

Dear Mr Brassey

Thank you for your enquiry received on 25 March, which we have corresponded with several times subsequently.

#### SCOPE OF ADVICE SOUGHT

In your correspondence, you have made it clear that your client is seeking advice only on the need report for a new crematorium of about 5,000 sq ft as set out in the Crematorium Need Assessment (Jan 2020) by Peter Mitchell Associates.

In so doing, your client requested that we review this report and provide confirmation that this provides a detailed verification of need that is clear and unambiguous and fulfils the criteria set out in Policy DP25 of the Mid Sussex District Plan. If we do not agree with the terms of this report, you asked us to provide a clear and detailed explanation.

You have not provided any other information to assist us, in spite of requests being made. It remains our view that the additional information requested is proportionate to the development proposed and necessary for effective pre-application engagement.

#### TERMS OF RESPONSE

The response to this enquiry is based upon the following:

- The council's pre-application advice terms, as set out on our website:  
<https://www.midsussex.gov.uk/media/4841/pre-app-scope-of-advice-and-discussions-2020.pdf>
- Government advice, as set out in Practice Guidance:  
<https://www.gov.uk/guidance/before-submitting-an-application>
- Government advice, as set out in the NPPF, via paras 39-46:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)

#### DEVELOPMENT PLAN

I am not aware that there is any up-to-date planning policy or guidance from the government on crematoria, unless you can advise otherwise. Therefore, any other guidance or evidence that you present will be accorded the status of a 'material consideration' in any planning application determined.

The primacy of the Development Plan in determining planning applications is set out in law as follows:

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

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

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

- *Any other material considerations.'*

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

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

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

Using this as the starting point, the development plan applicable to this site consists of the Mid Sussex District Plan (2018) together with the Turners Hill Neighbourhood Plan.

As the site is located within a countryside area, Policy DP12 of the District Plan and Policy THP8 of the Neighbourhood Plan apply:

Policy DP12 states:

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

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

*The Mid Sussex Landscape Character Assessment, the West Sussex County Council Strategy for the West Sussex Landscape, the Capacity of Mid Sussex District to Accommodate Development Study and other available landscape evidence (including that gathered to support Neighbourhood Plans) will be used to assess the impact of development proposals on the quality of rural and landscape character.'*

The supporting text sets out the following:

*'The primary objective of the District Plan with respect to the countryside is to secure its protection by minimising the amount of land taken for development and preventing development that does not need to be there. At the same time, it seeks to enhance the countryside, support the rural economy by accommodating well-designed, appropriate new forms of development and changes in land use where a countryside location is required and where it does not adversely affect the rural environment. It is therefore necessary that all development in the countryside, defined as the area outside of built up area boundaries, must seek to maintain or enhance the intrinsic beauty and tranquillity of the countryside.'*

Policy THP8 states:

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

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

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

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

In principle, there is no policy support for this proposal, and Policy DP12 directs that development that does not need to be located in the countryside be 'prevented'.

We turn next to Policy DP25 of the District Plan, which gives more specific guidance on community facilities and local services. It states:

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

*Where proposals involve the loss of a community facility, (including those facilities where the loss would reduce the community's ability to meet its day-to-day needs locally) evidence will need to be provided that demonstrates:*

- *that the use is no longer viable; or*
- *that there is an existing duplicate facility in the locality which can accommodate the impact of the loss of the facility; or*
- *that a replacement facility will be provided in the locality.*

*The on-site provision of new community facilities will be required on larger developments, where practicable and viable, including making land available for this purpose. Planning conditions and/or planning obligations will be used to secure on-site facilities. Further information about the provision, including standards, of community facilities will be set out in a Supplementary Planning Document.*

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

The supporting text states:

*'Community facilities and local services are important and should be retained where possible and provided alongside new development.*

*The Mid Sussex Infrastructure Delivery Plan sets out the community infrastructure required to support future growth in the district, and why this is needed.*

*New community facilities and improvements to existing facilities form an important part of these requirements and Town and Parish Councils have provided this information, supplemented by infrastructure providers and other consultees.*

*The community facilities and local services referred to in this policy include [among other things]:*

- *Cemeteries and burial grounds'*

The key to this policy is to seek the retention of such facilities, on the one hand, and to plan strategically for them 'alongside new development', on the other.

The Mid Sussex Infrastructure Delivery Plan relates to community infrastructure, implying more locally-based facilities that are required. Cemeteries and burial grounds are explicitly mentioned in this policy as they are small-scale in activity and scale and cater for local needs. By contrast, a crematorium attracts a wider sphere of influence with users travelling from other districts.

