

Email only

Copy by email to: Andy Watt, Sally Bloomfield, Jennifer Bale MSDC

September 8, 2020

Virginia Pullan  
Communities, Economy and Transport  
County Hall  
St Anne's Crescent  
Lewes  
East Sussex  
BN7 1UE



Dear Virginia,

**Outline Planning Application for single chapel Crematorium with a single abated cremator and Natural Burial Site with associated access, car parking, landscaping and drainage. All matters reserved apart from access. Turners Hill Burial Ground, Turners Hill Road, Turners Hill RH10 4PB. Reference: DM/20/2877**

This letter represents a joint response with the Landscape Architect who prepared the LVIA that accompanied the above application.

In a spirit of positive co-operation, we are bound to point out a number of significant errors and omissions in your 1 September 2020 consultation response. Accordingly, having considered your letter, we invite you to reconsider your consultation response. We wish to emphasise that we would be entirely happy to meet with you (whether on site, or in a video call with the planning officer) to ensure you have the correct material to inform this reconsideration and so we can fully understand your concerns which we think are misplaced. Paragraph 38 of the NPPF provides that LPAs should approach planning applications in a positive and creative way, and that applications for sustainable development should be approved where possible.

#### **Summary recommendation**

Your summary recommendation states that the proposal would not comply with NPPF paragraphs 170(a), 170(b) or 172. We do not agree and think the basis for this conclusion is fundamentally flawed.

Paragraph 170(a) relates primarily to “valued landscapes”. However, as you acknowledge at paragraph 2.7 (and we agree), the site is not a “valued landscape” in terms of the NPPF. Please can you therefore explain why paragraph 170(a) is referenced in your recommendation? This would seem to us to be a clear error, which is potentially misleading to the LPA if uncorrected.

Paragraph 170(b) refers to recognising “the intrinsic character and beauty of the countryside”, including a number of other matters such as the “benefits” of “trees and woodland”. We refer below in greater detail to some of these matters, but in summary:

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- The site is not designated in the Development Plan for its landscape character and qualities. There is significant fall-back consent for a natural burial ground, chapel and barn/workshop. We assume these points are uncontroversial, but please indicate if this is not the case, as this may assist our discussions.
- The proposal envisages very significant woodland planting. The fall-back consent itself envisages substantial woodland planting. Woodland planting is not uncharacteristic. It forms a significant element in the character of the surrounding landscape (and has already been approved as part of the natural burial proposals) and will necessarily bring significant biodiversity gains (as encouraged by paragraph 170(d) of the NPPF). Do you agree?
- On the basis of the parameters against which the application is assessed in the LVIA (and which can be secured by condition), the scheme has very limited visibility outside the site, and the site's Zone of Visual Influence is extremely small. Furthermore, views from the AONB are limited to a tiny part thereof, reducing to negligible as mitigation planting matures; and there would be no material wider impact on the AONB's setting. Is this agreed, and if not, perhaps you can explain why you do not agree and which particular off-site views you are concerned about (if any)?
- While the proposed crematorium (per the parameters tested) has a larger footprint than the consented chapel, the roof would be set some 5m below that of the chapel, and the chimney / highest point of the skylight some 2.5m lower. Presumably this is agreed, as it is clearly set out in the application drawings and documents. Our concern is that you may not have assessed the bulk of the development correctly.
- Impact on footpath 68W through the site is different when compared with the fall-back consent, but in any event views of the scheme from that footpath will be mitigated in just a few years by the proposed hedge and woodland planting to be planted to its north. Is this agreed?

In these circumstances, we are at a loss to understand your recommendation on paragraph 170(b). Please can you explain and/or reconsider? In any event, please can you confirm that as part of the assessment by the Council all paragraph 170(b) requires is that impact on "the intrinsic character and beauty of the countryside" (if any) is to be weighed against other relevant considerations, including the need for the proposal and the impacts of the fall-back consent.

