

MID SUSSEX DISTRICT COUNCIL

DM/21/0014

Turners Hill Burial Ground, Turners Hill Road, Turners Hill, West Sussex,
Proposed chapel building including basement, internal site access road and associated
landscaping within natural burial ground. (Renewal of planning consent DM/18/0677).
Hartmires Investments Ltd

CONSULTATIONS

Parish Consultation

The Council continues to believe this is an inappropriate development of a site adjacent to an Area of Outstanding Natural Beauty as evidenced by the orange hoardings which are having a significant adverse impact on the character of the surrounding area and fails to comply with DP12 - Protection and Enhancement of the Countryside.

SUMMARY OF REPRESENTATIONS

1 letter of objection:

- Will destroy Area of Outstanding Natural Beauty
- As the crematorium and natural burial ground application has been refused, it follows that the developer has no need for a chapel
- This chapel will still wreck the view, as does the orange hoarding
- Out of character
- Unwanted with plenty of burial space left for village needs at the church almost opposite

SUMMARY OF CONSULTEES

MSDC Drainage Engineer

No objection, subject to condition.

MSDC Street Naming and Numbering Officer

Informative requested.

INTRODUCTION

Full planning permission is sought for a proposed chapel building including basement, internal site access road and associated landscaping within a natural burial ground (Renewal of planning consent DM/18/0677).

RELEVANT PLANNING HISTORY

A hedgerow application for the removal of the frontage hedgerow was refused on 12 May 2014 (14/01227/HEDGE) and a prior notification application for the erection of a proposed agricultural building on a field parcel to the north of that which adjoins the highway was refused in May 2014.

Full planning permission was refused on 23 May 2014 for the construction of a new access to two field parcels on the site, including removal of a boundary hedgerow and replanting of a replacement boundary hedgerow (14/01226/FUL). The reason for refusal stated:

'In the opinion of the Local Planning Authority, the proposed access is considered to be too large for the intended use of the land such that it would have an unacceptably harmful impact on the rural character of the area, contrary to paragraphs 7, 14, 17, 56 and 58 of the National Planning Policy Framework and policies C1 and C10 of the Mid Sussex Local Plan.'

An appeal was lodged against this decision and dismissed in September 2014.

In September 2015, planning permission was granted for a change of use of the land to a natural burial ground and the erection of a reception building with associated access, parking and landscaping (DM/15/1035). This permission has been lawfully implemented.

In August 2016, outline planning permission was refused for the development of 22 affordable dwellings with new footway and means of access (DM/16/1887). The reasons for refusal were as follows:

1. The proposed development lies within a relatively isolated and unsustainable rural location and would be unacceptable in principle, as the extent of the built form would result in harm to the rural character of the area and setting of the High Weald Area of Outstanding Natural Beauty, which would not be contiguous with the built-up area boundary of the village and the existing scattered settlement pattern of housing in the immediate vicinity. Future residents would be more dependent upon the car to access day-to-day services as the footpath link to the village would be largely unlit and consequently unsafe. The proposed development would therefore be socially and environmentally unsustainable and these adverse impacts would significantly and demonstrably outweigh the benefits (in terms of helping to meet a District-wide need for housing, including provision of affordable housing, and economic benefits through the construction phase and spending in the local area from future residents). Moreover, the site is not allocated for housing in the 'made' Turners Hill Neighbourhood Plan. Accordingly the application would conflict with Policies C1, C4, B1 and T4 of the Mid Sussex Local Plan, Policy THP8 of the 'made' Turners Hill Neighbourhood Plan, Policies DP10, DP14, DP19 and DP24 of the draft Mid Sussex District Plan and paragraphs 7, 8, 14, 17, 29, 35, 115 and 198 of the National Planning Policy Framework.

2. The proposal does not adequately mitigate the potential impact on the Ashdown Forest SPA and SAC and therefore would be contrary to the Conservation of Habitats and Species Regulations 2010, Policy C5 of the Mid Sussex Local Plan, Policy DP15 of the draft Mid Sussex District Plan and paragraph 118 of the National Planning Policy Framework.

