



## Appeal Decision

Site visit made on 18 February 2014

by **David Richards BSocSci Dip TP MRTPI**

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

Decision date: 10 March 2014

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**Appeal Ref: APP/G2245/A/13/2210128**

**Land south of Orchard Barn, London Road, Halstead, TN14 7AD**

- 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 Sevenoaks District Council.
  - The application Ref SE/13/02415/FUL, dated 5 August 2013, was refused by notice dated 8 November 2013.
  - The development proposed is construction of a new crematorium, associated car park, access road and gardens of remembrance, and area for natural and traditional burials.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect on the character and appearance of the countryside, and whether very special circumstances exist to justify inappropriate development in the Green Belt.

### Reasons

#### *Effect on the countryside*

3. The site is approximately 2.5 hectares in extent and lies in the Green Belt to the west of the A224, south of Badger's Mount. It is a level pasture currently used for grazing sheep. There is a well established hedgerow along the road frontage. To the north of the site there is a 2<sup>1</sup>/<sub>2</sub> storey building used as a kitchen salesroom with offices known as Orchard Barn. To the north-west there is a dwelling (The Granary). The southern and western site boundaries are formed by hedgerows up to 2 m in height, with intermittent mature hedgerow trees, and some gaps. The north east boundary with Orchard Barn consists of trimmed conifers. The western boundary gives open views of the surrounding countryside. Oak Tree Farm lies to the south.
4. A footpath follows the southern and western boundary of the site, where it passes through a gate in the direction of the village of Halstead, which lies approximately 1 km to the west.
5. Set within the Green Belt in the locality there are a number of enclaves of development. To the north of the site lies the Toby Carvery with parking areas to the front and side of the building, and an open frontage to the A224. To the east Polhill Garden Centre is an extensive established commercial use with greenhouses, buildings and a substantial entrance/exit with extensive parking.

Oak Tree Farm to the south comprises a number of buildings and structures in a variety of residential and commercial uses. The field between Oak Tree Farm and the site is currently used for the storage of a variety of items including helicopters, mobile storage units, job buckets and steel girders. Beyond Oak Tree Farm lies the Calcutta Club and Diner and a significant group of buildings fronting the main road, and parking/turning areas to the side of the buildings.

6. The main crematorium building would have a floor area of some 282 m<sup>2</sup>, with a further 87 m<sup>2</sup> lying under 2 portes cocheres. It would be a single storey building located in the centre of the northern part of the site. The ridge of the building would be some 7.3 m, with a stack 1 m above the ridge line. It is intended that the building would be rural in character, constructed of brickwork with panels of dark stained timber boarding and a tiled roof. The proposals include a surfaced car park for 60 cars, and an overflow car park of reinforced grass for a further 40 cars to the east of the building, between it and the road. The crematorium building and hard surfaced areas would occupy about 14% of the overall site area, the majority of which will remain open in character.
7. The parking area would extend to some 2900 m<sup>2</sup>. A new entrance to the site would be provided, requiring the removal of some 70 m of the existing substantial hedgerow. A replacement hedge would be planted behind the required visibility splays.
8. Proposed landscaping would include a belt of native planting to include screening from the A224, and an area of orchard planting and wildflower grassland in the south west corner of the site. The access road would be lined with trees and would pass through a meadow area before turning north towards the car park. A native hedge would define a small memorial garden, with a pond providing a focal point. Overall the length of hedgerow on the site would increase by 231 metres. A meadow area to the rear of the crematorium would remain open to allow views of the wider landscape. The public footpath along the southern boundary would be fenced from the remainder of the site at its eastern end (near to the road), and by a native hedgerow offset 5 metres from the existing hedge. Formal ornamental planting would be limited to the area around the building, the car park and the memorial garden. Other areas would retain a more naturalistic appearance.
9. The site lies within a gently undulating landscape with the rising landform of the North Downs forming a ridge to the east and south of the site. The land use in the area is predominantly agricultural (mainly pasture), though there are horticultural and commercial uses associated with Polhill Garden Centre. There are several blocks of woodland in the locality, most notably Chalkhurst Wood some 450 m to the west of the site, and others adjoining the M25 to the east. There are also some small areas of orchard, a characteristic use which was formerly much more extensive.
10. The Appellant's Landscape and Visual Impact Assessment (LVIA) references a number of studies of the landscape character of the surroundings. Of particular significance is a District wide Landscape Character Assessment adopted by Sevenoaks District Council in 2011 as a Supplementary Planning Document (SPD). This identifies the site as lying within the Knockholt and Halstead Downs LCA. This assessment states that the condition of the Knockholt and Halstead Downs is poor and its sensitivity low. The recommended landscape actions are discussed as follows. *'The changing use and emphasis of this area means that the new landscape features are needed*

