



Appeal Decision

Hearing opened on 13 March 2013

Site visits made on 14 and 25 March 2013

by Richard Clegg BA(Hons) DMS MRTPI

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

Decision date: 11 June 2013

Appeal Ref: APP/A0665/A/12/2186911

Land south-west of Birches Lane, Lach Dennis, Cheshire

- 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 Cheshire West & Chester Council.
 - The application Ref 12/02679/FUL, dated 8 June 2012, was refused by notice dated 30 October 2012.
 - The development proposed is described as 'the construction of a new crematorium, associated car park, access road and gardens of remembrance'.
 - The hearing was conducted over two days, 13 and 14 March 2013.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of a crematorium, associated car park, access road and gardens of remembrance, on land south-west of Birches Lane, Lach Dennis, Cheshire, in accordance with the terms of the application, Ref 12/02679/FUL, dated 8 June 2012, subject to the conditions in the attached schedule.

Procedural matters

2. On the application form, the location of the site is given as land adjoining Birches Lane, Lostock Green. At the hearing the parties agreed that the site is within the parish of Lach Dennis, and it lies on the south-west side of Birches Lane: I have identified it accordingly in the appeal details above.
3. It was also agreed that the proposal is more clearly described simply as the construction of a crematorium, associated car park, access road and gardens of remembrance, and I have considered the appeal on this basis.
4. At the date of the hearing the Development Plan included the Regional Strategy, the North West of England Plan. An order revoking the Regional Strategy came into force on 20 May 2013, and comments on its revocation in relation to their respective cases have been submitted by the main parties, and by Lach Dennis & Lostock Green Action Group and Lostock Gram Parish Council who referred to the Regional Strategy at the hearing. In addition, the main parties and Lach Dennis & Lostock Green Action Group have submitted comments in respect of the granting of planning permission on 8 May 2013 for a crematorium at Davenham (Document 10).

Main Issues

5. I consider that the main issues in this appeal are:

- (i) Whether the proposal would be appropriate in principle in the countryside, having regard to relevant planning policies.
- (ii) The effect of the proposed development on the character and appearance of the area.
- (iii) The effect of the proposed development on the living conditions of local residents.
- (iv) The effect of the proposed development on highway safety and traffic movement.
- (v) Whether any harm arising from the proposal would be outweighed by other considerations.

Reasons

The principle of the proposed development in the countryside

6. The appeal site is situated in the open countryside, about 0.5km south-east of the village of Lostock Green and about 1km north of the village of Lach Dennis. It is part of a larger field within an agricultural landscape, and the site lies alongside Birches Lane, which runs north from Lach Dennis to Lostock Green and the junction with the A556.
7. Following the revocation of the North West of England Plan, the relevant component of the Development Plan comprises the saved policies of the Vale Royal Borough Local Plan First Review Alteration. Policy GS2 provides that new development is generally to be concentrated in or on the edge of the towns of Northwich and Winsford, together with several larger villages. Other larger villages, Tarporley, Frodsham and Helsby are also identified as suitable for further development. Neither of the lists of settlements in Policy GS2 includes Lostock Green and Lach Dennis. In the open countryside, development is to be restricted under Policy GS5. In these locations, new buildings should not be permitted unless there is provision through other policies of the Local Plan.
8. Policy PS1 permits public service development in the open countryside, provided, amongst other matters, that it is essential to the needs of the local community. The Local Plan does not include a definitive list of public service development, but the reasons and explanation to the policy refer to both private and public bodies which carry out functions of a public nature. The main parties and the Action Group agreed that a crematorium is a public service. I share this view: many crematoria are operated by local authorities, and although the Appellant in this case is a private company, the crematorium would nevertheless provide a service for the communities in this part of Cheshire. Accordingly Policy PS1 is engaged: I consider need later (paras 40-45), but, subject to this test, a crematorium may be acceptable in the open countryside having regard to Policy PS1. Moreover paragraph 28 of the *National Planning Policy Framework* (the Framework) makes it clear that the sustainable growth and expansion of all types of business should be supported in rural areas, and whilst a core principle is to recognise the intrinsic character and beauty of the countryside, this provision does not distinguish between rural settlements and the open countryside. I find that Policy PS1 is not fully consistent with the Framework, and, having regard to paragraph 215 of that document, that accordingly it carries diminished weight.

9. In its report on the planning application, the Council had stated that the site comprised grades 2, 3a and 3b agricultural land. However at the hearing, it did not dispute the Appellant's assessment that the land was solely grades 3a and 3b¹. Grade 3a, together with grades 1 and 2, is the best and most versatile land, which Policy RE1 of the Local Plan seeks to safeguard for agriculture. Under Policy RE1, the use of such land for other purposes may be permitted where certain criteria are met. These include requirements that alternative land on previously developed sites and within existing developed areas is genuinely not available, that there is an overriding need for the development, and that sustainability objectives are met. The Action Group was critical of the Appellant's site search for only identifying rural locations, but no specific details of possible alternative locations on previously developed land or within built-up areas are before me. There is a proposal for another crematorium within the District at Davenham, which has been granted planning permission, and I heard that this includes grade 2 land. There is no firm evidence that land of lower quality, which is previously developed, or which is within the built-up area is available as an alternative. Provided that other tests concerning need and sustainability are satisfied, Policy RE1 does not preclude the principle of a crematorium in the countryside.
10. The Framework sets out a less prescriptive policy towards good quality agricultural land. Paragraph 112 requires that the benefits of the best and most versatile land should be taken into account, and that where significant development of agricultural land is necessary, areas of poorer quality land should be used in preference to that of a higher quality. I acknowledge that that part of the site which is grade 3a will have an intrinsic value to the farm. However, although no breakdown of the appeal site between grades 3a and 3b was available, not all of the site is best and most versatile land. At the most, the appeal site amounts to 2.62ha², and the proposal would not result in significant development of agricultural land. In this situation the Framework does not require that efforts should be made to use poorer quality land, nor does it require that an overriding need should be demonstrated for development of the best and most versatile land. The stricter approach of Policy RE1 is not fully consistent with the Framework, and I find that it carries diminished weight.
11. Reference has been made by the main parties to the Cremation Act 1902, which remains in force. The Act stipulates that a crematorium should normally be located at least 200 yards (about 183m) from any dwelling³ and at least 50 yards (about 46m) from a public highway. The Government publication entitled *The Siting and Planning of Crematoria* is also of relevance⁴. This guidance explains that sufficient land is required to provide an appropriate setting for the crematorium, internal access roads, parking space, and space for the disposal of ashes, and it refers to sites coming forward of 2-4ha in size. At over 2ha, the appeal site lies within this range.
12. My attention has been drawn to two appeal decisions concerning sites in Cornwall and Eastleigh in which reference has been made to the Cremation

