



Appeal Decision

Inquiry held on 11-13 May 2021

Site visit made on 17 May 2021

by Siobhan Watson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2021

Appeal Ref: APP/D3830/W/21/3266563

Land north of Turners Hill Road, Turners Hill, West Sussex

Grid Ref: 533875 135409

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Hartmires Investments Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/20/2877, dated 3 August 2020, was refused by notice dated 21 December 2020.
 - The development proposed is single chapel crematorium with a single abated cremator and natural burial site with associated access, car parking, landscaping and drainage.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 23 June 2021.

Decision

1. The appeal is allowed and outline planning permission is granted for a single chapel crematorium with a single abated cremator and natural burial site with associated access, car parking, landscaping and drainage on land at Turners Hill Road, Turners Hill, West Sussex in terms of the application, Ref DM/20/2877, dated 3 August 2020, subject to the conditions contained within the Schedule at the end of this decision.

Preliminary Matters

2. The appeal proposal is for outline planning permission with all matters reserved for future approval with the exception of access. Whilst not formally part of the scheme, I have treated details relating to appearance, landscaping, layout, and scale as being for illustrative purposes.
3. In light of the appellant's appeal evidence, on the third day of the Inquiry, the Council chose not to pursue its reason for refusal and stated that its position is now that planning permission should be granted. This changed position was delivered orally and in writing by the Council's advocate.
4. Nevertheless, I have written representations to the appeal scheme both supporting and objecting to the proposal. I have taken all these representations into account and I will address the objectors' representations in this decision.

Main Issue

5. In light of the eventual extent of common ground between the Council and appellant, the main issue is whether there are any other considerations that might indicate that the appeal should be dismissed.

Reasons

6. Concern has been expressed locally in respect of several considerations. These include the effect on the character and appearance of the area; the need for the crematorium; air quality; highway safety; development plan policy and the National Planning Policy Framework (the Framework) in respect of development in the countryside; wildflowers; noise and pollution; and concerns that a permission for a crematorium would set a precedent for the construction of a housing estate.

Character and Appearance

7. Planning permissions have accumulated on the site for a natural burial ground, a chapel, a reception building, maintenance building and car parking. Most have been lawfully implemented at considerable expense to the appellant. Therefore, I give the fallback position considerable weight.
8. I recognise that the proposed scheme would result in a significantly larger developed area than that which already has permission. The proposed development would be apparent from the site entrance, from within the site itself, and, to some extent, from the public right of way (PROW) alongside the site. The PROW could be substantially screened by a hedgerow, which would be typical of the landscape character of the area, but this would take time to grow. The fall-back scheme would still have an impact from these viewpoints but it would be less from the PROW and from within the site.
9. Nevertheless, the proposed crematorium, which would replace the consented chapel, would be further from the access from the highway, on lower ground than the approved site of the chapel, and it would have a significantly lower roof height. A parameters plan serves to restrict its siting and height and a planning condition could restrict its floorspace, all of which, would be subject to reserved matters approval.
10. The appeal site is not a valued landscape under the terms of the Framework and no designation for landscape quality or character applies to the appeal site. Given that some of the previous approvals have been implemented, part of the site is previously developed land.
11. The approved chapel would be substantially more visible in views from both the High Weald Area of Outstanding Natural Beauty (AONB) and Turners Hill Road than the appeal proposal as it would be a higher building and much closer to the road than the crematorium would be. Parking for the approved chapel would also be close to and visible from the site entrance, whereas, the main car parking area for the proposed scheme is indicated to be further from the entrance on lower land and it could be screened by intervening planting.
12. For these reasons, the appeal scheme would have more of a visual impact from within the site but significantly less of an impact on the wider landscape, including views from the AONB and Turners Hill Road than would the permitted chapel scheme. The substantial reduction of the impact in those long-range views brought about by the appeal proposal over the permitted chapel outweighs the proposed increased developed area of the site.

13. Taking into account the fallback position, I consider that the appeal scheme would not harm the character or appearance of the area. There would be no conflict with Policy LP DP 12 which seeks to protect and enhance the countryside, Mid Sussex District Plan 2014-2031¹ (LP) DP16 which seeks to protect the setting of the AONB, or LP DP26 which indicates that development should be sensitive to the countryside. Neither do I find direct conflict with the aims and objectives of Turner's Hill Neighbourhood Plan (NP) Policy THP8 which also seeks to protect the countryside.

