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## Penderfyniad ar yr Apêl

Ymchwiliad a gynhaliwyd ar 28 Mehefin-1  
Gorffennaf & 5-6 Gorffennaf 2016  
Ymweliad â safle a wnaed ar 1 Gorffennaf 2016

**gan Vicki Hirst BA(Hons) PG Dip TP  
MA MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 17/08/16**

## Appeal Decision

Inquiry held on 28 June–1 July & 5–6 July 2016  
Site visit made on 1 July 2016

**by Vicki Hirst BA(Hons) PG Dip TP MA  
MRTPI**

**an Inspector appointed by the Welsh Ministers**

**Date: 17/08/16**

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**Appeal Ref: APP/A6835/A/15/3005992**

**Site address: Kelsterton Lane, Connah's Quay, CH7 6DW**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- 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 Flintshire County Council.
  - The application Ref 052334, dated 20 June 2014, was refused by notice dated 26 February 2015.
  - The development proposed is the construction of a new crematorium, associated car park, access road and ancillary works, landscaping and gardens of remembrance.
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## Decision

1. The appeal is allowed and planning permission is granted for the construction of a new crematorium, associated car park, access road and ancillary works, landscaping and gardens of remembrance at Land at Kelsterton Lane/Oakenholt Lane, Nr Northop, Flintshire, CH7 6DW in accordance with the terms of the application, Ref 052334, dated 20 June 2014, and the plans submitted with it, subject to the conditions in the attached schedule.

## Procedural Matters

2. The site address in the banner heading above has been taken from the application form. An amended address was used in the Council's decision notice and all parties at the Inquiry agreed that this was a more accurate description. I have accordingly used the revised address in my formal decision above.
3. Amended plans were provided during the processing of the appeal to relocate the proposed access into the site. The amended plans were the subject of further public consultation. A further plan was provided during the Inquiry addressing a discrepancy in one amended plan relating to the give way position of the new access. I am satisfied that no injustice would arise from taking these plans into account and I have done so in reaching my decision.

4. A Unilateral Undertaking under the provisions of s106 of the Act was submitted by the appellant at the Inquiry. It includes an obligation to submit a scheme of additional planting to strengthen and provide on-going maintenance of the hedgerows and roadside verges with a timetable for the implementation of the scheme. The obligation states that no development shall be commenced until the Council has given its written approval to the scheme and the development shall be carried out in accordance with the scheme. The duly signed undertaking was dated 1 July 2016.
5. The appellant stated at the Inquiry that following the preparation of the Unilateral Undertaking it had been ascertained that the bank has an interest in the land as the mortgage provider. It was agreed that a further deed would be provided following the Inquiry to confirm that the bank has no objection to the Unilateral Undertaking and that it would have no liability unless it took possession of the property in which case it would also be bound by the obligation. The duly signed deed was received following the Inquiry.
6. The obligation within the Unilateral Undertaking would normally be adequately provided for under a planning condition. However, it is relevant in this case that part of the hedgerows to be maintained fall outside the appeal site and on land that would not be in the ownership of the appellant. The owner of the relevant land is a party in the Unilateral Undertaking. Given my conclusions that works to the hedgerows would be required as an ongoing requirement of the development I consider that the obligation is necessary, related to the proposed development and related in scale and kind. As such it meets the appropriate tests set out in Circular 13/97 and the three statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. I afford the Undertaking significant weight in my decision.
7. Since the application was determined both Planning Policy Wales (PPW) and Technical Advice Note 12: "Design" (TAN 12) have been updated. The relevant documents are now PPW, Edition 8, January 2016 and TAN 12, March 2016. The previous versions of these documents have been referred to in the parties' submissions. All the main parties agreed at the Inquiry that neither update makes any material difference to the main issues. I am satisfied that the general content of the updated national policy remains similar to that in the superseded versions and my decision has been made on the basis of the updated versions.

## **Main Issues**

8. I consider the main issues in this case are:
  - whether the proposal would provide an appropriate site for a crematorium in particular having regard to the need for it to be located in the countryside and its effect on the character and appearance of the area; and
  - the effect of the proposal on highway safety

### *The Need for a Countryside Location*

9. The appeal site comprises some 2.8 hectares of land located in the open countryside approximately 2 km to the north-east of Northop and 1.25 km north of Northop Hall. It lies between Oakenholt Lane to the west and Kelsterton Lane to the east. It is classified as Grade 3b agricultural land.
10. The development plan comprises the Flintshire Unitary Development Plan (UDP) adopted in 2011. It is the relevant plan against which this appeal should be

determined unless material considerations indicate otherwise. Policy STR1 relates to new development and states that new development will be generally located within existing settlement boundaries, allocations, development zones, principal employment areas and suitable brownfield sites and will only be permitted outside these areas where it is essential to have an open countryside location. Policy GEN3 refers to those types of development that may be acceptable in such locations including other development which is appropriate to the open countryside and where it is essential to have an open countryside location rather than being sited elsewhere. This approach is consistent with national policy advice.

11. There is no dispute between the parties that there is a quantitative and qualitative need for a new crematorium in Flintshire and that this need remains with the recently opened crematorium in Denbighshire. The parties agree that meeting this need would result in the waiting times for funerals to be substantially reduced to the benefit of mourners. On the evidence before me I have no reason to disagree. However the Council and Rule 6 Party (JE Davies & Son) do not accept that there is an essential need for the development to be located in this particular location in the open countryside.
12. I note the requirements of the Cremation Act 1902 and the provisions of the Department of the Environment Guidance LG1/232/36, 1978, "The Siting and Planning of Crematoria" in relation to the siting of crematoria. The Cremation Act requires no crematorium be constructed nearer to any dwelling house than 200 yards (182.9 metres), nor within 45.7 metres of a public highway. The guidance advises that ideally a site should be between 2 and 4 hectares, with a well wooded site with natural undulations and good views. These requirements and advice clearly require a relatively large and attractive area of land, away from existing dwellings and which inevitably restricts the availability of sites within settlements for such development. Nonetheless there is no express requirement for crematoria to be located in the countryside or relaxation of the normal restriction on development in the countryside in national policy that would allow crematoria to be located in the countryside as a matter of principle.
13. The appellant has carried out an alternative sites assessment focussing on previously developed land or that within an existing built up area within the defined catchment area based on the recognised 30 minute drive time<sup>1</sup>. Potential sites were sought through advertisements in the local press and with land agents and an assessment of allocated sites within the UDP and candidate sites for the emerging LDP were also undertaken. A number of criteria were taken into account including size, accessibility, proximity to residential properties, outlook and landscape amenity, planning status, and deliverability with regard to tenure and timeframe.
14. I acknowledge the Council's contention that the assessment did not properly consider available sites with the input of the appellant's professional team in relation to matters such as landscape and access. However, I am satisfied that the criteria used were adequate and appropriate to assess the availability of alternative sites and I do not find it unreasonable that a professionally qualified general practice surveyor could make a non-technical assessment of whether available sites were meeting the advice of the Crematoria guidance and the requirements of the Act in relation to such matters. I note that most sites were discounted on the basis of their proximity to large infrastructure, commercial or industrial premises, which would not be conducive