This policy is consistent with the advice set out in the NPPF, one of whose core planning principles is to deliver sufficient community and cultural facilities and services to meet local needs. Para 92 states:

*'To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

- a) *plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- b) *take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*
- c) *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*
- d) *ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and*
- e) *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.'*

Overall, Mid Sussex District Council has not undertaken any evidence of burial or crematorium requirements for the district, principally because the NPPF does not mention this as a specific 'need' that has to be planned for in a Local Plan.

Your submitted evidence backs this up by showing that the entire district is already served by a ring of surrounding crematoria, all within a 45 minute drive at 60% of normal traffic speeds.

Therefore, in accordance with legislation, it will be necessary to assess whether any material considerations will outweigh the conflict with the Development Plan, as set out above. This bar will necessarily be quite high. A primary material consideration will therefore be to demonstrate a need for this crematorium in this location.

## COMMENTS ON CREMATORIUM NEED ASSESSMENT (CNA)

The submitted CNA would be a material consideration in determining any application.

We do not have the expertise in MSDC to make detailed comments on this document at this stage, and it is likely that a consultant would be engaged to carry out this work for any planning application submitted. For this reason, these comments are preliminary in nature and given without the benefit of any other context, so do not fetter the council's discretion at any point in future.

It is therefore recommended that the following information is included with any submissions to accompany a planning application, which follows a review of some other planning appeals and is intended to assist your consultant.

The CNA assesses a quantitative and qualitative need for this crematorium.

1) Quantitative need:

The fundamental assumption (in para 8.3) appears to be:

*“a 30-minute funeral drive-time at 60% of normal traffic speeds has been held to be an appropriate basis upon which to establish the quantitative need for a new crematorium”.*

Therefore it is recommended that the following information is included in any submission, that sets out:

- a) The percentage of crematorium funerals that include a cortege.
- b) The case law which establishes this assumption definitively.
- c) Whether there are any development plan policies or government guidance that are based on this assumption.
- d) Whether there is evidence which supports the assumption that mourners will travel to a crematorium if the drive-time is 30 minutes but not, say, 31 minutes, and not 45 minutes.

In respect of d), the evidence presented in Fig 14 makes clear that the whole of Mid Sussex District is covered by a 45 minute drive to surrounding crematoria, but less of the District is covered by a 30 minute drive (Fig 13). Therefore it would be helpful to know the intervening drive-time isochrones.

In respect of covering as much of the District as possible, it is noted that the location of the Turners Hill site is so close to the Crawley crematorium that areas such as Burgess Hill are not catered for by the proposed development when the 30 minute 'drive-time limit' is applied.

Para 8.9 highlights that 4 existing crematoria are most likely to be used by residents of the area in question, as 'bereaved families living locally are very unlikely to make a long journey past either the proposed or the existing crematoria in order to reach more distant crematoria'. In para 8.10, one crematorium is mentioned that is outside the immediate search area, Brighton (The Downs).

- e) Information should be included in any planning application to explain why this crematorium has been excluded from the evidence in this document.

The isochrones appear to exclude data immediately south of the Brighton Woodvale crematorium and immediately west of the Worthing crematorium.

The isochrones also exclude data between the Crawley and Turners Hill sites in Figs 15 and 16. Further information should be provided showing the entire area of overlap between the two sites.

It would furthermore be helpful if these plans could indicate the Mid Sussex boundary on each.

Data from Crawley is also relevant to Figs 21, 22 and 23.

- f) Para 8.24 makes another key assumption that 'it is widely accepted and understood that there are 'core' funeral times in the middle of the day, that are generally preferred by bereaved people'. The evidence to back up this assumption is recommended.
- g) It is also necessary to understand how this translates into times no earlier than 10.30am and no later than 3.30pm.
- h) Information is also recommended as to whether there is any variation in these times throughout the seasons.

Although the data provided in Figs 24 and 25 is useful, it is nonetheless theoretical. More useful would be the actual data from crematoria at Crawley in particular and at Brighton and Tunbridge Wells too. This should include other factors, such as how the facility operates in terms of its pricing structure. This would allow an independent interrogation of your data for determining the level of core capacity in a peak month, which is critical in establishing a compelling quantitative need. Information would be recommended to identify:

- i) Which slots have been incorporated into the 'total core slots available' row.
- j) What the peak month(s) are.
- k) The process for 'direct cremations'.
- l) Why weekend funerals are not considered core slots.