Highway Safety

14. Representations have been received from objectors that the proposal would increase congestion on the B2110 and at the crossroads in Turner's Hill; that the bends in the road are treacherous and there have been lots of accidents.
15. The Council confirmed that the proposed access has the necessary visibility splays for egressing drivers. It also agrees that forward visibility for drivers turning into the site is acceptable. The appeal scheme is expected to attract an average of 38 two-way vehicle movements per service, with no more than eight services per day. The most popular slots for funerals are outside of peak traffic flows and there would be no services before 9am or after 5pm. There is no technical evidence that the proposal would be hazardous around the site access.
16. The accident data for two off-site junctions of the B2110 Paddockhurst/Turners Hill Road and the B2208/B2210 crossroads reveals one accident at the former and 5 at the latter. It is thought by the appellant's highway consultant that these may be due to driver behaviour or external abnormal factors. The Council has not disagreed with this assessment.
17. Therefore, there is no substantive evidence that the local roads are unsafe and as the traffic flow would be increased by only a small amount as a result of the proposed development, there would not be a significant increase in the risk of accidents.
18. In respect of congestion, the uncontested evidence of the appellant indicates that the increase in flows on weekday and Saturday inter-peak flows on Turners Hill Road would be 5% and an even smaller increase through Turners Hill village.
19. There is no objection from the local highway authority to the scheme and in the absence of any technical evidence to demonstrate otherwise I conclude that the proposed development would neither harm highway safety nor result in an unacceptable increase in traffic flows and congestion.

Need

20. Drive times to cremations would not be significantly reduced, given that the existing crematorium is about 4 miles from the appeal site. However, there would be a small improvement for some of the catchment population.
21. The issue of capacity is more complex. Whilst there may currently be enough slots to accommodate funerals at the Surrey and Sussex (S&S) crematorium, I heard that many of these slots are unpopular as they are early or late in the

¹ Adopted March 2018

day which is inconvenient for people travelling to attend funerals. Furthermore, funerals involve many different people such as the funeral director, minister, family and friends who all need to be accommodated at a mutually convenient time. All of this reduces the number of suitable slots that can be chosen. In any event, the Council's evidence suggests that capacity at S&S might be reached by 2027. Given that reserved matters, the discharge of conditions and the construction period would take some time, the difference between the earliest date the crematorium could be used and the capacity date would not be substantial.

22. In addition, the evidence from the appellant is that there are funeral delays at the S&S crematorium. A survey of 194 obituaries identified average delays between death and cremation of over 3 weeks with an average of 44% of funerals delayed longer. The worst months were the peak winter to spring period. Furthermore, it is proposed that the appeal crematorium would have hour long slots between cremation services so that mourners would not be rushed and be mixing with other funeral parties, resulting in a calmer experience.
23. The proposed crematorium would give greater flexibility and choice of funeral times to mourners. Whilst this is particularly important in some religions and cultures which require a short time between death and cremation, it would benefit all mourners to have more choice and to avoid long delays.
24. Given the above, I consider that even if the existing crematoria can currently and technically provide enough slots, the proposal would constitute a beneficial community facility by giving more choice to mourners, both in terms of the type of facility, the quality of the experience and a greater availability of convenient slots.

Paragraph 84 of the Framework and LP Policy DP 25

25. Framework paragraph 84 indicates that sites to meet community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. It says that in these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads, and exploits any opportunities to make a location more sustainable. It goes on to say that the use of previously developed land and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
26. The proposal would serve both urban and rural communities. It is common ground between the two main parties that legislative constraints deriving from the Cremation Act 1902 indicate that countryside locations are more likely to be required for new crematoria than urban locations.
27. I have found above that the proposal would be sensitive to its surroundings and would not have an unacceptable impact on local roads. Furthermore, the proposal would exploit an opportunity to make the location more sustainable by providing a footpath between St Leonard's Church and the site. This would enable mourners to walk from the church to the site without necessitating the need to walk or drive on the carriageway of Turner's Hill Road, making it within a reasonable walking distance of the edge of the built up area of Turner's Hill.

Furthermore, the scheme would make use of land that is previously developed in part. Therefore, I find no conflict with Paragraph 84 of the Framework.

28. LP Policy DP 25 provides support to community facilities and local services. Crematoria are not included in the list of such facilities but the policy does not indicate that the list is exhaustive. The policy says that such facilities and services will be identified through neighbourhood plans or a site allocations development plan document. The site and facility is not identified in such a way but the evidence I have read and heard persuades me that it does constitute such a service and facility.