3. The application fails to comply with Policies G3 and H4 of the Mid Sussex Local Plan, Policy THP19 of the 'made' Turners Hill Neighbourhood Plan, Policies DP18 and DP29 of the draft Mid Sussex District Plan and paragraphs 203 and 204 of the National Planning Policy Framework in respect of the infrastructure and affordable housing required to serve the development.

An appeal was lodged against this decision and dismissed in June 2017.

In June 2017, planning permission was refused for the construction of a new chapel building with associated landscaping within the approved burial ground and enlarged car parking area for 37 cars (DM/17/1167). The reason for refusal was as follows:

1. The scale and design of the proposed chapel building and the extent of the hard standing car park would have an adverse impact on the landscape, contrary to Policies C1 and B1 of the Mid

Sussex Local Plan, Policy THP8 of the Turners Hill Neighbourhood Plan and Policy DP24 of the draft Mid Sussex District Plan.

An appeal was lodged against this decision and allowed in December 2017. This has not been implemented.

In May 2018, full planning permission was granted for the re-siting of the consented chapel building with excavation and construction of new basement, internal site access road and associated landscaping (DM/18/0677). This has not been implemented.

In September 2018, outline planning permission was refused for the construction of a new barn/workshop, hard standing area, internal site access road and footway, crossing to an existing public right of way and associated works - on the northern field (DM/18/2675). The reasons for refusal were as follows:

1. The proposed development lies in a Countryside Area of Development Restraint, where planning policies seek to protect the countryside for its own sake by minimising the amount of land taken for development and preventing development that does not need to be there. The proposed access would have an urbanising effect on the rural character of the area and the proposed scale of the building (and its siting within the tightly-drawn red-lined area) would be harmful to the landscape quality of the area, particularly in views from the public right of way. The need for this building in relation to the small-scale, low intensity lawful use of the site has not been demonstrated, and neither has its siting at some distance from the previously approved cluster of buildings and car parking areas. As such, the proposal would not comply with Policies DP12, DP25 and DP26 of the Mid Sussex District Plan, Policy THP8 and THP13 of the Turners Hill Neighbourhood Plan and paragraphs 11, 12, 130 and 170 of the NPPF.

2. Insufficient information has been submitted to justify the loss of good quality trees that the proposed development would entail, so the application would be contrary to Policy DP37 of the Mid Sussex District Plan.

An appeal was lodged against this decision and dismissed in April 2019.

In February 2019, planning permission was granted for a staff car park comprising 8 car parking spaces (DM/18/5092). This has not been implemented and is now superseded as a result of the implementation of permission DM/19/5100.

In February 2020, planning permission was granted for the re-siting and construction of a staff car parking area comprising 8 car parking spaces (DM/19/5107). This has not been implemented.

In March 2020, outline planning permission was granted for the construction of a barn/workshop for the storage and maintenance of operational vehicles with all matters reserved except for access, appearance, layout and scale (DM/19/5100). The remaining reserved matters application (for landscaping) was granted in July 2020 (DM/20/1557). Implementation of this permission took place in December 2020, albeit the building is unfinished with no roller shutter door or floor (a concrete slab was specified in the submitted Sustainability Assessment of planning permission DM/19/5100) and with an additional door to the front (which was not shown on any approved plans).

In December 2020, outline planning permission was refused for a single chapel crematorium with a single abated cremator and natural burial site with associated access, car parking, landscaping and drainage. All matters were reserved apart from access (DM/20/2877). The reason for refusal stated:

The proposed development would have an adverse impact on the intrinsic character and beauty of the local countryside, including the setting of the High Weald Area of Outstanding Natural Beauty, which would be further harmed by the necessary woodland mitigation screen planting. This harm is not considered to be outweighed by an overriding need for this development and is therefore contrary to Policies DP12, DP16, DP25, DP26 and DP37 of the Mid Sussex District Plan, Policies THP8 and THP13 of the Neighbourhood Plan, the provisions of the NPPF, in particular, paragraphs 8, 11, 124, 127, 130 and 170, Objectives FH2 and FH3 of the High Weald AONB Management Plan 2019-2024 and Design Principles DG3, DG7 and DG11 of the Mid Sussex Design Guide SPD.