¹ Subsequently, in its report on a planning application for a crematorium at Davenham (Document), the Council has referred to the appeal site only as 3b land, but this was not the position taken at the hearing.

² The application form gives the size of the site as 2.02ha, and the site survey plan, ref 1274-5 gives a somewhat greater size of 2.62ha.

³ The Act only permits a crematorium to be located closer to a dwelling, where the owner, lessee and occupier of the dwelling have given their consent in writing.

⁴ *The Siting and Planning of Crematoria*; The Department of the Environment, Ref LG1/232/36; 1978.

Act⁵. The constraints arising from the particular requirements of a crematorium are also acknowledged, and I agree that it would be more difficult to find a suitable site within or immediately on the edge of a built-up area.

13. The need to find a site for a crematorium in grounds of sufficient size to provide suitable garden areas for the disposal of ashes and reflection, in addition to parking space, indicates that a rural location may often be appropriate. Although policies in the Local Plan encourage most forms of new development within and at the edge of the built-up areas, the Plan must be read as a whole, and, subject to policy tests, including those relating to need and sustainability, a crematorium may be appropriate in the open countryside. I consider the question of need and sustainability later (paras 40-45 and 50-53). However, Policies PS1 and RE1 are not fully consistent with the Framework, to which I accord more weight, and the corresponding provisions of which more readily provide for a crematorium outside a settlement. Having regard to the various relevant policies, and bearing in mind the requirements of legislation and national guidance concerning crematoria, I conclude that the proposed development is capable of being acceptable in principle in the countryside.

Character and appearance

14. The Council's Supplementary Planning Document 5 (SPD5) Landscape Character identifies a series of landscape character areas across the area of the former Vale Royal Borough, and it also provides guidance on the protection and enhancement of landscape character. The appeal site lies within character area 6C – The Lostock Plain, where the key characteristics listed in the SPD include fields bounded by an intact hedgerow network and some hedgerow trees, a general absence of woodland cover, and a dispersed pattern of farmsteads and nucleated villages.
15. The appeal site is part of a larger field: the north-west and north-east boundaries are marked by hawthorn hedgerows, and the land slopes gradually down towards the north-west. There are a number of oak trees on the north-east boundary, in the hedgerow alongside Birches Lane. The site plan shows the crematorium building set back from the road, and positioned on the lower part of the site. Whilst the scheme does not include full details of landscaping, it is intended that hedgerows would be established along the two undefined boundaries, and that tree planting would take place on the perimeter of the site and close to the parking areas and the building. The Council is concerned that the form of tree planting proposed would present a wooded appearance which would be out of character in this part of the rural area. At the hearing, the Council's landscape officer explained that a reduction in the extent of tree cover and the planting of small copses around the building would be more appropriate, and I note that SPD5 does refer to the occasional copse or shelter belt punctuating the landscape of the Lostock Plain. The Appellant's landscape consultant made it clear that it is the intention to thin the trees on the site as they become established, and this position is set out in an outline landscape management plan⁶. It is clear from the landscape master plan that the greater part of the site around the building and car parks would be grass or scrub cover, and I do not consider that the arrangement and grouping of tree cover shown thereon would be so substantial as to give the appearance of a wooded

⁵ Appendix 2 to Mr Mitra's planning statement for the Appellant.

⁶ Appendix C to Mr Ducketts' statement.