Air Quality

29. Interested parties raised concerns about air pollution from both traffic and the cremator, with particular regard to the effect on children, including pupils at the nearby primary school.
30. The site is not in or near an Air Quality Management Area. The appellant submitted evidence from environmental consultants which comprised a review of the existing background concentrations in the vicinity of the site and detailed modelling emissions. The findings of the air quality assessment indicated that there would be no significant impacts regarding either the emissions from the crematorium plant or from the traffic associated with the operation of the crematorium.
31. In accordance with the Environmental Permitting (England & Wales) Regulations 2016, an Environmental Permit from the Environment Agency would be required to operate the facility. This would incorporate measures to minimise and control emissions and ensure there would be no significant adverse impacts. On this basis, the Council's Environmental Health Officer raised no objection to the proposal.
32. No technical evidence was provided by interested parties in this respect and I am satisfied from the evidence of both main parties that air quality would not be unacceptably affected.

Noise

33. The closest noise sensitive receptor (NSR) in the vicinity of the site is St Leonards Church which is about 230m from the site boundary. Based on the projections of traffic attracted to the site, the appellant's noise report indicates that there would be a change of less than 1 dB at the NSR which would be imperceptible.
34. It is expected that music within the chapel/crematorium would be at a low volume and enclosed within the building itself so that it would not be perceptible at the nearest NSR. The noise data provided by the appellant indicates that the internal fixed plant of the crematorium would operate at less than 55 dB(A) just outside the roller shutter doors of the plant room. The only other external plant would be the 'Dry Air Cooler' which is rated at 37 dB(A) at 20m. Considering the 58m distance between all the plant and the nearest footpath (No 68W), cumulative noise levels would be less than 28 dB(A). This noise level is below the guidance limit inside a bedroom at night (WHO/BS8233 noise limit of 30 dB(A)) and therefore likely to be well below the existing daytime noise climate at the nearest footpath and at the much more distant dwellings.

35. There was objection in relation to noise in combination with Tulley's Shocktoberfest. This is an event held in October at Tulley's Farm which neighbours the appeal site. However, given the distance to the nearest NSR and the limited noise emanating from the proposed development, it is unlikely that there would be any combined effects on noise levels as a result of the proposed Crematorium and the Shocktoberfest event.
36. I therefore conclude that there would not be an unacceptable level of noise from the site and, in this respect, there would be no harm to the character of the area or to the living conditions of residents in the wider locality.

Wildflowers

37. A preliminary ecological appraisal report was submitted with the planning application. A desk-based study was undertaken to examine published information and biological records from within the search area (site centroid plus 1km). The desk study established that there are two statutory protected wildlife sites (a Site of Special Scientific Interest (SSSI) and an Area of Outstanding Natural Beauty (AONB)), and two non-statutory sites of local importance (a Local Wildlife Site and a Local Geological Site)) within the desk study search area.
38. The desk study also looked at records of protected/notable habitats/species within the site and its surrounding area. This information was collected from MAGIC² and Sussex Biodiversity Records Centre. A survey of the site was also undertaken by an ecologist.
39. There are records within the desk study search area of Bluebell (*Hyacinthoides non-scripta*) and Small-flowered Sticky Eyebright (*euphrasia officinalis* subsp. *Anglica*) but no rare or protected species of flora were recorded within the site itself. Based on the habitat types present on the site, which comprise improved grassland, tall ruderal and scrub, it is considered unlikely that these are present. As a result, botanical species are not considered to present a constraint to the development proposals.
40. Moreover, landscaping is a reserved matter and the Council would have the opportunity to agree flower planting with the developer. In addition, a planning condition has been agreed between the parties to secure native wildlife habitat enhancement planting.
41. I conclude that the proposed development would not have any significant adverse effects on wildflowers.

Housing

42. A housing estate would be a very different development to the appeal scheme and it would be considered under different policies. All applications and appeals must be determined on their own particular merits. Therefore, a grant of planning permission for the crematorium, burial ground and its associated development would not set a precedent for housing on the site.

Other Matters

43. In the event that planning permission were to be granted and implemented a unilateral undertaking pursuant to Section 106 of the Act has been submitted.

² Multi-agency Geographic Information for the Countryside

There are obligations covering 3 areas: the prevention of development granted by other planning permissions on the site being undertaken in combination with the appeal development; the management and maintenance of the existing footpath from St Leonard's Church to the site; and highway works.

