmouth, Penryn and Redruth to the south and west. For the proposed crematorium it would encompass Hayle and possibly Penzance to the west and would extend to overlap with the Penmount catchment at Redruth to the east.
33. In my view the accounts of funeral directors and the clergy are persuasive, identifying travel times to Penmount well in excess of 30 minutes extending in Summer periods to twice that or even longer. This is a significant qualitative factor that weighs in favour of the proposal, and while I accept that there would remain a population to the far west that would still be in excess of 30 minutes from the new facility, nonetheless the situation would be significantly improved for a large part of the population of west Cornwall.
34. Although I have considered the theoretical capacity of Penmount under quantitative need, I turn now to the quality of the funeral experience it can provide. I had the opportunity to visit Penmount at a time when three consecutive funerals were taking place in each chapel. There is no question that the setting is exceptional and no evidence is before me to suggest that the management and staff are anything less than highly professional in the service they provide. However, accepting that this was only a snapshot, the site at the time of my visit was busy with a large number of cars parked around the chapels and a lot of people moving around the immediate area.
35. Of greater concern is the evidence submitted indicating the delay between death and funeral. It is apparent from this that over 80% of funerals take place at least 7 days after death. These figures support the perceptions encompassed in submissions from funeral directors and clergy which point to significant difficulty in mourners achieving their preferred time and day for funerals and consequential delays or compromise. Such pressures are clearly greater in winter with increased delays during January and February in particular, with a significant proportion extending to over two weeks from date of death. While these delays can only partly be explained by Coroner delays or similar, this presents substantial evidence of pressures on the capacity of Penmount to meet the qualitative needs of such a large population.
36. The provision of a crematorium further west than Penmount would not only reduce the travel times but also the distance travelled by mourners attending funerals at the proposed facility. The appellants have calculated significant reductions in car miles and CO<sub>2</sub> savings and these figures have not been substantially challenged by the Council. National guidance has increasingly highlighted the importance of such benefits, most noticeably in PPS1 and the recently published Planning and Climate Change Supplement, and such reductions are in compliance with the Structure Plan, Policy 28 which states that consideration should be given to the overall pattern of development and minimising the need to travel.
37. Concerns were raised over the ability of the proposed single cremator facility to provide an uninterrupted service and a fitting onsite experience for mourners. The appellants currently run a number of similar facilities throughout the country and I am satisfied that maintenance and repair programmes can achieve a suitable level

of service, and that the facility could provide an appropriate experience for mourners based on the daily period of operation and length of service.

38. I place significant weight on the needs of the bereaved and conclude that the proposed crematorium would result in benefits not only in terms of the times involved in travelling to and from funerals, but also in provision of appropriate timescales for funerals to take place and potentially the experience on-site which may currently be under pressure at the busiest times of the year. These benefits would accrue not only to those who would be served by the proposed crematorium, but to the wider population now served by Penmount

### **Ecology**

39. The most recent ecological appraisal submitted to the Inquiry highlighted the nearby, but off-site, presence of badger setts and activity and the potential for dormice associated with the mature hedgerows on and surrounding the site. Full surveys have not been carried out. Although no records of dormice are reported from this site, increasing numbers are being reported in Cornwall. Surveys should therefore have been undertaken for both badgers and dormice prior to determination, and the use of conditions to address a survey, particularly for dormice, would not normally be appropriate.
40. In this case, however, the relevant hedgerow habitat supporting dormice would be largely retained and undisturbed. Only two short lengths are proposed to be removed where access is required into and within the site. In addition, significant additional hedgerow planting is proposed. Nevertheless appropriate precautions need to be taken which can, in this case, be achieved through suitable conditions to protect the existing hedgerows and identify the presence of these species, which, if found, can then ensure suitable protection of resident animals and timing of works. In light of this I conclude that there will be no material harm to protected species from this development.