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<sup>1</sup> Highway Statement of Common Ground, June 2016

to providing the ambience advocated by the guidance. Others were discounted due to their allocation for other uses such as employment. No other realistic alternative sites within settlements or on previously developed land were put forward at the Inquiry.

15. The Council is currently preparing its LDP and following a call for candidate sites a site was submitted for a crematorium. However, the Plan is at a very early stage of its preparation and the preferred strategy for the Plan has not yet been agreed. As such I afford it no weight. Notwithstanding this, the submitted candidate site was included in the appellant's assessment and was discounted as it is not previously developed land or brownfield land and lies within 200 yards (182.9 metres) of residential property. On the evidence before me I am satisfied that the appellant's assessment is adequate to demonstrate that at the time of the Inquiry there were no alternative sites available within a settlement or on previously developed land that met the requirements and advice set out in the Cremation Act and the still extant Department of Environment guidance.
16. The Council contends that a further assessment of other alternative sites within the countryside should have been carried out with consideration given as to whether there were other more sustainable sites than the appeal site. It is the Council's view that this is particularly pertinent in the light of the Planning (Wales) Act 2015 and the Well-being of Future Generations (Wales) Act 2015 and their statutory requirements on decision makers to exercise their functions as part of carrying out sustainable development and to ensure that development is only allowed if alternative proposals have been considered and rejected as less sustainable or as performing worse against the well-being objectives.
17. PPW recognises the requirements of these Acts and provides a presumption in favour of sustainable development. It provides a *preference* (my emphasis) for the re-use of previously developed or brownfield land to greenfield sites wherever possible. As I have found above no such sites are available to provide the proposed development.
18. Edition 8 of PPW follows the enactment of both Acts and does not impose a requirement for a sequential test to be followed where development is proposed in the countryside to establish if there are other more sustainable sites available. Similarly there is no requirement in the Council's UDP. National policy places a responsibility on the decision maker to consider whether an individual development is in accordance with the key principles and key policy objectives of sustainable development<sup>2</sup>.
19. In terms of the site's sustainability credentials, the appeal site lies within a central location to the catchment area that it would serve. It would be closer than any other crematorium to over 140,000 people and would enable approximately 80,000 people to travel to the crematorium within 30 minutes. This would result in a significant mileage saving and associated reduction in CO<sub>2</sub> emissions and would be beneficial to local well-being.
20. I concur with the Council's view that a reduction in CO<sub>2</sub> emissions is not the only consideration in relation to sustainable development and I acknowledge that PPW seeks to locate development such that it would reduce the need to travel by private car. It is not part of the appellant's case that most visitors to the crematorium would utilise public transport and I concur with other cited appeal findings that the nature of the development being proposed is not conducive to travelling by public transport,

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<sup>2</sup> Paragraphs 4.2.4 & 4.2.5 Planning Policy Wales, Edition 8, January 2016

bicycle or foot<sup>3</sup> with most visitors being irregular travellers to the site and progressing to a wake or gathering following the cremation.

21. Notwithstanding this, the site is located close to a regular bus route with a bus stop located to the south of the site. Whilst I note residents' comments at the Inquiry that the bus service may cease in the future, at the time of the Inquiry this was not the subject of a formal Council resolution. On the evidence before me there is currently a service operating up to 11 buses a day, Monday to Saturday and a new footpath link would be provided from the pavement serving the bus stop into the site. The availability of other means of transport would provide a choice for users of the development in line with the objectives of PPW. I find that this availability combined with the central position of the site to the catchment area and the associated reduction in trip lengths and emissions would result in a development that would meet the sustainability objectives of the Welsh Government.
22. At the Inquiry JE Davies & Son put forward an alternative site at Starkey Lane and further information was provided in relation to its location and status. I note the contention that this site would be located closer to main access routes and the built up area and would provide a higher reduction in CO<sub>2</sub> emissions than the appeal proposal. No substantive evidence was provided in this respect. Nonetheless, even if that site were to result in a higher level of emission savings, it too is located within the countryside and is also within a designated Green Barrier. I consider that a Green Barrier is a comparative designation to a Green Wedge. PPW imposes stringent tests that should be applied to development within a Green Wedge and provides a presumption against inappropriate development in such locations. I note that the Council has refused planning permission for a crematorium at this site on the basis that it has not been demonstrated that there are no other sites outside the Green Barrier that could meet the need. As such, I find the potential of this alternative site to not be demonstrably preferential to the appeal site.
23. I conclude that it has been demonstrated that there are no alternative sites within the settlement boundary or on previously developed land. The alternative site that has been put forward within the countryside does not have a preferential position to the appeal site as it is located within a Green Barrier. The appeal site would secure a considerable reduction in CO<sub>2</sub> emissions and would provide a choice of transport options given its location close to a bus route. There is a pressing need for a crematorium to serve the area given the distance of existing crematoria from the catchment area and the waiting times currently experienced for mourners. Given the lack of other available sites within the settlement areas or on previously developed land I find that there is an essential need for the proposal to be located in the countryside and in this respect the proposal would be in accord with the UDP, in particular policies STR1 and GEN3, and the objectives of national policy.