An appeal has been lodged against this decision and is due to be heard by way of a Public Inquiry in May 2021.

SITE AND SURROUNDINGS

The red-lined site area forms a field parcel, mainly grassland but with the southern part having been subject to groundworks and some planting to implement planning permission DM/15/1035, together with a maintenance building approved under DM/19/5100 and constructed in December 2020. There is an access to the site onto Turners Hill Road in the centre of the field parcel, with visibility splays achieved by means of a translocated hedgerow.

The site lies immediately adjacent to an access to Tulleys Farm to the west, and is located just beyond the village church to the south-east. Turners Hill Road is a 60mph road of rural character, bounded by hedging on both sides, which connects the village of Turners Hill with Crawley some 2 miles or so to the west. Running along the western and north-western boundaries is a public right of way. A further field parcel within the applicant's ownership is located further north. To the east is an ancient woodland (Butchers Wood). Land to the south on the opposite side of Turners Hill Road consists of fields within the High Weald Area of Outstanding Natural Beauty.

APPLICATION DETAILS

Full planning permission is sought for a proposed chapel building including basement, internal site access road and associated landscaping within a natural burial ground. It is a renewal of planning consent DM/18/0677, which is currently extant but will lapse on 29 May.

The building will be sited approximately 15m to the east and 25m to the north of the approved reception building. A new access road and turning area to the chapel building will be extended from the spur car parking area to the north-east. A walkway will connect the chapel to the main car parking area, and immediately adjacent to the access to the maintenance building, recently erected.

The chapel building has been designed in a contemporary style with materials consisting of cedar shingle clad walls and roofs. It will rise to a maximum height of 11m when viewed from the natural ground levels to the south, west and north (for comparison, the maximum height of the reception building will be 4m). However, where the full height of the building is apparent from the east, it will rise to 13m in height. The building will have a width of 10.4m and length of 24.4m. The excavation of the ground and formation of a new basement entirely beneath the approved chapel will comprise an internal area of 20m in length by 8.7m in width.

LEGAL FRAMEWORK AND LIST OF POLICIES

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically Section 70(2) of the Town and Country Planning Act 1990 states:

'In dealing with such an application the authority shall have regard to:

- *The provisions of the development plan, so far as material to application,*
- *Any local finance considerations, so far as material to the application, and*
- *Any other material considerations.'*

Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides:

'If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

Under Section 38(5) of the Planning and Compulsory Purchase Act 2004, if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point, the development plan for this part of Mid Sussex consists of the Mid Sussex District Plan (2018) and the Turners Hill Neighbourhood Plan (2016).

National policy (which is contained in the National Planning Policy Framework and National Planning Practice Guidance) does not form part of the development plan, but is an important material consideration.

Mid Sussex District Plan (Mar 2018)

The Mid Sussex District Plan 2014-2031 was adopted at Full Council on 28 March 2018.

Relevant policies:

Policy DP12: Protection and Enhancement of Countryside
Policy DP14: Sustainable Rural Development and the Rural Economy
Policy DP21: Transport
Policy DP25: Community Facilities and Local Services
Policy DP26: Character and Design
Policy DP37: Trees, Woodland and Hedgerows
Policy DP38: Biodiversity
Policy DP39: Sustainable Design and Construction
Policy DP41: Flood Risk and Drainage

Turners Hill Neighbourhood Plan (Mar 2016)

Mid Sussex District Council formally 'made' the Turners Hill Neighbourhood Plan part of the Local Development Plan for the Parish of Turners Hill as of 24 March 2016. The policies contained therein carry full weight as part of the Development Plan for planning decisions within Turners Hill.