- area, or that its form would increase the prominence of this site in the landscape. In any event, the main parties agreed that the detailed form of tree cover could appropriately be dealt with by a condition requiring a landscaping scheme, in line with Policy NE8 of the Local Plan, a view which I share.
16. To ensure the provision of adequate visibility to the north-west, a roadside oak tree a short distance beyond the site would be removed, and a 70m length of hedgerow would be set back. An additional oak tree on the site frontage is recommended for removal due to its poor condition, but a line of hedgerow trees would remain, and the overall form of the treatment of this stretch of Birches Lane would be maintained, albeit with a gap at the position of the site access. Other trees and the existing hedgerows should be retained in accordance with Policy NE7 of the Local Plan, and a condition to this effect would be necessary.
 17. There is a pond on the north-west boundary of the site, and the landscape master plan envisages the formation of two sustainable drainage (SUD) ponds nearby. Field ponds formed from marl pits are one of the characteristic features of the Lostock Plain, listed in SPD5, and although the Council is critical of the irregular shape shown, in contrast to the rectangular nature of marl pits, the detailed treatment of the SUD ponds could be addressed through a landscaping condition.
 18. The crematorium building would be a relatively uncomplicated single storey structure, with two projecting gables adding interest to the east elevation. It would have an eaves level of about 2.9m, with the ridge height of the main roof being 7.3m. Including the entry porte-cochere, the building would be about 30m long, and at its widest point about 15.5m. These dimensions do not indicate a building of undue size, particularly having regard to the extent of the site, which would remain largely open, the height of existing and proposed tree cover, and the presence of the nearby group of buildings at Birches Hall. I find that, as required by criterion (xi) in Policy BE1 of the Local Plan, the scale of the crematorium would be in keeping with its surroundings.
 19. As part of my site visits, I had the opportunity to look towards the site from nearby public footpaths and roads. Notwithstanding the additional hedgerow and tree planting proposed, I consider that the upper part of the crematorium building would be seen in certain views from Birches Lane, particularly to the south of the junction with Hangman's Lane, and from the public footpath which runs westwards from Birches Lane to the north of the site, and it is likely that there would also be views from the western end of Hangman's Lane where there are breaks in the tall roadside hedgerow. The formation of the access would also facilitate views into the site from this point on Birches Lane. Photomontages submitted by the Appellant indicate that there would be certain views of the building from the footpath and from Birches Lane close to its eastern corner, particularly in the early years whilst tree cover becomes established. Whilst there are views from the south-west on Pennys Lane, and from the footpath to the south of Hulse Lane, the proposed building would not be distinctive in the landscape from these positions given their greater distance from the appeal site. Even from closer vantage points, the combination of the position of the building, which would be set back from Birches Lane on the lower part of the site, the proposed tree planting, and the existing pattern of hedgerows, with the oak trees along the site frontage, means that the crematorium would not be a prominent feature in the locality. It is not

necessary for the building to be hidden from view; indeed scattered buildings such as those at the farmstead of Birch Hall to the south and the house at Birch View on Hangman's Lane are present in the area. The implementation of a landscaping scheme as outlined in the landscape master plan, or with the incorporation of small scale copses as suggested by the Council, should ensure that the crematorium would be assimilated into the landscape of the Lostock Plain. I am satisfied that the development would not detract from views in the locality, and in this respect there would be no conflict with criterion (xi) in Policy BE1 of the Local Plan.

20. The Council and the Lach Dennis & Lostock Green Action Group have expressed concern about the materials proposed for the crematorium and the gateway at the access, and about lighting and signage. Insofar as materials are concerned, the Council is critical of the use of stone, pointing out that the traditional building material in the area is red brick. Natural stone is shown on the elevations at plinth level, in buttresses, below one of the gables on the east elevation, and on sections of wall on this side of the building. There would also be extensive use of render on the elevations, with the roof finished in black pantiles. Whilst SPD5 refers to the use of red brick in this area, there is a variety of materials, including render, on buildings in the nearest settlement, Lostock Green. Nevertheless, render and stone are less appropriate than red brick for buildings in the open countryside. At the site entrance, stone walls containing the mouth of the access road would not only involve the use of a material which is not evident in the locality, but they would represent a harsh contrast with the hedgerow treatment on the site frontage, which is characteristic of the rural lanes in the area. An elevation indicates the installation of wrought iron gates painted in black and gold. This bold approach, with the gates appearing as uncompromising elements close to Birches Lane, would similarly be out of keeping with the surroundings. At the hearing, the main parties took the view that conditions could require subsequent approval of the materials to be used on the crematorium and at the site entrance. I agree that this would be an appropriate use of conditions, as the detailed changes involved would not represent a substantial alteration to the scheme.
21. No details of lighting or signage are included in the proposal. There are no street lights on this stretch of Birches Lane, and the erection of lighting columns could potentially cause localised intrusion. I heard that it was likely that low-level lighting bollards would be installed within the site, and the Appellant intends to place limited and low-key signage within the site and on some nearby roads. Both these matters could be satisfactorily addressed through the submission of schemes required by conditions. The proposal would generate some noise both on the site and from travel to and from the crematorium. However given the size of the development and the anticipated level of traffic movement (below, para 27), I do not consider that noise arising from the operation of the crematorium would be intrusive and detract from the character of the area
22. I conclude that, with the safeguard of conditions concerning materials, landscaping, the SUD ponds, external lighting, signage, and tree and hedgerow retention, the proposed development would not be damaging to the character and appearance of the area. It would appropriately take account of the characteristics of the site and the relationship with its surroundings, and in these respects the proposal would not conflict with Policy BE1 of the Local Plan.