44. I have considered the unilateral undertaking in light of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) and Government policy and guidance on the use of planning obligations.
45. It is necessary to prevent the appeal scheme being implemented in combination with other planning permissions as I have considered the appeal proposal on the basis that the approved chapel would be replaced by the crematorium building. Implementing a mixture of the other approvals would have a different effect upon the locality to implementing the appeal scheme on its own.
46. The maintenance and management of the footpath is necessary to provide a safe walking route from the church and to encourage sustainable transport choices.
47. The Highway Works comprise the provision of roadway signage in the form of additional SLOW markings and transverse contrasting asphalt strips on the approach to the B2028/B2110 crossroads. These crossroads are some distance from the appeal site and given that I have found that the increase in traffic movements arising from the development on Turners Hill Road would be very low, with an even smaller increase through Turners Hill village, I do not consider that the road markings are necessary to make the development acceptable.
48. Therefore, only the obligations relating to the implementation of other permissions and the maintenance of the footpath are directly, fairly and reasonably related to the proposed development and necessary to make it acceptable in planning terms. The contribution towards the off-site highway works does not pass the relevant tests and it would be unlawful for me to take it into account.

Conditions

49. The Council and the appellant agreed a list of draft conditions. I have considered these against the Planning Practice Guidance on the use of conditions and made amendments accordingly.
50. In addition to the standard implementation conditions, it is necessary to define the plans in the interests of certainty. In the interest of highway safety and to protect the tranquil character of the area, it is necessary to require a construction and environmental management plan and to restrict the hours of construction. In the interest of the protection of ecology, conditions relating to a habitat buffer zone, planting, and external lighting are necessary. A condition is required to secure the satisfactory drainage of the site in the interest of public health and the avoidance of flooding. I have not imposed separate foul water drainage condition as this is controlled under Building Regulations. The site has archaeological significance so I have imposed a condition requiring a programme of archaeological investigation. Conditions are necessary in respect of a fire hydrant, land contamination and air emissions in the interest of health and safety. Conditions in respect of the provision of the access and parking are

necessary in the interest of highway safety. In the interest of environmental amenity a condition is necessary in respect of the management of waste. The floorspace of the crematorium building is restricted in the interest of the character and appearance of the area. Conditions in respect of intervals between services, and a limitation on the number of services / hours of operation are required in the interest of the character of the area and to limit traffic during peak hours. A condition in respect of the footpath outside of the application site but under the appellant's control is necessary to ensure that pedestrian access is maintained in the interests of safety and sustainable travel choices.

Conclusion

51. I conclude that the proposal is acceptable and I find no conflict with the development plan as a whole. Even if there were conflict with the development plan, the proposed scheme would have a less harmful impact on the character and appearance of the countryside than the fallback position. This factor in itself, and in the absence of any other harm, justifies allowing the appeal. I therefore allow the appeal subject to the conditions in the attached schedule.

Siobhan Watson

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Watt³ BSc(Hons) MTPL MRTPI, Senior Planning Officer, Mid Sussex District Council (Planning)

Emma Dring, of Counsel

She called:

Stuart Ryder, Ryder Landscape Consultants (Landscape)

John Dodsworth BA(Oxon), Beacon Dodsworth (Need and Benefits)

FOR THE APPELLANT:

Lisa Jackson⁴ BSc(Hons) MA MRTPI, Managing Director, Lisa Jackson Planning (Planning)

Andrew Tabachnik QC, instructed by Mark Brassey of Collins Benson Goldhill LLP

He called:

Mark Gibbins BA(Hons) MLI, Director, Indigo Landscape (Landscape)

Peter Mitchell FICCM(Dip), Peter Mitchell Associates (Need and Benefits)

Matthew Last BEng(Hons) MCIHT, Director, Ardent (Highways)

INTERESTED PARTIES:

Cllr Ian Gibson, Ward Councillor, Crawley Down and Turners Hill

DOCUMENTS submitted at the Inquiry

A1. Revised suggested conditions

A2. Parameters Plan 917-GA-02 B

A3. Draft unilateral undertaking

C1. Note on the Local Planning Authority's withdrawal of objection

DOCUMENTS submitted after the Inquiry

C2. CIL Compliance Statement

A4. Signed and dated unilateral undertaking

³ Andy Watt was not called to give evidence because the Council withdrew its objections but he was involved in the roundtable discussion of conditions and the unilateral undertaking.

⁴ Lisa Jackson as footnote 3 above.