Relevant policies:

Policy THP8: Countryside Protection

Mid Sussex Design Guide Supplementary Planning Document (Nov 2020)

The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

Relevant design principles include:

Principle DG3: Work with the site's natural features and resources

Principle DG7: Respond to topography and strategic views

Principle DG11: Respond to the existing townscape, heritage assets and historic landscape

Principle DG37: Deliver high quality buildings that minimise their environmental impact

National Planning Policy Framework (NPPF) (Feb 2019)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently. An overall aim of national policy is '*significantly boosting the supply of homes.*'

Paragraph 12 of the NPPF states: '*The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*'

Paragraph 38 of the NPPF states: '*Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.*'

With specific reference to decision-taking, paragraph 47 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

In addition, paragraphs 11 (presumption in favour of sustainable development), 54 and 55 (use of conditions), 80 (building a strong, competitive economy), 83 and 84 (supporting a prosperous rural economy), 102 and 103 (promoting sustainable transport), 108 and 109 (highways matters), 124 and 127 (design), 170 (enhancing the natural and local environment), 175 (biodiversity and ancient woodland), 180 (noise and light pollution) are considered to be relevant to this application.

National Planning Practice Guidance

National Design Guide

Ministerial Statement and Design Guide

On 1 October 2019 the Secretary of State for the Ministry of Housing, Communities and Local Government made a statement relating to design. The thrust of the statement was that the Government was seeking to improve the quality of design and drive up the quality of new homes. The Government also published a National Design Guide, which is a material planning consideration.

The National Design Guide provides guidance on what the Government considers to be good design and provides examples of good practice. It notes that social, economic and environmental change will influence the planning, design and construction of new homes and places.

ASSESSMENT

Principle of development

Policy DP12 of the Mid Sussex District Plan states (in part):

'The countryside will be protected in recognition of its intrinsic character and beauty. Development will be permitted in the countryside, defined as the area outside of built-up area boundaries on the Policies Map, provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and:

- *it is necessary for the purposes of agriculture; or*
- *it is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.'*

Policy THP8 of the Neighbourhood Plan states:

'Outside the Built up Area Boundary (which is shown on the proposals map on page 24), priority will be given to protecting and enhancing the countryside from inappropriate development. A proposal for development will only be permitted where:

- a) It is allocated for development in Policy THP1 or would be in accordance with Policies THP7 and THP14 of this Plan or other relevant planning policies applying to the area; and*
- b) It must not have a detrimental impact on, and would enhance, areas of substantial landscape value or sensitivity, and*
- c) It must not have an adverse impact on the landscape setting of Turners Hill and*
- d) It must maintain the distinctive views of the surrounding countryside from public vantage points within, and adjacent to, the built up area; and*
- e) Within the High Weald Area of Outstanding Natural Beauty it must conserve and enhance the natural beauty and would have regard to the High Weald AONB Management Plan.*
- f) It is essential to meet specific necessary utility infrastructure needs and no alternative feasible site is available.*

Our Strategic Gaps are identified in MSDC Local Plan policy C2 and the High Weald Area of Outstanding Natural Beauty by Local Plan policy C4.

Policies in the emerging District Plan will provide protection and enhancement in relation to trees, woodland and hedgerows as well as biodiversity.'

Policy DP25 of the Mid Sussex District Plan refers to community facilities and local services and includes 'cemeteries and burial grounds'. It states (in part):

The provision or improvement of community facilities and local services that contribute to creating sustainable communities will be supported.

Community facilities and local services to meet local needs will be identified through Neighbourhood Plans or a Site Allocations Development Plan Document produced by the District Council.

The change of use of the land to a natural burial ground has been lawfully implemented, with groundworks having been carried out. While no building works have yet been undertaken other than the maintenance building, the permission provides for a modestly-scaled reception building and car parking area (with spur), located close to the site access. There have been two previous permissions for a chapel building to be associated with this use, therefore the principle of such a building on this site has been previously considered acceptable.

In allowing the appeal for the chapel building in relation to the first application, the Inspector made the following point:

'Given the planning permission for the site as natural burial ground, the provision of a commensurate chapel building is not unreasonable. The siting of the building close to and parallel with the consented reception building is appropriate and would concentrate activity close to the car park. The building would be longer and higher than the reception building, but its bold modern design form would reflect its use as a chapel. In view of its height, it would be a conspicuous building when viewed from close quarters but the proposed materials would help its assimilation into this rural setting. Overall, I consider that the chapel would accord with the provisions of Policy B1 of the Local Plan that requires a high standard of design, construction and layout in new buildings including a sensitive approach respecting the character of the locality and material appropriate to the site.'