Living conditions

23. The appeal site is some distance from existing dwellings. At the hearing, the Council, the Appellant and the Action Group agreed that the nearest property, Birch View on Hangman's Lane to the north-east, is 140m from the appeal site, and that the crematorium itself would be set back about 70m from Birches Lane, an overall distance of about 210m. To the south, it was agreed that there would be about 260m to Birch Hall Farm, and about 660m to Heath Farm on Penny's Lane to the south-west. Lostock Green and Lach Dennis are about 0.5km and 1km away (above, para 6), although distances of 800m and 850m were given for the nearest dwelling in Lach Dennis.
24. As part of my site visits, I looked towards the appeal site from outside Birch View and from Nos 9 and 13 Birch Grove in Lostock Green. The site would be visible from these locations, although views of the crematorium would be diminished by intervening hedgerows and distance, irrespective of the additional planting proposed. I do not consider that the proposed development would be either prominent or intrusive from these locations. Given their distances from the site, I have reached a similar view in respect of properties on Penny's Lane and Birch Hall Farm. Even the closest dwelling would be clearly further from the crematorium building than the minimum distance stipulated in the Cremation Act (about 183m, above para 11). The Council suggested that the effect on visual amenities would occur more when local residents are moving about in the locality, than in their homes. Concern about the effect on residents when walking, cycling or riding in the area is expressed by the Action Group. It seems to me that the way in which the development would be seen from public footpaths or the local highway network relates more to its effect on the character and appearance of the area than to the living conditions of local residents. In any event, I have already found that the development would not detract from views in the locality (above, para 19), and, whether local residents are at home or not, I do not consider that there would be an adverse visual impact contrary to criterion (i) in Policy BE1 of the Local Plan.
25. The Action Group raised concerns about the overlooking of existing dwellings, with specific reference made at the hearing in respect of the gardens of properties on Birch Grove. The distances between the site and any of the dwellings in the surrounding area are significant. They are of such a magnitude that, not only would there be no loss of privacy to local residents from use of the appeal site as a crematorium, but I do not consider that there would even be any perception of overlooking after the development had been carried out. No conflict with criterion (i) in Policy BE1 arises in this respect.
26. Activity on the site and the movement of vehicles to and from the crematorium would inevitably generate a certain level of noise. Within the site there would be some noise caused by the movement of vehicles and people, and from people talking, and it is likely that there would be some leakage of noise, for example music from services, from the crematorium itself. However, the Government guidance *The Siting and Planning of Crematoria* refers to the use of garden areas for quiet thought and contemplation, and in my experience crematoria and gardens of remembrance are generally places where there is a calm and quiet atmosphere. I do not anticipate that the daily activities involved in the operation of the crematorium would involve high levels of noise,

and given the distances to dwellings in the locality, no disturbance would be likely to be caused to local residents.

27. The Appellant refers to up to five services per weekday, with an upper figure of 18 vehicles per service, including a cortege with an average of five vehicles. In addition to weekdays, the crematorium would also be open for three hours on Saturday morning. The figure of 18 vehicles per service takes into account other trips to the site, including those made by visitors to the gardens of remembrance. Some funerals may attract larger numbers of mourners, and there may be occasions when more than five services occur on a weekday. Nevertheless, even if the crematorium were used to its capacity of ten funerals on a weekday and four on a Saturday⁷, the number of likely vehicle movements to and from the site would not result in overall high levels of traffic over the course of the opening hours. Consequently, I do not consider that the additional traffic movement resulting from the proposed development would result in unacceptable disturbance to residents in Lach Dennis and Lostock Green.
28. Several properties are close to Birches Lane, and the Action Group referred to some having no foundations. Concerns were expressed about the effect of vibrations from additional traffic, but these views are unsupported by any specific evidence about the structural vulnerability of buildings along Birches Lane. Traffic movement to and from the crematorium would not be constant, and the concerns expressed do not indicate that traffic movement would pose a threat to the structural stability of some existing properties.
29. The Action Group also suggested that the presence of corteges travelling along Birches Lane would impinge on the quality of residents' living conditions. I note that there is a funeral director with premises in Lostock Green. He appeared at the hearing, and explained that his hearse regularly travels along Birches Lane. There would only be a relatively small number of corteges travelling to the appeal site on any one day, and, although moving at reduced speed, their presence in either Lach Dennis or Lostock Green would be of limited duration. I do not consider that they would represent an intrusion which would detract from the residents' quality of life.
30. For the reasons given above, I conclude that the proposed development would not unacceptably worsen the living conditions of local residents, and that it would not conflict with criterion (i) in Policy BE1 of the Local Plan.

Highway safety and traffic movement

31. The appeal site is situated on a rural road which runs between the A556 at Lostock Green and the B5082 at Lach Dennis. The stretch of Birches Lane where the crematorium would be established is subject to the national speed limit of 60mph, and has no footways or lighting. There are speed limits of 30mph and 40mph in Lostock Green and Lach Dennis respectively. A survey undertaken for the Appellant records a two-way annual average daily traffic flow on Birches Lane of 725 vehicles⁸. Based on surveys carried out at crematoria in Chichester and Guildford, it is calculated that the proposed development would generate about 18 vehicles per service and at most about

⁷ Based on the Appellant's intention for a 45 minute cycle, and opening hours of 0900-1700 from Monday to Friday.

⁸ The survey results are at Appendix A of the Transport Assessment. The figure of 725 is the aggregate of the five day averages for northbound and southbound traffic.

180 two-way movements per day, representing a 25% increase in traffic levels on Birches Lane.

32. Criticism has been made by the Action Group that the existing crematoria on which the survey work has drawn are not in rural communities where it is suggested that the number of mourners is often high. Mr Dodgson, the local funeral director, gave evidence that, of the 8-15 funerals conducted by his firm each week, 3-4 would be expected to attract 150 mourners, and that it was rare for there to be less than 61. Applying the 2.14 car occupancy rate in the Transport Assessment would give vehicle numbers for services of 70 and 28 respectively. These figures must be treated with caution, however, as they are not supported by any submitted survey work and they relate to a single business. I also note that both the Chichester and Guildford crematoria are larger facilities with greater capacity than proposed at the appeal site, and I heard that in the case of the larger funerals, it would be the Appellant's intention to provide a double slot. In assessing the capacity of the junction of the site access, the Appellant has included flows of 100 vehicles in and 100 vehicles out during the peak period. These figures are well in excess of those indicated by the Appellant's survey or by Mr Dodgson's evidence, and no capacity problems are identified as a result of the modelling exercise. Moreover I note that the Council's highway engineers raised no objection in respect of highway capacity. A total of 61 parking spaces would be provided within the site, and, having regard to likely traffic generation, I am satisfied that this number of spaces should be sufficient to avoid parking on the highway.
33. The representations from the Action Group refer to slow-moving funeral traffic. Corteges making their way to the crematorium would travel more slowly than other traffic. However the journey along Birches Lane to the site access would only be about 1km in each direction. The Appellant refers to the average length of corteges as five vehicles, and Mr Dodgson gave a slightly higher figure of seven at the hearing. Other vehicles will travel separately to funerals, and, on the information before me, the suggestion from the Action Group of corteges comprising 30-40 cars appears to be unduly pessimistic. I do not consider that it would take an undue length of time for funeral corteges to travel along Birches Lane, and I do not consider that their presence would materially interfere with traffic movement in the locality.
34. I turn now to consider the question of highway safety. The representations indicate that Birches Lane is used by walkers, horse-riders and cyclists, and there is a certain level of on-road parking in Lostock Green. Other than at the junction with the B5082 there is no record of personal injury accidents having occurred during the three years 2009-2012, and no information was submitted at the hearing to indicate that the position had changed since the transport assessment was prepared. I have read that there have been near misses and bumps and scrapes in Birches Lane, and the Action Group has submitted photographs of a collision involving three vehicles. However the full circumstances of that incident are not before me, and this collision does not indicate that the road is unsafe. Whilst anecdotal references have been made to vehicles speeding through Lostock Green, the only specific evidence on the speed of traffic is the Appellant's survey, which gives 85th percentile average speeds of 53.4mph northbound and 54.3mph southbound in the vicinity of the appeal site, within the speed limit on this stretch of Birches Lane.