#### *Character and Appearance*

24. Policy STR7 of the UDP requires amongst other things, the character, appearance and features of the open countryside to be protected and enhanced. Policy GEN 1 requires development to harmonise with the site and surroundings and policy L1 requires new development to be designed to maintain or enhance the character and appearance of the landscape. Policies D1 and D2 require development to be of a good standard of design.

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<sup>3</sup> PINs reference APP/R6830/A/14/2218954

25. A Landscape and Visual Assessment (LVIA) was provided with the application and was assessed by consultants commissioned by the Council who raised some concerns with particular reference to the methodology used. A further visual appraisal was provided with the appellant's landscape witness's evidence and the Council and JE Davies & Son also provided LVIAs with their evidence. Whilst I note the Council's continued concerns with the methodology used in the appellant's LVIA I am satisfied that the various LVIAs and the evidence given at the Inquiry provide sufficient information for the potential landscape and visual impacts to be understood. It is accepted that the conclusions reached are to a certain extent open to individual opinion. My findings have been informed by the various landscape assessments, the evidence given at the Inquiry, my visit to the site and viewpoints and from my own observations from other public vantage points.
26. The site is not the subject of any statutory or local landscape designations. It lies adjacent to an area designated in the UDP as Green Barrier. The LANDMAP methodology describes the visual and sensory aspect of the landscape as mosaic rolling lowland characterised as gently sloping and rolling lowland estuary edge with distinct east/west grain and mosaic of wooded linear stream valleys, traditional and improved farmland, and a linear settled and urban fringe lower edge and an overall estuarine influence. Its key characteristics include its rolling or undulating landform, medium scale fields enclosed by hedgerows and hedgerow trees, woodland located within stream valleys and attractive views. LANDMAP affords it an overall moderate evaluation equating to an area of local landscape importance. The cultural and landscape habitat aspects of LANDMAP are afforded a high evaluation and the historic and geological landscape aspects moderate evaluations.
27. The appellant's LVIA concludes that the proposal would result in very limited visual impacts on the local area, with the proposed development sitting comfortably within the existing landscape. It would change but not significantly affect views from a local road and short length of public footpath and there would be no change to the overall character of the local landscape. The assessment provided with the appeal documents concludes that the proposal would have a medium magnitude of effect with moderate/minor significance at completion. The long term mitigation proposed would conserve the rural agricultural character of the area with a negligible effect on landscape character.
28. The Council's LVIA concludes that the visual effects of the development on specific visual receptors would be limited and not significant with the effect on landscape character being moderate and significant as a consequence of land use change at the site and the change in character at Oakenholt Lane. JE Davies & Son's LVIA concludes that local landscape character around the site is of higher value and sensitivity than other parts of the wider landscape. The proposals would have a high magnitude of change and there would be an impact on local landscape character of major significance that would be adverse and permanent. There would be moderate – major degrees of adverse visual impact on users of the country lanes and footpaths within 500 metres of the appeal site.
29. From the evidence before me and from my own observations on site I find the site to contain the characteristics and features of the wider mosaic rolling lowland. Whilst its character is not particularly defined by the estuarine influences, it comprises an attractive area of medium sized agricultural fields, strongly bordered by mature hedgerows, trees and woodland with an overall undulating landform. Whilst I note the contention that the site has an overall higher landscape value than its surroundings I

do not concur with this view; it does not comprise any national or local landscape designation and its value is influenced to a certain extent by the presence of power lines and pylons, the presence of the busy B5126 to the south and the surrounding dispersed pattern of development of farms, houses and diversified farm buildings. I find the site to be an attractive area of farmland with a landscape value consistent with the overall moderate value attributed to it under LANDMAP. It contributes to the overall landscape pattern and character.

30. The introduction of a new crematorium, associated car park, access road and ancillary works, landscaping and gardens of remembrance would inevitably result in a change to the character and appearance of the site itself and change the use from agricultural land. Nonetheless, the land to be utilised is not the best and most versatile agricultural land and the proposal would retain the mosaic of medium sized fields divided by mature hedgerows and trees. It would comprise a relatively low level building that would not be of such a size or scale as to be out of keeping with other buildings within the general area, a number of which comprise two storey dwellings with an associated range of outbuildings. Materials would be consistent with those found in the local area. Whilst the gardens of remembrance would comprise a more manicured landscape, they would not be out of character with other properties in the area that contain landscaped and ornamental gardens. The detail of the landscaping, gardens and the type of species could be controlled under a condition.
31. It is acknowledged that the proposal would require the removal of a section of hedgerow to facilitate the access point. However, I noted on my site visit that there are a number of other entrance drives and access points along Oakenholt Lane, including the relatively formal entrance to Plas Bellin only a short distance to the north west. I do not consider that the loss of this section of hedgerow and the associated access, even taking account of any proposed gates, or signage would result in a material change to the characteristics of Oakenholt Lane in this respect as gated entrances and drives with individual name plates are already a feature of the area. Lighting could be controlled under condition. The proposed access would also be located only a short distance from the Mold Road junction with Oakenholt Lane and Smithy Lane which comprises a relatively major junction in this rural location. In this context the proposed access would not be alien to the area.
32. The proposal includes the widening of Oakenholt Lane to 4.8 metres from the Mold Road junction to the access point. I consider the implications of this for highway safety below. In landscape terms, I note that the lane varies in width along its length between 4 - 6 metres wide. The widening would relate to a relatively short stretch of the lane of approximately 170 metres and at worst would require widening by some 80 centimetres. I find that this very minor increase in width over a short section of a highway that already exceeds this width at certain points would have no material impact on the character of the lane.
33. I note JE Davies & Son's contention that the proposed widening of Oakenholt Lane would result in the likely loss of parts of the hedgerows. It was also stated that even should the hedgerows remain, the need for regular maintenance to provide the necessary visibility splays and forward sight stopping distances (FSSD) would either result in the ultimate demise of the hedgerows or result in them being out of character with the area due to their heavily cut appearance.
34. Prior to the Inquiry plans and information were provided by the appellant in relation to the construction details of the highway widening and its impact on the relevant hedgerows. On the evidence before me and from my own observations on site the

small increase in width of the carriageway would be achieved without encroaching into the substantive part of the hedgerows' root system and would in the main be extending onto land that already contains highway sub base. I have no reason to believe that the hedgerows would not be retained as part of the highway widening.