In conclusion, the original application for a chapel building was approved by an appeal Inspector; the subsequent application was not so significantly different as to warrant a different decision; and as this latter consent remains extant, the policy background is virtually the same to again not warrant a different decision. Accordingly, it is considered that this chapel building would be in accordance with Policies DP12 and DP25 of the Mid Sussex District Plan and Policy THP8 of the Turners Hill Neighbourhood Plan.

Design and visual impact on the character of the area

Policy DP26 of the Mid Sussex District Plan states:

'All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:

- *is of high quality design and layout and includes appropriate landscaping and greenspace;*
- *contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- *creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- *protects open spaces, trees and gardens that contribute to the character of the area;*
- *protects valued townscapes and the separate identity and character of towns and villages;*
- *does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);*

- *creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- *incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- *positively addresses sustainability considerations in the layout and the building design;*
- *take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element;*
- *optimises the potential of the site to accommodate development.'*

The officer report for the second, most recent application (DM/18/0677) made the following assessment:

'The applicant's Planning Statement advises that the proposed basement area 'forms an additional space under the building for storage and operational management of the facilities and the proposed internal site access road will help movement and connectivity within the site in a sensitive manner.'

Officers requested further detail to this Statement. The response from the applicant's agent stated:

'The need for and proposed uses of the basement have been derived from ongoing commercially confidential work with a Burial Ground operator.

The use of the proposed basement area is ancillary to the main use of the building as a secular Chapel facility. It is intended to be used for a variety of utility and maintenance storage using wall or free mounted shelving/racks as appropriate. Such storage may include grounds and building maintenance equipment, cleaning equipment, etc. In addition, the basement may be used for the garaging of a Burial Ground operational vehicle such as a hearse.'

and

'The enclosed, additional cross section plan (461/565 Section D-D) shows the basement area in greater detail. The proposed height, 2.2m and overall basement floorspace area is sufficient to accommodate these uses.

With respect to internal access between the ground and basement floor level, the written statement is incorrect and the submitted plans are correct. Access to the basement would be via the external basement level doors.'

A final request to provide topographical information about existing and proposed site levels and earthworks around the building was refused by the applicant.

It is noted that the council's Landscape consultant has not objected to the current application, whereby the building is located on lower ground but at a greater distance from the car parking area and reception building. These findings have been informed by the submission of an addendum to the original Landscape Character and Visual Impact Assessment (LVIA) updated in February 2018, which also notes that '... the Client has commenced the planting of 600 indigenous trees along the northern and western boundary and inside of the public right of way'.

It advises that the re-siting of the chapel building would be 9m further away from the public footpath and a further 15m from the AONB boundary, so would have a lower visual impact than the approved position. The overall conclusion remains as it did before (which the Inspector accepted), that the scheme would have a "short term moderate adverse" effect on landscape character but that the "short to mid term adverse impacts ... are judged to be extensively mitigated and in the long term would offer landscape enhancement to the wider rural setting."

The Inspector further stated that the "landscape measures proposed in the landscape masterplan would filter these views [from close positions along the public footpath] over time. From positions farther away to the north-west along the footpath, land levels fall and the rising brow of the intervening field would contain the proposal, particularly during summer months with the growth of scrub vegetation."

The Inspector also determined that "there would be limited visibility of the proposal from other directions outside the wider application site ... [and] the chapel ... would not be readily discernible from the highway" and "there is a higher belt of trees to the southern side of Turners Hill Road that would break up any views of the site from footpaths on this side of the road and from the AONB."

Finally, a key point made by the Inspector was that "the landscape measures close to the building and along the public right of way are not designed to totally obscure the building, but to permit its successful integration in to its surroundings."

As before, the building is of a modern design with both gable ends consisting of glazed elevations beneath deep eaves. However, the long elevations, viewed from the south and north, will be more rustic and rural in character. The building will be sunken into the ground and will clearly be expressed as a chapel in terms of its scale, but this would not be deemed to be unacceptable in this location because of this. The land take associated with this enlarged development would still be deemed to be fairly modest, allowing the remaining land to be landscaped.