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development to which this permission relates shall begin not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Indigo Landscape Architects Parameters Plan 917-GA-02B; Indigo Landscape Architects Location Plan 17-GA-03A; Ardent Proposed Site Access and Swept Path May 2020 190561-001-Rev-F
- 4) No development shall take place until a Construction & Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall include the following matters:
 - an indicative programme for carrying out of the works;
 - the anticipated number, frequency and types of vehicles used during construction;
 - the method of access of vehicles during construction;
 - the parking of vehicles by site operatives and visitors;
 - the loading and unloading of plant, materials and waste;
 - Delivery hours;
 - arrangements for the storage of plant and materials used in the construction of the development;
 - the erection and maintenance of security hoardings, including decorative displays and facilities for public viewing, where appropriate;
 - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders where appropriate);
 - avoidance and mitigation measures to prevent harm or damage to wildlife and habitats;
 - measures to minimise the noise and vibration generated by the construction process. This shall include hours of work, proposed method of piling for foundations, the selection of plant and machinery and use of noise mitigation barrier(s);
 - measures to control the emission of dust and dirt during construction;
 - details of any floodlighting, including location, height, type and direction of light sources and intensity of illumination; and
 - a construction waste management plan for recycling and disposing of waste resulting from construction works.
- 5) Prior to the commencement of development, the developer shall provide a 15m deep buffer zone, to be secured by temporary security fencing, to the hedges and watercourses along the site boundaries. The habitat within the buffer zones shall be maintained as existing and there shall be no access to these buffer zones during the construction process. Prior to the first use of the crematorium,

the fencing shall be removed and the buffer zones left as a natural area for wildlife thereafter.

- 6) Prior to the commencement of the development, details showing the location of one fire hydrant or stored water supply shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before development commences and connection to mains water shall be provided before the first use of the crematorium.
- 7) No development shall commence until the following details have been submitted to, and approved by, the local planning authority:
 - detailed proposals for wildlife habitat enhancement and long-term management including ecologically-appropriate species mixes and stock of native provenance and origin for naturalistic planting.
 - A minimum buffer zone of 15m from the edge of adjacent ancient woodland, to comprise a semi-natural habitat with new naturalistic planting to create a wildlife habitat.

The works shall be carried out in accordance with the approved details in the first planting season after the first use of the crematorium.

- 8) The development hereby permitted shall not commence until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building shall be brought into use until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.
- 9) No development shall commence until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 10) Any contamination that is found during the course of the construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 11) No cremations shall take place on the site until details of a scheme of mitigation measures to maintain air quality are submitted to and approved in

writing by the Local Planning Authority. The scheme shall be in accordance with, and to a value derived in accordance with, the Air Quality and Emissions Mitigation Guidance for Sussex current at the time of the reserved matters application. The development shall be completed and thereafter maintained in accordance with the approved details.

- 12) No part of the development shall be brought into use until the site access has been constructed in accordance with the approved site plan in accordance with the approved plan, Site Access and Swept Path May 2020 190561-001-Rev-F and it shall remain thereafter.
- 13) Before the first use of the crematorium, the site will be laid out with a maximum of 111 parking spaces in accordance with plans to be submitted to and approved in writing by the Local Planning Authority. The car parking spaces shall thereafter be retained at all times for car parking.
- 14) No construction or demolition activities shall take place, other than between 08:00 to 18:00 hours (Monday to Friday) and 08:00 to 13:00 hours (Saturday).
- 15) No part of the development hereby permitted shall be occupied until details of the site waste management facilities have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be implemented in accordance with the approved details before the first use of the development hereby approved and thereafter retained.
- 16) Notwithstanding the indicative area marked for the siting of the building on the approved parameters Plan, No 917-GA-02 B, the floorspace of the crematorium building shall not exceed 600 square metres gross internal area. For the avoidance of doubt, this does not include any external areas, such as a porte cochere.
- 17) No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The scheme should seek to conform with the recommendations within BS5489:1-2013 but also minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding. The lighting shall be installed and maintained in accordance with the approved details.
- 18) No funeral services shall take place outside of the hours of 09:00 and 17:00 Monday to Saturdays and there shall be no more than 8 services per day. There shall be no services on Sundays or Bank Holidays.
- 19) Any service starting between 10.30am -3.30pm shall have a service interval of at least one hour.
- 20) No cremations shall take place on the site until a management plan securing the maintenance of the footpath from the site to St Leonard's Church is submitted to and approved in writing by the local planning authority and thereafter maintained in accordance with that schedule.

END