35. I am also satisfied that whilst there would be the loss of some trees and lower branches on others to achieve the visibility splays and FSSDs, the hedgerows and other mature trees would remain as a result of the cutting back. I do not consider that the trees to be lost are of such a value that their loss would cause any material harm to the overall appearance of the area.
36. At the time of my site visit a formation cut of the hedgerows had been undertaken and JE Davies & Son agreed at the Inquiry that this had not resulted in their destruction. Whilst I noted on my site visit that some of the cut has necessitated cutting close to main stems, on the evidence before me I am satisfied that this has not resulted in the hedgerows' complete loss or demise. They would have sufficient regrowth space between the cut and the visibility splay/sight lines for the production of leaf cover. This could also be further supplemented by additional planting to thicken the hedge. Whilst regular maintenance of the hedgerow would be required to achieve the visibility splays and FSSDs, I do not find that the resulting cut appearance would be out of character with the overall landscape as maintained hedgerows are a feature of the surrounding rural area.
37. As such I am satisfied that the proposal would not be harmful to the visual and sensory aspect of the landscape character. Whilst the proposal would result in the loss of an area of agricultural land with its associated cultural and historic associations, this loss would represent a very small proportion of the overall agricultural land within the wider landscape and does not comprise the best and most versatile land. Additional planting is proposed that would be of benefit to local landscape habitat. I am satisfied on the evidence before me that the development would not result in any material harm to the overall cultural, historic, landscape habitat or geological aspects of the landscape character.
38. Turning to visual amenity, the site is surrounded by a network of local roads. To the south lies the B5126 serving Northop and Connahs Quay. To the east lies Kelsterton Lane and to the west Oakenholt Lane which leads to Papermill Lane to the north, all of which are rural in nature and comprise part of a wider network of lanes serving local farms, houses and businesses. Public footpaths are located to the west and east (Footpaths 9 and 11 of the appellants' submissions), and a further footpath is situated to the north west.
39. From the evidence before me and from my own observations on site there would be views of the development from some sections of Kelsterton Lane, Oakenholt Lane and Golftyn Lane. Nonetheless, these views would be partially filtered by vegetation and, due to the largely sunken nature of the lanes behind high hedgerows, even during the winter months there would be few open views of the site. The lanes are characterised by the presence of existing houses and farmsteads, and the introduction of a further low level building consistent in design with other local buildings and its associated access would not be an alien or discordant element when viewed from the surrounding road network.
40. Similarly views from public rights of way, and in particular those afforded from footpaths 9 and 11, would not be adversely affected. The enjoyment of these paths is largely derived from the rural setting, but users of the paths would also experience



views of some built form, the overhead lines and pylons and the B5126. In my assessment whilst there would be some views of the proposed development, it would be located some distance from the paths and would not be a dominating or intrusive feature in this context.

41. JE Davies & Son raised concern with the impact to Merllyn House at the Inquiry. I noted that this property is situated to the east, some distance from the site and that its main orientation faces east. I find that any views of the development would be of minor significance and due to the distance and orientation the proposal would not be harmful to the living conditions of the occupants of this property. Other residential properties are located some distance away and are largely screened by existing mature planting. I do not find the proposal would be harmful to the living conditions of any residential or other properties.
42. Taking into account the effect on both landscape character and visual amenity I conclude that the proposal would not be harmful to the character and appearance of the area.
43. I conclude that the proposal would provide an appropriate site for a crematorium with regard to the need for it to be located in the countryside and its effect on the character and appearance of the area and would be in accord with UDP policies STR1, STR7, GEN1, GEN3, D1, D2, and L1 in this regard.

#### *Highway Safety*

44. Policy STR1 of the UDP requires, amongst other things, new development to create a safe, healthy and secure environment whilst policy GEN1 requires development to not have a significant adverse impact on the safety and amenity of nearby residents, to provide safe and convenient access and not have an unacceptable impact on the highway network as a result of problems arising from traffic generation. Policy AC13 states that development will only be permitted if approach roads to the site are of an adequate standard to accommodate the traffic likely to be generated by the development without compromising public safety, health and amenity, and safe vehicular access can be provided by the developer both to and from the main highway network.
45. National policy set out in Technical Advice Note 18 "Transport" (TAN 18) requires Manual for Streets (MfS) to be referred to in relation to technical guidance on designing new development which includes streets. It emphasises that there is a place for local standards and design guidance particularly in respect of creating and preserving local distinctiveness. MfS advises that its guidance in relation to FSSDs should be used for streets with 85<sup>th</sup> percentile speeds up to 60 kph (37 mph). Above this it advises that the Design Manual for Roads and Bridges (DMRB) may be more appropriate.

#### Existing Road Network

46. The Council's reasons for refusal of the application included that the proposal failed to meet the requirements of the above UDP policies due to the increase in use of a substandard existing highway network through nearby villages and approach roads and the associated impact on road safety. Nonetheless, it was its position at the Inquiry that, with the exception of the use of Oakenholt Lane, the effect on the wider road network was not a matter that should lead to the refusal of planning permission by itself.