The increased height of the building would only be apparent from the eastern elevation, where the new (extended) access road would be at grade with the set of double doors to the basement. This would be a relatively localised view that would be obscured by earthworks to enclose this area.

As before, while acknowledging this is a rural area, the site is nevertheless adjacent to Tulleys Farm and its associated leisure/recreational facilities (maze, fun park, accesses, car parking, etc.) to the west. Immediately opposite that is the cricket ground and pavilion. As such, it is considered that the proposal would still be read in context with the scattering of other buildings and uses in this area and hence would not be out of place. There would not be any adverse impact to the setting of the AONB on the southern side of Turners Hill Road.

Given that the council's Landscape consultant has not raised an objection to this latest proposal and conditions could be imposed on any consent, it is considered that the proposal can be supported and would comply with Policies DP26 of the Mid Sussex District Plan and Policy THP8 of the Turners Hill Neighbourhood Plan.

This assessment still applies, with the only significant policy change being the adoption of the Mid Sussex Design Guide SPD, and the proposed scheme is considered to comply with Policy DP26 of the Mid Sussex District Plan and relevant principles identified above.

Highways matters

Policy DP21 of the Mid Sussex District Plan states (in part):

'... Decisions on development proposals will take account of whether:

- *The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy);*
- *Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking,*

cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up;

- *The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages;*
- *The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport; and with the relevant Neighbourhood Plan where applicable;*
- *Development which generates significant amounts of movement is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded;*
- *The scheme provides appropriate mitigation to support new development on the local and strategic road network, including the transport network outside of the district, secured where necessary through appropriate legal agreements;*
- *The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;*
- *The scheme protects the safety of road users and pedestrians; and*
- *The scheme does not harm the special qualities of the South Downs National Park or the High Weald Area of Outstanding Natural Beauty through its transport impacts.*

Where practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.

Neighbourhood Plans can set local standards for car parking provision provided that it is based upon evidence that provides clear and compelling justification for doing so.'

The Highway Authority previously raised no objection to the additional floorspace and no change was made to the parking arrangements. It is considered that the proposal would still comply with the policy above.

Drainage

Policy DP41 of the Mid Sussex District Plan states:

'Proposals for development will need to follow a sequential risk-based approach, ensure development is safe across its lifetime and not increase the risk of flooding elsewhere. The District Council's Strategic Flood Risk Assessment (SFRA) should be used to identify areas at present and future flood risk from a range of sources including fluvial (rivers and streams), surface water (pluvial), groundwater, infrastructure and reservoirs.

Particular attention will be paid to those areas of the District that have experienced flooding in the past and proposals for development should seek to reduce the risk of flooding by achieving a reduction from existing run-off rates.

Sustainable Drainage Systems (SuDS) should be implemented in all new developments of 10 dwellings or more, or equivalent non-residential or mixed development unless demonstrated to be inappropriate, to avoid any increase in flood risk and protect surface and ground water quality. Arrangements for the long term maintenance and management of SuDS should also be identified.

For the redevelopment of brownfield sites, any surface water draining to the foul sewer must be disconnected and managed through SuDS following the remediation of any previously contaminated land. SuDS should be sensitively designed and located to promote improved biodiversity, an enhanced landscape and good quality spaces that improve public amenities in the area, where possible.

The preferred hierarchy of managing surface water drainage from any development is:

- 1. Infiltration Measures*
- 2. Attenuation and discharge to watercourses; and if these cannot be met,*
- 3. Discharge to surface water only sewers.*

Land that is considered to be required for current and future flood management will be safeguarded from development and proposals will have regard to relevant flood risk plans and strategies.'

The council's Drainage Engineer has confirmed that the means of drainage to serve the proposed development should be controlled by condition, and hence the proposal would comply with Policy DP41 of the Mid Sussex District Plan.

Biodiversity

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. Under Section 13 of the Wildlife and Countryside Act 1981 (as amended), all wild plants are protected from being uprooted without the consent of the landowner. In addition to the protection afforded by the Wildlife and Countryside Act 1981 (as amended), certain species are also covered by European legislation. These species are listed in Schedule 2 of the Conservation (Natural Habitats, 7c.) Regulations 1994 (as amended).