### **Other Matters**

41. Concerns were raised regarding the level of parking to be provided on site. However, this exceeds the expected standards set out for crematoria by the Federation of British Cremation Authorities, although the level proposed here would be acceptable in this rural area. I am satisfied that suitable management responses would be in place for the occasional larger cremation.
42. The new facility would increase use of the local road off the A30 (T) that passes two properties which have entrances onto this road. The road is wide enough for two cars to pass, even at its narrowest point outside Elmhurst, and while mourners' vehicles and the cortege may introduce limited delays this would be for only short periods of the day. The crematorium would be restricted in its opening hours such that there would be no significant traffic associated with the proposal at peak times of commuter traffic, benefiting users of the Strategic Road Network, the A30 (T), as well as the local road network to Kehelland and Reskadinnick. Visibility from the new entrance could be adequately controlled by condition and the layout is such that I would not anticipate any delay to vehicles entering the site and consequential queuing back along the road.
43. I am satisfied that the environmental controls to which any new facility would be subject would ensure no harm would arise to nearby properties from odour or



noise. While I accept that the site itself may experience some noise from the nearby A30 (T) this was not appreciable at the time of my visit and is likely to be reduced by the landscape planting; such concern is not sufficient to alter my decision on this matter.

44. Reference was also made to occasional odours affecting the area from the nearby sewage treatment works at Kieve Mill. I accept that should this be a common occurrence it would impact on the experience for mourners. However, the works are at some distance and controls should be in place to limit such occurrences, I do not consider that this matter weighs significantly against my decision on this matter.

*Other Appeal Decisions*

45. A large number of appeal decisions were referred to by both parties during the Inquiry. I have already referred to the peninsular nature of Cornwall setting it apart from other areas in the country, and therefore consider the most relevant previous decisions to be those relating to Killivose and to the other nearby site at Kieve Mill, ref APP/Y0815/A/94/243697. While these related to proposed new crematoria in the Camborne area there are notable differences with this proposal.
46. At Kieve Mill the building was of a larger scale with a significantly higher chimney, and was located close to, and open to views from, the AONB. It was also located further from the main arterial A30 (T) and commensurate time savings for the cortege were less persuasive than for this scheme. The qualitative benefits were therefore not felt to be compelling in outweighing the substantial harm to the landscape.
47. At Killivose a larger facility was again open to views and despite the brownfield nature of the site, the prominent and visually intrusive nature of the development with significant loss of hedgerows was felt to be unacceptable. Major benefits were identified in the provision of a crematorium for west Cornwall but these were felt to be reduced by the poor access to the site, the absence of support and the failure to serve parts of west Cornwall. In the scheme before me there has been a comprehensive and substantially unchallenged assessment of alternatives, significantly enhanced access from the A30 (T), a high level of support from funeral directors and clergy and a greater focus on providing a scheme that integrates into the landscape.
48. For both schemes, while reduced vehicle miles were acknowledged, the emphasis on the benefits of such savings and their importance in reducing the future levels of climate change were not as prominent as they are now.

**Conclusion**

49. Penmount has been providing a service to a large and dispersed population throughout central and west Cornwall for a considerable period. While the number of cremations carried out has remained relatively static, I am satisfied that numbers will increase into the future as a result of demographic change. While the facility is well managed and in an attractive setting it is at considerable distance from a significant proportion of the population it serves. This results in travel times for some mourners that are unacceptable, and while theoretically there is sufficient capacity for the future, the large population served already results in a very busy facility and unacceptable delays in the timing of funerals after death.

50. This proposal would result in an improved quality of experience for the bereaved at both Penmount and the new facility, with reduced pressures leading to more available and timely funerals and significant savings in time and distance for mourners in west Cornwall. While I have identified some harm to the countryside from the introduction of the building, roads and parking areas, nonetheless this would be mitigated by the comprehensive approach to design and landscaping and outweighed by the benefits I have identified.
51. I am conscious that my decision will result in a reduced number of cremations taking place at Penmount. However, I am satisfied that a population of approximately 150,000 people would be within realistic travel times of each facility; a population that is likely to increase. Penmount would therefore draw on a catchment that would be sufficient to ensure it remains into the future.
52. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

#### **Conditions**

53. Conditions were put forward by the Council and were reviewed within the SOCG. I have considered them against the requirements of Circular 11/95. In addition to those regarding implementation and the submission of materials, I have imposed conditions to retain and protect the landscape and boundary features, particularly the hedgerows, for both landscape and ecology reasons. The conditions regarding the design, construction and retention of the access, roads and parking areas prior to use are necessary to ensure safe access and suitable provision for mourners. The site has some archaeological potential but is also within a former mining area; I have therefore imposed conditions to address these matters.
54. I have imposed a condition regarding opening hours during the week to address traffic concerns on the local and trunk road network. In light of the appellants' statements regarding there being no need or preference for funerals on Saturdays, I have also restricted the use of the site for cremations on the weekend.
55. Although some details have been submitted regarding the management of surface water on the site, it is necessary to impose a condition to ensure suitable delivery of these measures, as well as a condition to address the foul drainage needs of the site. Matters relating to the need for full ecological surveys have been addressed above.