47. JE Davies & Son raised the impact of traffic along Oakenholt Lane and through Northop and Northop Hall as a concern and a considerable amount of third party representation was also made in relation to the impact the proposal would have on the safety of the surrounding road network. No substantive evidence, except in relation to Oakenholt Lane, was provided by any party regarding widths, alignment, junctions and visibility or traffic movements on the surrounding roads. I note that references to collisions/accidents at the B5126 junction with Smithy/Oakenholt Lane largely predate the highway improvement that has been carried out at the junction.
48. There is some dispute between the parties as to the routes that would be most commonly used to access the site. All the parties provided information in relation to the likely routes that would be taken, some of which were based on the use of satellite navigation systems. The appellant's evidence utilises data based on the fastest route using navigation software and which indicates that most traffic would utilise the main arterial route, the A55 from the east and west (approximately 22 – 33.2%), and the A5119 from the south (29%) with the final leg of the journey following the B5126 to the southern end of Oakenholt Lane (88.2%) with the same reverse journey. JE Davies & Son contends that the reverse journey would gain access to the A55 through the villages of Northop and Northop Hall due to the arrangement of the slip road onto the A55.
49. The Council based its assessment on the shortest routes to the site from different directions and concluded that Smithy Lane (through Northop Hall) would receive some 22 – 30% of the traffic, the A55 approximately 25% and the B5126 and Oakenholt/Papermill Lane some 18% apiece. It is also evident from the evidence before me that the route taken depends considerably on the final destination point entered into the navigation system. The respective watershed line for traffic accessing the site from the northern or southern end of Oakenholt Lane provided by the parties varies depending on the postcode or address entered into the system.
50. The parties are also not in agreement on the likely numbers of traffic movements associated with the development and differ in their methodologies with the appellant relying on an average (mean) figure based on observation of several crematoria and the Council relying on the 85<sup>th</sup> percentile trip generation figure based on one crematorium over one week.
51. It is evident that the nature of a crematorium is such that the numbers of cars accessing the site per service can vary considerably. The parties agree that this can vary from 2 – 200 vehicular movements per service and that an average of four or five services take place per day. It is normal practice to assess vehicular movements in relation to new developments on the basis of the average (mean) number, with this usually based on data taken from similar facilities rather than using the 85<sup>th</sup> percentile figure as the Council has done. The Council's approach focusses on the highest number rather than the more usual scenario. Nonetheless it is evident from either methodology that the nature of a crematorium is such that vehicular movements can fluctuate considerably from service to service and I have taken this into account in reaching my decision. Nonetheless it is agreed between the parties based on four crematoria that the average number of cars per service is 25. This would equate to 50 vehicular movements per service resulting in some 250 vehicular movements during a typical day based on 5 services.
52. With the exception of Oakenholt Lane, which I consider further below, I have no substantive evidence before me that the surrounding road network could not accommodate the increase in traffic. In any of the scenarios of preferred routes put

forward by the parties the number of vehicular movements would be distributed across several routes. Notwithstanding this in my view most people would seek to travel via the quickest route rather than by the shortest. On the evidence before me and from my own observations this would result in the catchment area predominantly using the main arterial routes rather than the more localised rural and village roads. These are designed for heavier traffic volumes and I have no reason to believe that they could not safely accommodate the additional traffic.

53. Notwithstanding this conclusion I observed all of the various routes on my site visit and whilst I acknowledge that some mourners may enter or leave through Northop or Northop Hall, I am satisfied that the nature of the roads in the vicinity and through the villages would be capable of absorbing the distributed additional traffic without causing any material harm to road safety. In addition, the services would be operated at hourly intervals to minimise the possibility of traffic travelling in both directions at the same time and whilst I acknowledge that some mourners may arrive early or leave late, most vehicular movements would be in one direction not both at the same time.
54. Turning to Oakenholt Lane, it is evident that this comprises a rural lane that becomes a predominantly single track road at its northern end where it becomes Papermill Lane and is not conducive to use by a significant increase in vehicular traffic due to its width, visibility and alignment.
55. As set out above the respective watershed line for traffic accessing the site from the northern or southern end of Oakenholt Lane if using a navigation system varies depending on the postcode or address entered into the system. The Council's destination point used in its analysis relies on the nearest postcode which relates to a property to the north of the proposed access point. Its use results in a larger proportion of traffic being directed along the northern section of the lane. However, much will depend on where the source of the travel is coming from and from my own observations and from the relative position of the catchment area to the proposed site it is illogical that much of the catchment area would seek to use the northern section of Oakenholt Lane in preference to main routes and the southern end of the lane, as it would not provide the quickest or most direct route.
56. In addition, the nature of a crematorium is such that visitors would be unfamiliar with the destination and would seek out directions prior to attending. I concur with the appellant's view that this would normally be done through accessing the crematorium's web site or by a phone call and through those means instructions could be given as to the most relevant postcode or reference point for the navigation system/map to be used to provide access from the south. This is common practice with numerous facilities such as hotels/conference centres where visitors are not familiar with the area. A condition of any permission could require such a management scheme to be agreed.
57. Even should the northern section of Oakenholt Lane be utilised, on the evidence before me the average peak flow along the lane is 67 vehicles per hour and the off peak flow approximately 40 vehicles per hour. It is agreed that an average number of vehicles per service is 25. It is unrealistic that all of these vehicles would enter or leave from the north for the reasons I have given above, and in my view any additional traffic that might use the northern section of the lane is likely to be minimal in relation to the existing flows and would not be harmful to highway safety.