35. The information before me on traffic levels, speed of vehicles, accidents, and the variety of road users does not indicate that the additional trips and type of traffic generated by the crematorium would materially reduce highway safety. Moreover, insofar as horse-riding is concerned there is a direct access from the stables at Park Farm onto tracks which are used to the east of Birches Lane.
36. The junction of Birches Lane with the A556 is a left in/ left out arrangement in respect of the minor road. Of the 90 daily trips to the crematorium predicted by the Appellant, 13 are expected to use this junction. Whilst there is no deceleration lane from the busy A556, which carries fast-moving traffic, the major road is a dual carriageway, providing the opportunity for other vehicles to move to the outer lane to pass corteges making their way to the site. Vehicles leaving the site would not be travelling as part of a cortege, and would simply join the nearside carriageway as does existing traffic. There is no record of personal injury accidents here, and I do not consider that the limited number of additional movements pose a threat to highway safety.
37. At Lach Dennis, Birches Lane joins the B5082 with an acute angle to the west, necessitating a sharp turning manoeuvre for vehicles travelling from that direction. Most vehicles travelling to the site are expected to use this route, and two accidents, involving slight injuries, have been recorded here. As part of the scheme, it is proposed to widen the carriageway of Birches Lane on the western side of the mouth of the junction. Swept paths for a limousine turning into Birches Lane from the west are plotted on the plans at Appendix J of the transport assessment. They show that, with the widening of the junction mouth the manoeuvre could be undertaken without such vehicles encroaching onto the other side of the carriageway. The work involved would be undertaken on highway land, and could be the subject of a condition.
38. It is expected that 56 vehicles (61.6%) would turn right from the A556 onto the B5082, crossing the other carriageway in the process. This is a location where three personal injury accidents occurred in the period 2009-2012, but all involved vehicles emerging from the B5082, and only 15% of vehicles leaving the crematorium are expected to join the A556 at this junction. I do not expect that the modest increase in traffic making this manoeuvre would materially increase the risk of accidents.
39. The Framework makes it clear that development should only be prevented on transport grounds where the residual cumulative impacts are severe. I do not consider that this would be the case in respect of the appeal proposal, and I conclude that it would neither materially reduce safety on the local highway network, nor impede the free movement of traffic. In consequence, the proposal would not conflict with criterion (v) in Policy T1 of the Local Plan.

Other considerations

The need for a crematorium

40. There is no crematorium in this part of Cheshire. Existing facilities in the wider area are at Chester, Warrington, Altrincham, Macclesfield and Crewe⁹. The Appellant's Quantitative Needs Assessment (QNA) identifies a minimum drive-time catchment for the appeal site: this is the area for which, having regard to resident and funeral director proximity, the appeal proposal would provide the

⁹ Map 3.2 in the QNA shows the location of the appeal site in relation to existing crematoria.

- nearest crematorium¹⁰. This catchment area is calculated as having a population of 142,603 in 2010, rising to 151,952 in 2033. Applying death rates derived from Office of National Statistics data and a cremation rate of 75%, the QNA calculates the potential demand for cremations arising within the minimum drive-time catchment area as 1,035 in 2021 and 1,211 in 2033.
41. Drawing on an appeal decision concerning a crematorium in Cornwall¹¹, the QNA refers to an industry guideline of a 30 minutes drive-time from a crematorium at cortege speed: this basis for a catchment area is also referred to in the appraisal of the proposal commissioned by the Council (Analysis of Application by Memoria Ltd – AAM). Whilst the Action Group argued that the crematoria in the surrounding area serve local needs, the appropriateness of the 30 minutes drive-time was not disputed in the representations, and I consider that it provides a useful factor to apply in assessing need. The 30 minutes drive-time catchments of existing crematoria overlap with the minimum drive-time catchment of the appeal site, and the QNA calculates that 108,047 people reside in the area around the appeal site extending up to the adjacent catchments.
 42. The overall approach of the QNA is endorsed by the Council's appraisal. It calculates the population of the minimum drive-time catchment as 139,688 in 2011, rising to 158,572 in 2031, a somewhat higher figure than that projected by the Appellant. Applying the same cremation rate of 75%, the number of cremations for these years is given as 989 and 1,233. Both reports conclude that the catchment area analyses point to a need for additional crematorium provision in the area which would be served by the proposed development.
 43. In addition, a survey of funeral directors in the area around the appeal site produced findings indicating waiting times of around 14 days in the period after Christmas at Warrington and service time congestion at Altrincham and Macclesfield¹². The AAM comments that new provision would reduce pressure on existing crematoria, particularly Macclesfield and Warrington, thereby improving the experience for mourners at those facilities.
 44. The Council accepts that there is a need for a new crematorium, and in his evidence to the hearing the local funeral director, Mr Dodgson, expressed a similar view. In its comments on a planning application for a crematorium on land at Shurlach Lane, Davenham, which is about 3km to the south-west of the appeal site, the Action Group also expressed the view that there is a need for a crematorium to serve Mid-Cheshire (Document 6). On the information before me I am in no doubt that there is a quantitative and qualitative need for additional provision in this part of Cheshire.
 45. In April 2013, the Council granted planning permission for the crematorium proposed at Davenham. Figures on the numbers of cremations within the minimum drive-time catchment area give an overall range of 989 in 2011 to 1,233 in 2031 (above, paras 40 and 42). The Council's report on the Davenham proposal refers to an estimated 1,050 cremations, with about 600 being undertaken in the first year. Whilst the Davenham proposal would have the capacity to meet a substantial part of the identified need for this part of Cheshire, a condition imposed on the planning permission requires the