The data provided in Fig 28 is 'suggested by a sample of 50 published obituaries relating to deaths between June 2019 and January 2020' in assuming a 60/40 split between chapels. However, this timeframe is different to that set out in the tables previously (2016-2018).

Information is recommended to advise why this assumption:

- m) Is the same for the Crawley and the Brighton sites, set out in Figs 28 and 32.
- n) Has also been used on the Tunbridge Wells site, set out in Fig 35, when the data indicates that it was not possible to identify a split between the chapels.

Figs 30, 33 and 36 make a strong case that core capacity in peak months for all three of these crematoria will be exceeded by 2041. However, it must be cautioned that this is a projection based on a 'do nothing' scenario for the next 20 years. In reality, it is likely that government will advise on how best to deal with this scenario if it is becoming a serious problem, to say nothing of the crematoria themselves identifying ways to increase their core capacities, for example, by providing an additional chapel, extending an existing one, or changing working practices.

## 2) Qualitative need

This appears to turn on whether existing crematoria are 'offering' a qualitative deficiency resulting from quantitative overtrading.

One element resulting from this is the delay between death and funeral. There are several factors behind this, many outside the control of existing crematoria. It can therefore be difficult to draw conclusions that a particular delay is caused entirely by unavailability of a core slot at a particular crematorium.

Para 9.10 states that the data set out in Fig 37 [not 34 as stated] suggests delays of over **three weeks** between death and funeral ... giving 'further evidence of the qualitative need for the proposed Turners Hill Crematorium.'

However, the data shows a minimum delay of 10 days as 'standard'. The average delay on top of that is therefore only around 2 further weeks, and is consistent among the three crematoria sampled (there may be a host of reasons outside their control for the outlier statistics).

Given that the data was drawn over a 2 and a half year period, it would be helpful to have this tabulated according to year, which would identify any underlying trends.

In para 9.15, I am assuming a 'cut-and-paste typo' has been included, where it states: *'The new Turners Hill Crematorium will benefit a significant population within The London Borough of Croydon's area, through its location that is far more convenient for them than other crematoria.'*

A host of useful information has been provided relating to congestion at crematoria in theoretical terms, but any planning submission should include detailed data on how this relates to existing crematoria, in particular that at Crawley. Such information could cover:

- o) The actual experience of the crematorium staff themselves, funeral directors and bereaved relatives in informing these assumptions.
- p) The evidence underpinning the assumption that established crematoria are not 'meeting the needs and expectations of people living in the 21<sup>st</sup> century' as a result of attempting to improve 'old facilities'.
- q) How the claim of providing a 'much higher quality environment for bereaved people' at the proposed Turners Hill site (para 9.31) squares with the assumption in para 8.9 that 'bereaved families living locally are very unlikely to make a long journey past either the proposed or the existing crematoria in order to reach more distant crematoria'?

#### MISSING INFORMATION

As set out above, the CNA is one of only a number of elements that will be taken into consideration in determining any application, and cannot be treated in isolation. These other elements may outweigh the CNA once all information is submitted.

You have not provided us with information pertaining to:

- 1) Layout and quantum of proposed buildings
- 2) Appearance of said buildings
- 3) Amount of car parking provision and any overspill provision and location
- 4) Confirmation that the approved access will accommodate an intensification of traffic to and from the site and that there is sufficient capacity in the surrounding road network – which would need a Transport Statement as a minimum
- 5) The public transport provision for this site

- 6) Impact of proposed buildings and ancillary development and overall increase in activity on the landscape, including for users of the public right of way that crosses the site – which would need a detailed, updated LVIA
- 7) Impact on biodiversity
- 8) Emissions that would occur from the crematorium
- 9) Provision of facilities for the disposal of waste or scattering of ashes, and arrangements for waste collection
- 10) Proposed staffing levels
- 11) Proposed hours of operation

An Environmental Impact Assessment may also be necessary.

An assessment would need to be made of the impact of the proposal on the transport movements in relation to the Ashdown Forest during any planning application process.

### CONCLUSION

We are unable to say at this stage, based on the lack of information provided, whether the proposal will be supported or not. However, the need assessment will be rigorously examined as part of any planning application and should incorporate the additional information recommended above.

I hope this advice is helpful. However, the views expressed in this email are at officer level only and do not prejudice the Council from making whatever decision it considers appropriate on any application subsequently submitted.