### Widening of Oakenholt Lane

58. The proposal includes the widening of the southern section of Oakenholt Lane to 4.8 metres. I have dealt with the landscape implications of this above. I acknowledge the concerns that have been raised that this width would not be sufficient to allow two cars to pass comfortably, that the nature of the road close to the hedgerows would result in cars being driven shy of the hedgerows and the 85<sup>th</sup> percentile speed exceeds 40 mph. I also note the survey data in respect of the number of larger vehicles using the road which I consider further below.
59. MfS provides guidance on street dimensions and emphasises that carriageway widths should be appropriate for the particular context and uses of the street. It illustrates that a 4.8 metre carriageway can accommodate two cars passing with space between and that a lorry and car are physically able to pass each other. These widths are presented as not necessarily being recommendations.
60. The widened carriageway would extend for some 170 metres northwards from the Mold Road junction. This stretch of the road is of straight alignment. Whilst there are no road demarcations the carriageway would in the main have a 450 mm edge clearance of the hedgerows which would minimise vehicles needing to drive shy of the hedgerows. This is typical of the rural nature of numerous roads that accommodate a range of vehicles including cars, vans, lorries and farm machinery. The remainder of Oakenholt Lane is of similar or lesser width and accommodates between 40 – 67 vehicles per hour. Whilst I note the accidents referenced by local residents, no recorded accidents have taken place in the last 5 years. I have found above that most traffic generated by the proposal would be travelling in one direction due to the time intervals between services and this would reduce the likelihood of additional traffic passing in either direction. Overall, I am satisfied that the width would enable two cars to pass each other easily without conflict.
61. The concerns raised by the Road Safety Audit (RSA) requested by the Council refer to the relatively high proportion of heavy goods vehicles using Oakenholt Lane. The appellant's Transport Assessment identifies that the road is used by approximately 16% of Other Goods Vehicles (OGV). No further breakdown of types is provided although the appellant's highway witness carried out a further survey over 5 days in August 2015 which identified that approximately 0.5% of vehicles were classified as Heavy Goods Vehicles (HGV). Whilst the distinction between OGVs and HGVs is based on weight rather than width of vehicle, there is clearly some correlation between the two. The use of the 16% HGV figure by the RSA appears to be misplaced. A proportion of the 16% in the Transport Assessment were clearly HGVs but would also have included other lighter (and therefore smaller) vehicles. Even if my conclusion is wrong on this 16% of the total flow of traffic along Oakenholt Lane equates to only 6 (off peak) or 11 (peak) larger (over 3.5 tonnes) vehicles per hour. The lane is also subject to an advisory sign against use by HGVs.
62. I note that the scheme was originally proposed for a carriageway width of 5.5 metres. Given that most traffic accessing the crematorium would be cars and the relatively low number of larger vehicles using the lane, I do not find that there would be a significant likelihood of any material conflict between larger vehicles and cars as a result of the proposal. MfS indicates that where cars and lorries meet in a carriageway of 4.8 metres they would be able to pass each other and requires a flexible approach dependent on the characteristics. I find that the proposals before me to provide an increased width to 4.8 metres would not result in unacceptable risks to highway safety

and would enable the hedgerows to be retained to the benefit of the character and appearance of the area.

### Visibility Splays

63. The parties agree that the recorded 85<sup>th</sup> percentile speeds along Oakenholt Lane exceed 40 mph. As such the appellant has provided visibility splays at the access point with regard to guidance in DMRB. It was accepted at the Inquiry that on the basis of the revised drawing relating to the give way line, visibility splays of 2.4 metres by 120.6 metres to the north and 2.4 metres by 107.6 metres to the south can be achieved subject to the regular maintenance of the hedgerows and verges. I acknowledge the concerns of JE Davies & Son that a hearse driver would be situated further back from the junction due to the nature of the vehicle but I have no substantive evidence before me to support this view. I am satisfied that visibility splays can be provided that would be in line with the DMRB guidance. I have considered the landscape implications of this above.
64. I acknowledge the concerns that to retain the visibility splays would require regular maintenance due to the proximity of the hedgerows to the visibility line and there is some dispute as to how often this would need to be carried out. In my view the anticipated maintenance of the hedgerows 2/3 times a year is realistic and I do not find this to be unduly onerous or unreasonable. Many rural hedgerows are managed on a regular basis and it is likely that the operators of the crematorium will have a maintenance regime for the site and its memorial gardens. I see no reason why this could not incorporate the regular pruning of the hedgerows and on this basis I am satisfied that the required visibility splays would be achieved and retained. This requirement would be secured through the obligation in the Unilateral Undertaking.

### Forward Sight Stopping Distances

65. The DMRB standards for FSSD require 123 metres of forward visibility for a distance of 184.5 metres (123 x 1.5) on the approach to the site access from the north. It is common ground that this cannot be achieved. The RSA raises concern that if a vehicle is waiting on the southbound carriageway in order to allow a funeral cortege to turn into the site that there would be an increased risk of rear end shunts due to the lack of forward visibility.
66. I have taken into account the Gransden case cited by JE Davies & Son in respect of the need to follow policy<sup>4</sup>. Whilst I note comments that any deviation from the DMRB standards would require a formal departure from standards, the DMRB standards are only mandatory in respect of trunk roads; their applicability to other roads is a matter of judgement. National policy advice emphasises there is a place for local standards and design guidance. The DMRB has been developed principally for motorways, trunk roads and other roads with similar characteristics. Where it is applied to local roads it should be decided the extent to which the document is appropriate in any given situation<sup>5</sup>. Clearly in the consideration of any case the priority should be highway safety.
67. Evidence was provided by JE Davies & Son in respect of the available forward visibility and measurements were taken at the site visit. On the evidence before me I am satisfied that at the time of my site visit the site access could be viewed from the edge

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<sup>4</sup> Document 32

<sup>5</sup> Design Manual for Roads and Bridges, Volume 0, Section 1, Part 2, GD 01/15

of the carriageway at a distance of approximately 115 metres to the north. Whilst this clearly falls below the DMRB recommended standard, the evidence before me indicates that this is based on stopping distances with a braking force in worst case situations such as on snow and is applicable primarily to major, busy routes with heavy traffic flows. Furthermore, traffic travelling south has a right of way and there is no reason why priority would be given to vehicles turning into the crematorium necessitating the need to stop. Even if they did, and I acknowledge that it is courteous to allow a cortege to pass without stopping, the traffic levels referred to above are not so significant to lead to the likelihood of a tailback of multiple vehicles. At worst, based on the vehicle numbers, it is likely that only up to 2 cars would be stopped for a short period of time.

68. On this basis, and taking account of the survey 85<sup>th</sup> percentile speeds that show that vehicles travel along the road at only just over 40 mph, I find that the proposed FSSD to the north would be sufficient to ensure that there would not be an unacceptable risk to highway safety. I am also satisfied on the basis of the evidence before me that a satisfactory FSSD would be provided to the south.
69. I note the concern relating to the need for vehicles to cross the centre of the highway to access/exit the site and the resulting potential for conflict. On the basis of the swept path diagrams provided, I am satisfied that there is little likelihood of the majority of vehicles needing to cross the centre of the carriageway and I do not find this to represent an unacceptable risk.
70. I conclude that the proposal would not give rise to any unacceptable highway risks and would be in accord with the UDP policies STR1, GEN1 and AC13 and the objectives of national policy.

