



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

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.
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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.¹

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 development² 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

¹ Appendix F to Mr Roberts Proof of Evidence

² 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 SoCG1³ 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 ICCM⁴ report commissioned by the Council.⁵ The interpretation of that report, and the subsequent Council Committee report,⁶ 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

³ INQ3

⁴ Institute of Cemetery and Crematorium Management

⁵ Appendix 5 of Mr Hodgson's Proof of Evidence

⁶ 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 report⁷ 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 0.6.⁸ 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.

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

⁸ 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.⁹
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%.¹⁰ 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 justification¹¹ 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.¹² Alfreton is described as an ideal choice for new crematorium development being broadly equidistant from existing crematoria. The Council did not identify any other

⁹ Appendix 5 of Mr Hodgson's Proof of Evidence

¹⁰ Appendix 3 of Mr Hodgson's Proof of Evidence paragraph 3.13

¹¹ Appendix 5 of Mr Mitra's Proof of Evidence paragraph 3.44

¹² 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 SHLAA¹³ and ELR,¹⁴ 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

¹³ Strategic Housing Land Availability Assessment

¹⁴ 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.¹⁵ 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.

¹⁵ 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

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Hogan of Counsel

He called

Instructed by the Solicitor to Amber Valley
Borough Council

Jonathan Jenkin BA (Hons) BTP MRTPI

FOR THE APPELLANT:

Ian Ponter of Counsel

He called

Ian Roberts MCIHT
Brian Duckett BSc (Hons) DipLD MLI
Jamieson Hodgson
Craig Shaw BSc RICS
Kris Mitra MA MRTPI

FOR SWANWICK PARISH COUNCIL AND SWANWICK RESIDENTS' ASSOCIATION:

Peter Taylor - Partner and
Solicitor with DLA Piper UK LLP
He called

Instructed by DLP Planning

Jim Lomas BA (Hons) MRTPI

FOR THORNTONS PLC:

Paul Adams - Estates Manager
He called

Jonathan Hart – Chief Executive

INTERESTED PERSONS:

Janice Byron
Mrs R A Harnan
George Soudah
John Briggs

Jonathan Arbon

Derbyshire CPRE
Local resident
Local resident
Local resident and Vice-Chairman/Treasurer of
Swanwick Residents' Association
Local Resident

INQUIRY DOCUMENTS

INQ1 Notification of Public Inquiry and list of persons notified, submitted by the Council

INQ2 Letters received in response to the Notification of the Public Inquiry

INQ3 Statement of Common Ground 1 (Appellant & LPA)

INQ4 Statement of Common Ground 2 (Appellant & SPC/SRA)

DOCUMENTS SUBMITTED DURING THE INQUIRY

Appellant's List of Additional Inquiry Documents

- APP1 Email dated 31 May 2013 from the local vicar – Carol Lloyd in support of the proposal
- APP2 Proposals Maps for Wyre Forest DC/Redbridge BC/Eastleigh BC in response to evidence of Mr Lomas in respect of crematoria location
- APP3 Cemetery area and capacity provision at proposed Amber Valley Memorial Park – note prepared by Jamieson Hodgson.
- APP4 Opening Submissions
- APP5 Closing Submissions

Council's List of Additional Inquiry Documents

- LPA1 Derby Housing Market Area Employment Land Review March 2008
- LPA2 Amber Valley Borough Local Plan 2006 Proposals Map
- LPA3 Opening Submissions
- LPA4 Closing Submissions

SPC/SRA's List of Additional Inquiry Documents

- SPC1 Google Maps (4) showing the location of crematoria in Redbridge, Wyre Forest, Newark and Wessex Vale
- SPC2 Closing Submissions

Interested Persons' Documents List

- IP1 Statement of Janice Byron
- IP2 Statement of Mrs R A Harnan
- IP3 Statement of George Soudah
- IP4 Statement of John Briggs
- IP5 Statement of Jonathan Arbon

ANNEX A**CONDITIONS**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall not be carried out except in broad accordance with the details shown on the submitted plans and documents, as detailed below:

<u>Plan /Document</u>	<u>Reference</u>	<u>Date Received</u>
Site Location Plan 1:1250	-	November 2011
Site Layout Plan	1095-02B	June 2011
Floor Plans	1095 -03	September 2011
Elevations	1095-04A	August 2011
Illustrative Sketch Elevations A3	-	-
Illustrative Master Plan	HDA4	May 2013
Proposed Access Arrangement	4053/001A	August 2011

- 3) The development hereby permitted shall not be commenced until samples of the materials and finishes to be used for the external elevations of the buildings and roofs of the proposals have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved materials and finishes.
- 4) Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:
 - The utilisation of holding sustainable drainage techniques;
 - The limitation of surface water run-off to equivalent greenfield rates;
 - The ability to accommodate surface water run-off on-site up to the critical 1 in 100year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and
 - Responsibility for the future maintenance of drainage features.
- 5) The development hereby permitted shall not be commenced until details indicating proposed floor levels of all buildings, has been submitted to and

approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in strict accordance with the agreed levels.