¹⁰ Map 3.1 in the QNA.

¹¹ The appeal decision is at Appendix 2 of Mr Mitra's statement.

¹² The survey results are reported in the Appellant's Qualitative Needs Assessment, Appendix 2 to the Planning, Design and Access Statement.

implementation of highway works on the A556, involving the closure of the gap in the central reservation at the junction with Shurlach Lane, and the provision of merging and diverging lanes. I anticipate that these works would be considerably more complex and require a longer period to implement than the limited carriageway widening at the junction of Birches Lane and the B5082 included as part of the appeal proposal (above, para 37). This situation is likely to have implications for the date when the Davenham proposal could become available to meet the identified need. In the circumstances, I consider that, notwithstanding the granting of planning permission for a crematorium at Davenham, the need for a crematorium in Mid-Cheshire provides some weight in support of the appeal proposal.

The effect on local businesses

46. The appeal site forms part of Birch Hall Farm, where there is a dairy herd. An objection to the planning application from the farm explained that it was already faced with the loss of 90 acres (36.4ha) due to the 'store energy' development, and that if both that scheme and the appeal proposal went ahead it would be necessary to reduce the number of cattle from 240 to about 175 with the loss of one job. I heard at the hearing that the farm had been given notice to quit from the land required for the 'store energy' development. At a maximum size of 2.62ha, the appeal site is much smaller than the other land which is to be taken out of the holding. No detailed assessment of the individual implications of the two proposals was submitted, but as the loss to the 'store energy' development would represent 93.3% of the overall reduction in size of the farm, I anticipate that any significant effect upon the business would be most likely to be caused by the loss of land to that scheme .
47. The Action Group suggested that the proposal could adversely affect the livery stables in Lostock Green. Concerns have been expressed about the effect of the additional traffic on safety for riders. Park Farm accommodates 34 stables, and it was suggested that about ten people were considering relocating their horses. However I also heard that there are not many alternative establishments, and there is nothing before me to indicate whether there would be the spare capacity to accommodate a significant transfer of liveries from Park Farm. I have found that the additional traffic generated by the crematorium would not materially reduce highway safety for road users on Birches Lane, including horse-riders (above, para 35). I appreciate that riders may have a perception of reduced safety, but there is, in any event, direct access to tracks used for riding from the stables without the need to ride along Birches Lane. For the reasons given above, little weight attaches to the effect of the proposal on local businesses.

Safety

48. The Action Group has raised concerns about the relationships between the appeal proposal and the underground storage of gas and ethylene and brine wells. It has been suggested that the number of visitors and vehicles going to the crematorium and the nature of that use could impinge on the operation and effectiveness of emergency plans in respect of incidents relating to gas storage. Reference is made to bursts from brine wells with released brine flowing a considerable distance and the ongoing need for servicing work in the area around the site. The Council consulted the Health and Safety Executive in relation to gas storage and The Cheshire Brine Board. No objections were raised, and there is no substantive evidence before me to demonstrate that the

proposal would compromise safety. Insofar as ethylene is concerned, the Council's report on the application explains that records show no such storage close to the site. These matters carry no weight against the proposal.

Future of the crematorium

49. The Appellant has previously sold a number of crematoria which it operated, and local residents have questioned the company's commitment to the operation of the facility proposed at the appeal site. In correspondence to the Council and at the hearing, the Appellant explained that the previous situation occurred as a consequence of the sale of the separately-owned freeholds to a competitor, and that since 2009 Memoria has been both a developer and an operator of crematoria. In any event, there is nothing in the representations to indicate that there are circumstances specific to the Appellant which carry weight in this case. Consequently my consideration of the proposal is concerned with the use of the site regardless of operator. I attach no weight to this matter.

Sustainability

50. The appeal site is not easily accessible by public transport. It is a distance of about 2.5km from the site to Lostock Gralam, where there are bus and train services, and a similar distance to Gadbrook which is served by bus. The guidelines on the siting and planning of crematoria advise that locations should be accessible by public transport, although the Council explained that its research indicated that most people made the journey to both services and gardens of remembrance at crematoria by private vehicles. Bearing in mind that, in the absence of a local facility, journeys, including those by corteges of limousines and cars, are made out of the local area to the existing crematoria, I consider that it is appropriate to take a broader view of sustainable travel than simply the extent to which the site is accessible by public transport. The five existing crematoria are between 22km and 38km from the site, and the Appellant suggests that, on the basis of an average of 15 cars per service, there would be a saving in travel of 182,286km annually. This figure is an estimate, and if a crematorium were established at Lach Dennis, I anticipate that, particularly in the early years, there would be a certain level of travel to funerals outside the locality due to existing family connections. Nevertheless, given the distances involved to the existing crematoria, I consider that the appeal proposal would have the potential to realise a significant reduction in travel.