*to accommodate new uses. In the farmed landscape the rural heritage features should be reinforced, such as woodlands and hedged boundaries to roads. However, new features may be introduced into the urban fringe landscape, which should express both the historic and natural characteristics of the area. This may involve the enhancement of historic village cores, and the replanting of community orchards, or the provision of rural fringe edge which enhances the wildlife interest and provides space for urban recreation.'*

11. I acknowledge that there is scope for improvement of the landscape structure of the area. However, to my mind, the recommended landscape actions as they affect the area around the appeal site should be read in the context of the Framework's approach to development in the Green Belt, which emphasises the preservation of openness. While there are some developments nearby which detract from the character of the area, and would benefit from sympathetic landscape improvements, the site itself retains characteristics which are strongly rural and which relate to the more open countryside to the west and south west of the appeal site.
12. The Appellant suggests that the extent and nature of development in the locality gives it the character of urban fringe. My observation of the appeal site and its surroundings is that it does not uniformly merit characterisation as urban fringe landscape. While I accept that some of the development detracts from the countryside character, such uses are often found to a greater or lesser extent in rural locations. The detracting elements if anything serve to emphasise the relative fragility of the Green Belt in this general locality, rather than to serve as a reference for development which would lead to a further loss of openness. To my mind, the introduction of a new building, though designed to appear as a rural building, would lead to a further loss of openness, together with a new access and significant areas of car parking that would be harmful to the existing countryside character. I accept that the development would be accompanied by a high quality landscaping scheme, which would in time provide screening for the buildings and parking areas. However, given the nature of the development, this could not be wholly successful in preserving its present rural character.
13. I accept that there are opportunities for screening the building and car parking areas, as indicated in the landscaping scheme, which would partially mitigate the impact of the development in the landscape. In my estimation views from nearby dwellings and commercial properties would be of limited overall significance. Nevertheless the limited visibility of the existing site and of the proposed development does not alter the fact that there would be a significant change in that the present agricultural/pastoral character of the site would be replaced by a more intensive form of development including a number of more formal and urbanising features.
14. Saved policy EN1 of the Sevenoaks District Plan sets out a number of criteria which apply to the consideration of all development proposals. The development would comply generally with the requirements of EN1 in terms of its design, landscaping and effects on traffic and the amenity of neighbours. However the ability to comply with these criteria does not in any way lessen the need to demonstrate very special circumstances to justify inappropriate development in the Green Belt in accordance with the requirements of the Framework.

15. Policy LO8 of the Sevenoaks Core Strategy advises that the countryside will be conserved and the distinctive features that contribute to the special character of its landscape will be protected and enhanced wherever possible. I consider that the change in character from the present low key agricultural use to the more intensive use associated with the crematorium would conflict with the aims of this Policy.
16. The site is not within the Kent Downs Area of Outstanding Natural Beauty (AONB). However, the land on the opposite side of the A24 is within the AONB, and so saved Policy EN6 of the Sevenoaks District Local Plan is relevant as any development which is perceived to harm or detract from the landscape character of the AONB will not be permitted. Nevertheless I do not consider that the development would be of such significance as to harm or detract from the AONB.

*Harm to the Green Belt by reason of inappropriateness, and other harm*

17. Paragraph 89 of the National Planning Policy Framework (the Framework) specifies the provision of appropriate facilities for cemeteries as an exception to the general classification of new buildings in the Green Belt as inappropriate, as long as the openness of the Green Belt is preserved and there is no conflict with the purposes of including land within it. However, it is not disputed that the inclusion of a crematorium building would be inappropriate development. Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
18. In addition to harm by reason of inappropriateness, and the harm to openness, the construction of the building and introduction of parking areas would involve some harm to the character and appearance of the countryside as described above. While there would be no need for the footpath to be diverted, and the landscaping proposals would provide some mitigation and screening, there would also be some harm to the enjoyment of users of the footpath arising from the change in character of the site.