#### **Formal Decision**

56. I allow the appeal, and grant planning permission for a crematorium, provision of an access road, parking and servicing areas on land at Race Farm, Puggis Hill, Treswithan, Camborne, Cornwall TR14 0PU in accordance with the terms of the application, Ref PA07/01094/FM, dated 28 June 2007, and the following plans, Ref J06063 01A, J06063 15B, J06063 16B, J06063 17C, J06063 18C, J06063 19C, G269 LS01C, G269 LS02A and BH07029/D05, subject to the following conditions:
- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning

- authority. Development shall be carried out in accordance with the approved details.
- 3) On Mondays to Fridays inclusive, the development hereby permitted shall not be open to members of the public except between 09.30 and 16.30. There shall be no cremations on Saturdays or Sundays.
  - 4) No development shall take place until details of a tree, hedgerow and landscape protection scheme have been submitted to and approved in writing by the local planning authority. The scheme shall address the construction period and shall include positions and specifications of temporary fencing to be erected and an implementation programme. No excavations for services, storage of materials, parking of vehicles, excavation of soils or materials shall take place within the area designated as being protected. The approved tree, hedgerow and landscape protection scheme shall be carried out in accordance with the approved details and implementation programme.
  - 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping based on plans, Ref G269 LS01C and G269 LS02A, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
  - 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority, a plan indicating the design, materials and type of boundary treatment for the boundary to the southeast of the site dividing the main field area. The boundary treatment approved shall be completed before the use hereby permitted begins and shall not thereafter be altered or removed.
  - 7) Before the development hereby permitted is first brought into use, the main access road, circulatory roads and car parking spaces shall be constructed in accordance with the specifications indicated on the approved plans, or such other specification submitted to and approved in writing by the local planning authority. Individual car parking spaces shall be delineated in accordance with the approved details and shall not thereafter be obstructed or used for any other purpose.
  - 8) No development shall take place until the access priority junction is laid out in accordance with the details indicated on drawing No BH07029/D05. Details of the construction of the visibility splay and low level planting areas shall be submitted to and approved in writing by the local planning authority. The approved junction and visibility improvements shall be completed in accordance with the approved details before any other development is commenced.

- 9) The recommendations of the Sustainable Travel Statement shall be implemented in accordance with the timetable therein, and thereafter maintained.
- 10) No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 11) No development shall commence until a scheme for the provision of surface water drainage has been submitted to and approved in writing by the local planning authority. The drainage works shall be completed in accordance with the details and timetable agreed.
- 12) No development shall commence until a scheme for the provision of foul drainage has been submitted to and approved in writing by the local planning authority. The scheme shall be completed in accordance with the details and timetable agreed.
- 13) Development shall not begin until a scheme to deal with any instability of the ground has been submitted to and approved in writing by the local planning authority. The scheme shall include on site investigations and an assessment to identify the extent of unstable ground and the measures to be taken to avoid risk to buildings when the site is developed. The approved scheme shall be implemented before the development hereby permitted is brought into use.
- 14) Development shall not begin until a scheme to deal with any soil contamination has been submitted to and approved in writing by the local planning authority. The scheme shall include on site investigations and an assessment to identify the extent of contamination and the measures to be taken to avoid risk when the site is developed. The approved scheme shall be implemented before the development hereby permitted is brought into use.
- 15) Other than the matters in respect of badgers and dormice, which are subject to conditions 16 and 17, the development shall be carried out in accordance with the details of the Ecological Appraisal dated 3 May 2007, submitted by Encompass Ecology Ltd.
- 16) Details shall be submitted to and approved in writing by the local planning authority setting out the area, timing and methodology of a survey of the use of the site by badgers and dormice. The survey shall be carried out in accordance with the approved details prior to development commencing and the results made available to the local planning authority.
- 17) Details of any mitigation measures including an implementation timetable, required to safeguard the presence of badgers or dormice identified by the survey referred to in condition 16 shall be submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved timetable.

*Mike Robins*

INSPECTOR