51. A similar argument would apply to the Davenham crematorium, and given the information on the likely number of cremations and the capacity of the two proposals (above, para 45), both could not produce a significant reduction in travelling. Moreover it is unlikely that there would be the demand to support two crematoria, and, in the event of both being permitted, the Council and the Appellant suggest that the market would determine which would proceed. At the present time the prospect of a reduction in travel is a potential benefit of the appeal proposal, and I consider that this offsets the difficulties which would be involved in travelling to and from the site by public transport. I find that, considered in the round, the proposal would not conflict with criterion (ii) in Policy RE1 of the Local Plan, which requires proposals to meet objectives relating to sustainable travel.

52. Sustainability does not simply concern accessibility and mode of transport. Of most relevance in this regard, since it post-dates the Local Plan and was only published last year, is the policy in the Framework. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development, and explains that for decision-taking this means approving proposals which accord with the Development Plan, and where the Development Plan is out-of-date granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits, or policies in the Framework indicate that development should be resisted.
53. I have found that the proposal would comply with policies in the Local Plan concerning the character and appearance of the area, the effect on neighbours and highway safety. Insofar as the countryside location of the proposal is concerned, Policies PS1 and RE1 are not fully consistent with the Framework. There are no specific policies in the Framework which indicate that the development proposed should be restricted. It is therefore necessary to assess the balance of any adverse impacts and benefits. I have found that there would be no unacceptable harm to living conditions, no material harm to highway safety and traffic movement, and that the effect on local businesses carries little weight: in short that there would be no significant adverse effects. On the other hand some weight attaches to the need for a crematorium, and this would not be significantly and demonstrably outweighed by any limited effects of the proposal. Accordingly the proposal would comply with the approach to sustainable development set out in paragraph 14 of the Framework.

Conditions

54. I have already referred to conditions concerning materials to be used on the crematorium building and at the site entrance, landscaping, the formation of SUD ponds, external lighting, signage, tree and hedgerow retention, and highway works at the junction of Birches Lane and the B5082, all of which would be necessary. To ensure that the development would be in keeping with its surroundings, details of ground levels and materials for surfacing the access drives, car park and footways should be submitted for approval. Conditions requiring the formation of the access and the provision of parking space are required in the interest of highway safety. For both these reasons, the hours of operation should be restricted to those sought by the Appellant, and a construction method statement and management scheme should be submitted for approval.
55. To safeguard nature conservation interests, in accordance with Policies NE1 and NE5 of the Local Plan, measures for the protection of great crested newts, bats and birds are necessary. It is important that an easement is maintained for the nearby rising main sewer on Birches Lane, and a scheme should be submitted to ensure that the development would be satisfactorily drained. Finally, it is important that the development is carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. Given the distance of residential development from the site and the nature of the use, a condition concerning the emission of noise from the building would be unnecessary.

Conclusions

56. Whilst Policies RE1 and PS1 of the Local Plan concerning agricultural land and public service development in the open countryside include tests relating to an overriding and essential need respectively, these requirements are not fully consistent with the approach to rural development in the Framework, and I do not consider that it is necessary to demonstrate need in these terms to establish the acceptability of the principle of the appeal proposal. One of the core planning principles set out in the Framework is that the intrinsic character and beauty of the countryside should be recognised, and the proposal would not cause harm to the character and appearance of the area. Nor would it unacceptably affect the living conditions of local residents, or materially reduce highway safety and impede traffic movement.
57. There is a need for a crematorium in this part of Cheshire, and I give some weight to this factor, bearing in mind the planning permission for a crematorium at Davenham and the associated requirements for significant highway works. There are no effects which count significantly against the proposal, and they do not outweigh the benefit of meeting need. Consequently the proposal would comply with the approach to sustainable development set out in paragraph 14 of the Framework. Overall, therefore, the development would be acceptable in principle in this countryside location. Accordingly, for the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Richard Clegg

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan dated 12 June 2012, site plan ref 1274-3B (excluding the details of the entrance gates and walls), car park and floor plan ref 1274-1A, floor plan ref 1274-2A, the elevations and section on plan ref 127-4A, and the access details on plan ref 4168/002B.
- 3) The crematorium hereby permitted shall not be operated outside the following times: 0900 – 1700 hours from Monday to Friday and 0900 – 12 hours on Saturday, nor at any time on Sundays, and public holidays. The gardens of remembrance hereby permitted shall not be open outside the following times: 0900 – 1700 hours.
- 4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place until samples of the materials to be used in the surfacing of the access drives, car park and footways have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) Notwithstanding the details included on the site plan ref 1274-3B, no development shall take place until revised details of the gates and means of enclosure at the site entrance have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No development shall take place until a scheme of external lighting 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.
- 8) No development shall take place until a scheme of signage in connection with the construction phase has been implemented in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The approved signage shall be retained for the duration of the construction period.
- 9) No development shall take place until a scheme of signage in connection with the use of the site as a crematorium 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) No development shall take place until a scheme of proposed ground levels has been submitted to and approved in writing by the local planning authority. The scheme shall include details of grading and mounding, including the relationship of such works to the existing vegetation and landform. The development shall be carried out in accordance with the approved details.