*Material Considerations*

19. The Appellant submitted detailed evidence of need with the planning application. Using 2011 population figures, this confirmed that some 216,000 people live closer to the proposed site than to any other facility in the country. For a catchment of this size 1370 cremations per year would be expected. The catchment population is predicted to rise to some 260 by 2033, with the predicted figure for cremations rising to 1602 annually. The industry guidelines for this type of facility indicate a benchmark population of 150,000 people, and this has been used as a measure of quantitative need in other appeal decisions. The catchment population for the proposed facility is significantly above the benchmark, and is predicted to rise further over time.
20. With regard to qualitative measures of need, evidence commissioned by the Appellant shows that some 130,000 - 140,000 people who currently live more than 30 minutes drive time from a crematorium (at speeds appropriate to a funeral cortege) would be within 30 minutes of the appeal site.
21. A further report on needs assessment prepared by Peter Brett Associates for the Appellant refers to the difficulty of identifying sites in urban areas, due in

part to the requirements of the Cremations Act 1902, and competition from other uses. I accept that the likelihood of a suitable site being identified in an urban area of Sevenoaks District is remote. The report also concludes that almost all sites outside of urban areas are in the Green Belt.

22. The report points to high levels of demand at existing Crematoria, notably Eltham, which is the second busiest crematorium in the country, where waiting times of three weeks and more are common. This compares with an industry 'rule of thumb' of one week. This evidence of need was supported by local funeral directors and by a representative of the local clergy, who referred to the anxiety that can be caused to mourners by lengthy journeys, the waiting times for existing facilities, and constraints on the length of time available for funerals. The Appellant's need evidence was not challenged by the Council, and I consider that it provides clear evidence of quantitative and qualitative need for the proposed crematorium.
23. A number of objectors have questioned the Appellant's evidence of need, referring to the statements by existing operators of crematoria at Tunbridge Wells, Medway and Eltham that they are currently operating below capacity. While it may be that over a period of a year, there are untaken slots which are theoretically available, this doesn't take account of seasonal fluctuations in mortality which affect levels of demand. I see no reason to discount the evidence of local funeral directors and clergy who refer to the long waiting times which can be experienced at times, nor the inconvenience and anxiety occasioned by the need for relatives and mourners to travel a considerable distance.

#### *Alternative sites*

24. A search for alternative sites was carried out for the Appellants by a firm of Chartered Surveyors. The requirement was to find a freehold site of between 2 and 4 ha, within 2 km to the north, east and west of Halstead or within 5 km to the south, with direct access from a highway capable of accommodating potentially large volumes of traffic. The site needed to be in an attractive setting with good boundary screening and not prominent in the landscape. A circular was sent to a range of land, commercial and estate agents operating in the locality. Property search engines and local market knowledge were also used.
25. One potential site was identified, at Fairtrough Farm, Knockholt. However it was subsequently found not to meet the criteria, being outside the area of search, accessed by country lanes and within 200 yards of surrounding residential properties. The Cemeteries Act 1902 specifies a minimum distance of 200 yards, unless by consent of the owner. The report states that a further comprehensive search of sites within and adjoining the settlements to the north of Sevenoaks and around the settlements of Dunton Green, Otford, Halstead, Kemsing and south-east of Orpington revealed a lack of suitable sites. On this basis the report concluded that no other suitable sites were available on the market that would meet the needs of the Appellant.
26. I accept that the evidence demonstrates that there are very unlikely to be any suitable and available non- Green Belt sites within the defined areas of search and nearby settlements. I note that two other planning applications are under consideration by the Council but which have yet to be determined. One is immediately to the south of the appeal site, and another is further north. The

Council states that it has been contacted by a fourth company expressing interest in providing a crematorium in the District. These schemes are not before me for determination and the limited information before me does not enable a meaningful comparison to be made between them. The two sites on which applications have been submitted are in the Green Belt, and subject to the same considerations as set out in the Framework.