#### *Other Matters*

71. JE Davies & Son and other third parties contend that an alternative site at Starkey Lane offers a more suitable location than the appeal site given the concerns relating to the proposal's impact on landscape character and highway safety. I have taken into account the case law cited in respect of the consideration of alternative sites<sup>6</sup> and I have applied my discretion as set out in those cases in considering the generic comparisons of the respective sites. I consider this necessary given that the evidence suggests there is only a need for one crematorium to serve Flintshire.
72. Given that I have concluded that the proposal before me is acceptable on landscape and highway safety grounds and taking into account that the alternative site at Starkey Lane is also located within the countryside and additionally within a Green Barrier, I am satisfied that the potential of this alternative site is not demonstrably preferential to the appeal site sufficient to justify the refusal of the appeal proposal. I note comments that this site would be operated by a local company but such matters are not pertinent to my consideration of the planning merits of the two sites.
73. I note concerns regarding the impact on ecological interests. The application was accompanied by an ecological assessment and no objection subject to conditions was raised by the statutory advisor, Natural Resources Wales. On the evidence before me I have no reason to believe that the proposal would be harmful to ecological interests.

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<sup>6</sup> Documents 32 & 33

## Conditions

74. An amended list of agreed conditions between the appellant and Council was submitted following the Inquiry and I have considered them in light of the advice in Circular 016/2014 "The Use of Planning Conditions for Development Management". I have made some minor amendments to their wording and order to reflect the advice.
75. Conditions relating to agreeing the external finishes of the building, finished levels, the height of the chimney, signage and landscaping are necessary in the interests of the appearance of the development. Conditions relating to the details of the access and a management plan for controlling the routes taken to the site are necessary in the interests of highway safety. A construction management plan and condition relating to the hours of operation are required in the interests of the living conditions of surrounding residents. I do not find that the suggested condition from JE Davies & Son to restrict services to off peak times is necessary given my findings in relation to the impacts on the living conditions of nearby residents and highway safety. A drainage condition is reasonable to ensure the site is adequately drained. A condition relating to the ecological interests is required to ensure their protection.
76. A condition was also suggested in relation to tree and hedgerow works being carried out outside the bird nesting season or if not that such works should be overseen by an ecologist. Such matters are covered by other provisions and a condition is therefore unnecessary. A condition requiring an archaeological assessment of industrial architecture on the site was also suggested but it was established on the site visit that the relevant brick building was located outside the appeal site and such a condition would therefore be unreasonable.

## Conclusion

77. I have taken into account all other matters raised but none outweigh my conclusion that subject to the imposition of conditions and the obligation within the Unilateral Undertaking the proposal is acceptable. For the reasons above I conclude that the appeal should be allowed.

*Vicki Hirst*

INSPECTOR

**SCHEDULE OF CONDITIONS – APP/A6835/A/15/3005992 – LAND AT  
KELSTERTON LANE/OAKENHOLT LANE, NR NORTHOP, FLINTSHIRE, CH7 6DW**

1. The development hereby permitted shall be commenced before the expiration of five years from the date of this permission.
2. The development hereby permitted shall be carried out only in accordance with the following plans:  
Site Plan 1300-01G(P)  
Site Location Plan 508.32/17A 1:1250  
Floor Plan 1300-02A (P)  
Floor Plan 1300-02B (P)  
Elevations & Sections 1300-03A (P)  
General Arrangement to Highway Improvements and Access Plan 4516/1001 Rev J (March Version)  
Landscape Masterplan 508.40/15J (Labelled 508.32J on title block)  
Illustrative Landscape Plan 508.32/19I  
Suggested General Arrangement to Highway Improvements and Access Plan 4516/103 Rev A
3. Prior to the commencement of development samples of the materials to be used on the external surfaces of the walls and roofs shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
4. Prior to the commencement of development including site clearance, details of the site and finished floor levels of the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
5. Prior to the commencement of development including site clearance, details of the height of the chimney associated with the crematorium shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
6. Prior to the commencement of development the following schemes shall be submitted to and approved in writing by the Local Planning Authority:
  - a. the widening of Oakenholt Lane to 4.8 m from its junction with the B5126 Connah's Quay Road to the site access; and
  - b. the extension of the existing footway to form a pedestrian link into the site.

Each of the schemes shall include a timescale for its implementation. The development shall be carried out in accordance with the approved schemes.

7. The forming and construction of the means of site access shall not commence unless and until the detailed design 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 works of construction of the building hereby permitted shall commence until the works associated with forming the means of site access including the kerbing and completion to carriageway base course layer up to the internal tangent point of the entrance radii have been completed.
9. The development hereby permitted shall not be brought into use until a visibility splay measuring 120.6m to the north, and 107.6m to the south have been provided at the site access and such splays shall thereafter be maintained at all times free from any obstruction. The said visibility splays shall be measured from a point 2.4m back from the channel line of the proposed access.
10. The parking and turning arrangements shown on the approved plans shall be completed prior to the proposed development being brought into use and shall be only used for the parking and turning of vehicles thereafter.
11. Prior to the commencement of development a Construction Traffic Management Plan shall be submitted to, and approved in writing by the Local Planning Authority. The approved Construction Traffic Management Plan shall be adhered to throughout the construction period and shall provide for:
  - a. contact name and numbers of personnel responsible for adherence and monitoring of the plan;
  - b. contact name(s)/number(s) for any site related enquiries including out of office times;
  - c. anticipated duration of the works;
  - d. proposed signage types and locations;
  - e. position of gates – to allow a delivery vehicle to park/wait;
  - f. the access and egress route with appropriate traffic monitoring in order to control traffic movements – there shall be no access via Kelsterton Lane/Golftyn Lane and from the northern end of Oakenholt Lane;
  - g. the timing of deliveries and main construction traffic arrivals and departures to avoid peak times;
  - h. working hours;
  - i. site notices informing construction workers and other site operatives of agreed working hours;
  - j. the parking of vehicles of site operatives and visitors; and
  - k. loading and unloading of plant and materials.
12. The crematorium shall not be brought into use until an Operational Traffic Management Plan has been submitted by the Operator to the Local Planning Authority and approved in writing. The Traffic Management Plan shall provide details of the:
  - a. contact names and numbers of personnel responsible for adherence and monitoring of the plan;
  - b. contact name(s)/numbers for any site-related enquiries; and
  - c. means to ensure that Kelsterton Lane/Golftyn Lane and the northern end of Oakenholt Lane are not utilised by funeral corteges as an ingress or egress route.