- 11) No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall identify existing trees and hedgerows to be retained, and shall include details of wildflower planting mixes, and a programme for implementation. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the implementation programme; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 12) The crematorium shall not be brought into use until a habitat and landscape management plan including long-term design objectives, management responsibilities and maintenance schedules, has been submitted to and approved in writing by the local planning authority. The site shall be maintained in accordance with the approved habitat and landscape management plan.
- 13) No retained tree or hedgerow shall be cut down, uprooted or destroyed, without the written approval of the local planning authority.
- 14) The crematorium and gardens of remembrance shall not be brought into use until the vehicular access and visibility splays have been formed in accordance with the access details on plan ref 4168/002B.
- 15) The crematorium and gardens of remembrance shall not be brought into use until car and cycle parking space has been provided within the site in accordance with the car park and floor plan ref 1274-1A.
- 16) The crematorium and gardens of remembrance shall not be brought into use until the junction of Birches Lane and the B5082 has been altered in accordance with the scheme shown on plan ref 4168/003.
- 17) No development shall take place until a construction method statement and management scheme 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) Hours of work during the construction period.
 - ii) The phasing of the movement of construction traffic.
 - iii) Parking of vehicles of site operatives and visitors.
 - iv) Loading and unloading of plant and materials.
 - v) Storage of plant and materials used in constructing the development
 - vi) Wheel washing facilities.
 - vii) Measures to control the emission of dust, dirt, noise, vibration and light during construction.
 - viii) A scheme for recycling and disposing of waste resulting from construction works.
 - ix) Details of piling.
- 18) No development shall take place until a scheme and programme of precautionary measures to protect great crested newts, has been submitted to and approved in writing by the local planning authority. The

- measures shall be implemented in accordance with the approved scheme and programme.
- 19) No trees shall be felled in accordance with the development hereby permitted until:
- i) Further inspections for the presence of bats have been undertaken in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority.
 - ii) A report on the outcome of the inspection has been submitted to the local planning authority.
 - iii) If the presence of bats is found, a scheme and programme of mitigation measures, to be included in the inspection report, has been approved in writing by the local planning authority. The mitigation measures shall be implemented in accordance with the approved scheme and programme.
- 20) No development shall take place until a scheme and programme of bat enhancement features, has been submitted to and approved in writing by the local planning authority. The bat enhancement features shall be implemented in accordance with the approved scheme and programme.
- 21) The removal of trees and hedgerows shall only take place outside the bird nesting season (1 March – 31 August inclusive).
- 22) No development shall take place until a scheme and programme of bird compensatory measures has been submitted to and approved in writing by the local planning authority. The bird compensatory measures shall be implemented in accordance with the approved scheme and programme.
- 23) No development shall take place until a scheme for the provision of separate foul and surface water drainage works have been submitted to and approved in writing by the local planning authority. The scheme shall restrict discharge of foul water into the public sewer to a rate not exceeding 3 litres per second, and, notwithstanding the inclusion of new ponds on the site plan ref 1274-3B, details of the implementation and maintenance of sustainable drainage arrangements. The crematorium shall not be brought into use until the drainage works has been implemented in accordance with the approved scheme.
- 24) An access strip of 3m on each side of the rising main sewer in Birches Lane shall be maintained free of development at all times.

APPEARANCES

FOR THE APPELLANT:

Mr I Ponter	Counsel for the Appellant.
Mr K Mitra MA MRTPI	Genesis Town Planning.
Mr J Hodgson	Business Development Director, Memoria Ltd.
Mr I Roberts MCIHT	Bellamy Roberts LLP.
Mr B Duckett BSc(Hons) BPhil CMLI	Director, Hankinson Duckett Associates.

FOR THE LOCAL PLANNING AUTHORITY:

Mrs J Gordon BA(Hons) MSc MRTPI	Principal Planning Officer.
Mr E Snell BA(Hons) DipLA CMLI	Principal Landscape Officer.

FOR LACH DENNIS AND LOSTOCK GREEN ACTION GROUP:

Miss F Cotton	Local resident.
Dr R Todhunter	Secretary of the Action Group and local resident.
Mrs K O'Donoghue	Local resident.

OTHER INTERESTED PERSONS:

Councillor B Clarke	Member of Cheshire West & Chester Council.
Councillor E Moore Dutton LLB(Hons)	Member of Cheshire West & Chester Council.
Councillor M Stocks	Member of Cheshire West & Chester Council.
Councillor A Walmsley	Member of Cheshire West & Chester Council.
Councillor J Hardman	Member of Lach Dennis Parish Council.
Mrs N Clarke	Clerk to Lostock Gramam Parish Council.
Mrs J Buchanan	Local resident.
Mr B Dodgson	Dodgson & Bell Funeral Service.

DOCUMENTS

- 1 Bundle of photographs and photomontages from the Appellant showing views towards the appeal site.
- 2 Bundle of aerial photographs and photomontage from the Council showing the appeal site and the surrounding area and landscape character areas.
- 3 Set of annotated images prepared by the Action Group in response to the planning application.
- 4 Bundle of enlarged photographs from the Action Group concerning traffic matters.
- 5 Saved policies direction and schedule in respect of the Local Plan.
- 6 Representations from the Action Group in respect of the planning application for a crematorium at Davenham.
- 7 Planning application form and planning design and access statement for a crematorium at Davenham.
- 8 Bundle of plans relating to Document 7.
- 9 List of viewpoints suggested for the site visit suggested by the Council.

- 10 Notice of planning permission Ref 12/05365/FUL for a crematorium at Shurlach Lane, Davenham.
- 11 Reports to the meeting of the Council's Strategic Planning Committee on 18 April 2013 concerning Documents 7 and 8.
- 12 Judgement in R (on the application of Fox Strategic Land & Property Ltd) v The Secretary of State for Communities & Local Government and Another.
- 13 Judgement in Tesco Stores Ltd v Dundee CC.