27. The promoter of a rival scheme on an adjoining site at Oak Tree Farm questions the Appellant's evidence for concluding that no alternative suitable site is available. I agree that the site search carried out on behalf of the Appellant cannot be said to be comprehensive. The existence of at least two other possible sites is revealed by the submission of the two planning applications. A site at Watercrofts Woods, approximately 1 mile north of the appeal site, where planning permission has been granted for a cemetery, would at least have merited further investigation as a potential site for a crematorium. A previous proposal to construct a crematorium on that site was turned down due to inability to demonstrate need at that time. These planning applications are evidence of potential alternative sites being available for consideration.
28. The promoter of the scheme at Oak Tree Farm also argues that the Appellant has failed to follow a sequential approach to the identification of a preferred site, making reference to paragraph 89 of the Framework which states that '*partial or complete redevelopment of previously developed land is not inappropriate*'. It is argued that while the current appeal site is a greenfield site where a crematorium would clearly be inappropriate development, the Oak Tree Farm site offers the opportunity of the demolition of an existing dwelling of some 120m<sup>2</sup>, other buildings totalling 128 m<sup>2</sup>, a silo, as well as avoiding the need for the creation of new access. The Council acknowledges that there may be some benefit in terms of openness effects from the removal of existing structures, though the extent to which current uses at Oak Tree Farm are authorised, in particular open storage uses on the land adjacent to the current appeal site, is in question. It is also the case that agricultural buildings are not included within the definition of previously developed land.
29. There is no national or local policy requirement for this type of development to follow a sequential approach to the identification of sites. The details of the Oak Tree Farm scheme are not before me for determination, and the objectors claim that development there may not be inappropriate is untested. Nevertheless, on the information available I am not able to be certain that there are no alternative sites which would have less overall impact on Green Belt openness. This would be a key factor in reaching a conclusion in respect of the existence of very special circumstances.

#### *Other matters*

30. Objectors referred to recent heavy rainfall which has resulted in standing water on part of the site, and on the A224, which had to be closed at one time. Nevertheless the site is not in an identified flood risk area, and the proposal would incorporate a sustainable drainage scheme with a surface water run-off attenuation feature. A flood risk assessment has been prepared which demonstrates that there are no flood risk constraints, and the Environment Agency has not objected to the development. In the circumstances I am satisfied that any localised problem can be addressed by means of a condition.

*Balancing exercise*

31. The proposal would involve inappropriate development which is intrinsically harmful to the Green Belt. It would involve a loss of openness and some harm from the introduction of a new access and parking areas. I attach substantial weight to the harm by reason of inappropriateness, and the harm to openness. In addition, there would be harm to the character and appearance of the countryside and of the Green Belt by the replacement of a characteristic farming landscape with a more intensive use. This would be particularly apparent to users of the footpath which passes through the site.
32. A number of material considerations weigh in favour of the proposal. I attach considerable weight to the quantitative and qualitative evidence of need for a crematorium in this area. It would serve a catchment substantially in excess of 150,000 people who would live closer to the proposed crematorium than to any existing facility. While the operators of existing facilities have stated that they are operating below capacity, I consider there is convincing evidence of seasonal variations which can give rise to waiting times of 2 – 3 weeks. In my judgment the provision of a crematorium facility in this location would be a considerable benefit to the wider population served by the new facility.
33. With regard to alternative sites, there is no evidence of a suitable non-Green Belt site being available. The requirements of the Cemeteries Act would make it difficult to locate such a facility in an existing settlement, where there are in any case competing pressures for developable land. The majority of Sevenoaks District outside of existing settlements is covered by Green Belt designation, and it is therefore very likely that any alternative provision for this type of facility capable of serving the identified catchment would be in the Green Belt, and would have some impact on openness. While it has been suggested that other schemes which are the subject of planning applications may have benefits in terms of the preservation of openness, the details of these alternative schemes are not before me for determination. Nevertheless on the evidence before me, it is not possible to be certain that an alternative site which would have less impact on Green Belt openness is not available.
34. For planning permission to be granted it is necessary to demonstrate the existence of very special circumstances which clearly outweigh the harm to the Green Belt and other harm. While I attach considerable weight to the identified need for a Crematorium in this general location, I cannot be certain that there is no suitable alternative site that would have a lesser impact on the openness of the Green Belt. In these circumstances, the material considerations do not individually or collectively amount to very special circumstances which clearly outweigh the harm by reason of inappropriateness, and harm to the character and appearance of the countryside.
35. Accordingly, I dismiss the appeal.

*David Richards*

INSPECTOR