The development shall operate in accordance with the approved Operational Traffic Management Plan.

13. Prior to the commencement of development details of the signage in connection with the use of the site as a crematorium shall be submitted to and approved in writing by the Local Planning Authority. The crematorium shall not be brought into use until the approved signage has been provided.
14. The crematorium shall not be brought into use until details of the external lighting have been submitted to and approved in writing by the Local Planning Authority. Details shall include the type, means and extent of illumination and anticipated spread of light. The development shall be carried out only in accordance with the approved details.
15. Prior to the commencement of development a detailed scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The scheme shall include details of:
  - a. all existing trees, hedgerows and other vegetation on the land and on both sides of Oakenholt Lane, details of any to be retained and measures for their protection during the course of development;
  - b. proposed new trees, hedgerows, shrubs or vegetation and boundary treatment including confirmation of species, numbers and location and the proposed timing of the planting;
  - c. a method statement for the management of trees, hedgerows and grass verges along Oakenholt Lane;
  - d. proposed materials to be used on the driveway(s), paths and other hard surfaced areas;
  - e. proposed earthworks, grading and mounding of land and changes in levels, final contours and the relationship of proposed mounding to existing vegetation and surrounding landform; and
  - f. proposed positions, design, materials and type of boundary treatment.
16. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out no later than the first planting and seeding seasons following the bringing into use of the crematorium, and any trees or plants which, within a period 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.
17. No development shall take place until a scheme for the provision of separate foul and surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The crematorium shall not be brought into use until the drainage works have been implemented in accordance with the approved scheme. The approved works shall be retained thereafter.
18. Notwithstanding the proposals set out in the recommendations in the Ecological Appraisal, no development shall commence until the written approval of the Local Planning Authority has been obtained for the following details:
  - a. amphibian Reasonable Avoidance Measures (RAMs);
  - b. an external ecological compliance audit scheme;
  - c. habitat mitigation, and compensation proposals;

- d. long term site management and monitoring proposals;
- e. a biosecurity risk assessment; and
- f. long term site security proposals in respect of the required amphibian compensation area.

The development shall be carried out in accordance with the approved details.

19. No cremation services shall take place outside the hours of 0900 - 1700 hours from Monday to Friday and 0900 - 1200 hours on Saturday and shall not take place at all on Sundays or Public Holidays.

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr I Ponter, of Counsel

Instructed by Genesis Town Planning

He called

Mr I Roberts

Partner, Bellamy Roberts

Mr B Duckett

Managing Director, Hankinson Duckett Associates

Mr E Clark

Partner, Fisher German

Mr J Hodgson

Business Development Manager and Head of Planning, Memoria Ltd

Mr K Mitra

Managing Director, Genesis Town Planning

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr J Easton, of Counsel

Instructed by Flintshire County Council's Legal Services Department

He called

Mr C Hargreaves

Managing Director, Vectos Ltd

Mr P Black

Former Technical Director, RSK Environment Ltd

Mr R May

Director, Turley

### **FOR THE RULE 6 PARTY (JE Davies & Son):**

Mr A Crean QC

Instructed by JE Davies & Son

He called

Mr M Crabtree

Senior Engineer, Bryan G Hall

Mr P Harrison

Director, Harrison Design Development Ltd

### **INTERESTED PERSONS:**

#### **In opposition:**

Mr Richardson

Northop Hall Community Council

Councillor Sharpe	Speaking as Northop Hall Ward Member and as individual
Mrs J Hulme	Local Resident
Mrs L Thew	Local Resident
Mr Salisbury	Local Resident
Mrs H Lamb	Local Resident

**In support:**

Councillor Shotton	Speaking as Connahs Quay Ward Member
Councillor Dunbar	Speaking as Connahs Quay Ward Member and as individual
Mr Yorke	Local Resident
Mrs Williams	Local Resident

**DOCUMENTS SUBMITTED AT THE INQUIRY**

1	Appellant's list of appearances
2	Opening statement on behalf of Memoria Ltd
3	Opening statement on behalf of Flintshire County Council
4	Letter from Mr Goodwin dated 17 March 2016
5	Sat Nav information on behalf of Memoria Ltd
6	Plan of Sat Nav north/south split submitted by Mr Hargreaves
7	Highways Statement of Common Ground between all parties
8	Mr Hargreaves Speaking Note
9	Mr Black Speaking Note
10	Written Statement on behalf of JE Davies & Son pertaining to Starkey Lane
11	Plan of Stopping Sight Distances
12	Suggested List of Conditions submitted by Flintshire County Council
13	Mr Hargreaves Terms of Reference
14	Information in relation to Memoria's Opening hours, submitted by JE Davies & Son
15	Email dated 29 June 2016 in relation to HGV signs

16	Suggested Condition on behalf of JE Davies & Son
17	Revised Plan 4516/1001 Rev J, March 2016
18	Letter from Cyril Jones & Co dated 30 June 2016
19	LANDMAP information
20	Consultation Response from NRW dated 29 June 2016
21	Complete copy of Mr Black's LVIA
22	Written Statement of Mrs J Hulme
23	Written Statement of Mrs L Thew
24	Written Statement of Mrs H Lamb
25	Written Statement of Mr J Yorke
26	Letter from Councillor R Johnson dated 1 July 2016
27	Letter from Mr P Simpson dated 30 June 2016
28	Response Note to Third Party Submissions on behalf of Memoria Ltd
29	Completed Unilateral Undertaking on behalf of Memoria Ltd
30	Complete Copy of Design and Access Statement
31	Flintshire Local Development Plan Position Statement
32	Court of Appeal Judgements submitted by JE Davies & Son
33	Closing Submissions on behalf of JE Davies & Son
34	Closing Submissions on behalf of Flintshire County Council
35	Closing Submissions on behalf of Memoria Ltd