- 6) The development hereby permitted shall not be commenced until a scheme to dispose of foul water to a package treatment plant has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall be implemented in full accordance with the approved details.
- 7) The development hereby permitted shall not be commenced until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - I. The parking of vehicles of site operatives and visitors;
 - II. Loading and unloading of plant and machinery
 - III. Storage of plant and materials used in the construction of the development;
 - IV. The erection and maintenance of security hoardings including decorative displays and facilities for public viewing where appropriate;
 - V. Wheel cleaning facilities
 - VI. Measures to control the emission of dust and dirt during construction ;
 - VII. A scheme for recycling/disposing of waste resulting from demolition and construction works;
 - VIII. Measures to control noise during construction ;
 - IX. A signage strategy for construction traffic.
- 8) The development hereby permitted shall not be commenced until the development is subject to a detailed scheme for the investigation and recording of contamination and coal mining legacy issues on the land and risks to the development, its future use and surrounding environment. A detailed written report on the findings including proposals and a programme for remediation of any contaminated or unstable areas and protective measures to be incorporated into the buildings shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include proposals for the disposal of surface water during remediation. The remediation works shall be carried out and a validation report shall be submitted to, and approved in writing by, the Local Planning Authority in accordance with the approved proposals and programme. If during the course of the development further evidence of any type relating to other contamination or land instability is revealed, work at the location will cease until such findings are investigated and remediation measures, approved in writing by the Local Planning Authority have been implemented.
- 9) Before the development hereby permitted is first brought into use a new vehicular and pedestrian access shall be created to the B6179 Derby Road in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The road access shall be laid out, constructed and provided with visibility splays in either direction, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

- 10) Before the development hereby permitted is first brought into use, the alterations to the B6179 including the right turn lane, the central reservation crossing and road markings, shall be completed in accordance with the Proposed Access Arrangement drawing reference 4053/001A dated 4th August 2011.
- 11) Before installation, a scheme must be submitted to, and approved in writing by, the Local Planning Authority detailing the proposals for external lighting. All works must be fully implemented in accordance with the approved scheme before the use commences. The lights must be positioned on site to minimise light trespass and glare, and maintained as such throughout the working life of the installation.
- 12) The development hereby permitted shall not be brought into use until space has been provided within the application site in accordance with the Site Layout Plan (1095-02B) dated June 2011 for the parking and manoeuvring of visitors/staff/service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
- 13) There should be no burials within 250 metres of any abstraction or spring. Burials should be at least 30 metres from a watercourse and at least 10 metres from any field drain.
- 14) No burials or cremations shall occur other than between 0900 and 1700 hours on weekdays and between 0900 and 1200 hours (Noon) on Saturdays, and at no time on Sundays or Bank/Public Holidays.
- 15) No construction works, movement of traffic, or deliveries to and from the premises, shall occur other than between 0800 and 1800 hours on weekdays, and between 0800 and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays.
- 16) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved in writing by the Local Planning Authority and until any pre-start element of the approved scheme has been completed. The scheme shall include an assessment of significance and research questions; and should also include
 - I. The programme and methodology of site investigation and recording;
 - II. The programme for post investigation assessment;
 - III Provision to be made for analysis of the site investigation and recording;
 - IV. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - V. Provision to be made for archive deposition of the analysis and records of the site investigation and;
 - VI. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

The development shall not be commenced otherwise than in accordance with the Written Scheme of Investigation and the building shall not first come into use until the analysis, publication and dissemination of results and archive deposition has been secured.

- 17) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme 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 five 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 consent to any variation.
- 18) Prior to the commencement of development details of the new boundary wall, including the materials and finishes to be used, to Derby Road shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.
- 19) The development hereby permitted shall be carried out in accordance with the Conclusions and Recommendations (8) set out in the Baseline Ecological Assessment by Hankinson Duckett Associates (HDA) dated November 2011.
- 20) The development hereby permitted shall not commence until an Ecological and Landscape Management Plan has been produced for the site, detailing how the retained and created habitats will be managed to provide the maximum benefit for wildlife, and how the grounds maintenance will preserve the landscape character of the site; shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the agreed Ecological and Landscape Management Plan.