Policy DP38 of the Mid Sussex District Plan states:

'Biodiversity will be protected and enhanced by ensuring development:

- *Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity, including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments; and*
- *Protects existing biodiversity, so that there is no net loss of biodiversity. Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation measures (or compensation measures in exceptional circumstances); and*
- *Minimises habitat and species fragmentation and maximises opportunities to enhance and restore ecological corridors to connect natural habitats and increase coherence and resilience; and*
- *Promotes the restoration, management and expansion of priority habitats in the District; and*
- *Avoids damage to, protects and enhances the special characteristics of internationally designated Special Protection Areas, Special Areas of Conservation; nationally designated Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty; and locally designated Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodland or to other areas identified as being of nature conservation or geological interest, including wildlife corridors, aged or veteran trees, Biodiversity Opportunity Areas, and Nature Improvement Areas.*

Designated sites will be given protection and appropriate weight according to their importance and the contribution they make to wider ecological networks.

Valued soils will be protected and enhanced, including the best and most versatile agricultural land, and development should not contribute to unacceptable levels of soil pollution.

Geodiversity will be protected by ensuring development prevents harm to geological conservation interests, and where possible, enhances such interests. Geological conservation interests include Regionally Important Geological and Geomorphological Sites.'

Chapter 15 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value by minimising impacts on and providing net gains for biodiversity. In particular, paragraph 175 states:

'When determining planning applications, local planning authorities should apply the following principles:

- *if significant harm to biodiversity 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;*
- *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.'*

A Preliminary Ecological Appraisal Report and Reptile Survey have been submitted as part of this application, albeit previously submitted to support the latest application for a crematorium.

Recommendations are made to remove bird habitats outside of the bird nesting season, which runs from 1 March to 31 August (i.e. between September and February), together with a site check prior to construction works taking place during the bird nesting season, to ensure no disturbance to active bird nests occur. Additional protection measures include an undeveloped buffer zone of at least 15m to the ancient woodland; retaining all hedgerows on the site and protecting them during construction works; avoiding or reducing the use of external lighting, during both construction and operation, to benefit nocturnal species, such as Bats. Any external lighting will be low-level and directional with minimal spill and glare; provision of small access gaps at the base of all new fence boundaries to enable dispersal of Hedgehogs and other small mammals across the site.

Recommendations are also made for biodiversity net gain, which include creation of habitat piles within areas of retained grassland close to boundary hedgerows and woodland; installing a range of artificial nest boxes for Birds (2 in total) and installing a range of artificial roost boxes for Bats (3 in total), all to be placed on mature trees within the development or at the site boundaries (within the control of the applicant).

In respect of Reptiles, recommendations are made to translocate reptiles from the construction zone to a suitable receptor site, to avoid killing or injury; retaining corridors of less intensively managed vegetation to maintain ecological connectivity, particularly adjacent to off-site woodland; and creating additional hibernation and breeding habitats by installing hibernacula and compost heaps, particularly along the eastern boundary (again, within the control of the applicant).

The Council's Ecological consultant considered these reports as part of the crematorium application and raised no objection to the scheme. Subject to compliance with a suitably worded condition, it is considered

that this latest proposal would also comply with Policy DP38 of the Mid Sussex District Plan, Chapter 15 of the NPPF (including paragraph 175) and the legislation outlined above.

Impact on Ashdown Forest

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment process for the Mid Sussex District Plan. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment screening report has been undertaken for the proposed development.

Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan, and as detailed in the District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

This planning application does not result in a net increase in dwellings within the 7km zone of influence and so **mitigation is not required**.

Atmospheric pollution

Increased traffic emissions as a consequence of new development may result in additional atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The potential effects of the proposed development are incorporated into the overall results of the transport model prepared for the Site Allocations DPD, which indicates there would not be an overall impact on Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment screening report

The screening assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development.

No mitigation is required in relation to the Ashdown Forest SPA or SAC.

A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

CONCLUSION

The application is deemed to comply with the Development Plan as set out above and therefore is considered acceptable.

Decision: Permission

Case Officer: Andrew Watt