Next, you refer to paragraph 172 of the NPPF, however:

- The site is not located in a National Park, the Broads or an AONB. Paragraph 172 is **not** therefore engaged. (We do not dispute that impact on the setting of an AONB is capable of being a material planning consideration. This is clear from the topic being addressed in the LVIA, for example at 3.2.9 and 3.2.10 – which point out that the NPPG itself draws a distinction between proposals for development within AONBs and impacts on setting.) Please confirm you agree that paragraph 172 of the NPPF is not engaged, and that it was an error to reference it in your recommendation.
- Looking at landscape character, the LVIA concludes at 7.5.1 (leaving aside the limited impact of traffic along Turners Hill Road): *"In terms of the effects on the High Weald AONB there would be no effects on the AONB itself and minimal, (largely short term) effects on its setting. The development would not be seen from the AONB other than from within the field immediately to the south of Turners Hill Road (when only winter glimpses of the skylight and chimney on the proposed crematorium may be seen) and in the longer term any glimpses of the building effects would be dissipated by the proposed woodland planting"*.

Details of the visual effects on receptors within the AONB can be found in the commentary on Viewpoints 11 to 15 and at paragraph 9.3.8 of the conclusions. Do you disagree with this appraisal, and if so, please provide a fully reasoned explanation so that we can understand your point of view?

At paragraph 2.2, you indicate that if consented there would need to be measures to ensure suitable mitigation measures and appropriate building design. We fully agree that conditions to secure these matters would be necessary, these would be secured at the reserved matters stage. In terms of landscape mitigation and scale/location of crematorium, we have put forward proposals in the application, but we would be delighted to work with you on these aspects and would welcome any suggestions you might have.

Could you please let us know what these are before any meeting / conference call, so we can give them advance consideration.

Paragraph 2.5 expresses concern that *"the final detailed scheme could be significantly different to that described in the submitted plans and this would bring into question the conclusions with regard to potential landscape and visual effects on local views"*. This is not correct, and we think there may be an important misconception behind these comments. It is intended that there would be conditions linking any approval to the assessed parameters, both in terms of scale / height / maximum number of car parking spaces, as well as tying the location of development so that it must substantially accord with the submitted proposals. The above approach was made clear in the Planning Statement, as well as in the LVIA. Any following reserved matters application that did not align to the parameters of the outline would be capable of being safely rejected by the Council. We believe that the concern about fundamental or even material differences at the detailed stage is misplaced, this is entirely within the control of the planning authority. We would invite you, please, to reconsider your consultation response in light of this confirmation.

Paragraph 2.6 is in two parts, the first part purporting to characterise the LVIA's conclusions and the second part asserting that there may be additional impacts.

The first part of paragraph 2.6 does not fairly set out the LVIA's conclusions, because it fails to acknowledge the very limited scope of the area / views that would be affected. We note that your consultation response does not dispute the (very small) ZVI identified in the LVIA, and unless you indicate otherwise we will presume this is because you agree with it. More broadly, the considerably more nuanced conclusions of the LVIA on overall visual impact were set out in paragraph 9.3 of the LVIA. It is necessary to quote these so they are accurately represented:

**“9.3 Likely Visual effects – Summary and conclusion**

9.3.1 *The primary Zone of Visual Influence of the development proposals is contained within a very small area of the surrounding countryside. It stretches no more than 0.6km of the centre of the Site (in winter); measuring only 0.17 square kilometres (approximately) in summer and 0.39 square kilometres in winter; and is located almost entirely to the north of Tumers Hill Road, with only very limited potential for (winter only) glimpses from the AONB to the south.*

9.3.2 *Within this area it is only from cars on Tumers Hill Road in the area of the Site entrance; and for pedestrians using the Footpath that passes through the Site and the two footpaths that pass through the field to the south of the Site that there would be any views of the proposals.*

**Likely effects on receptors within the public domain**

9.3.3 *During construction effects would be significant for receptors using the footpath that passes through the Site (although these effects are relatively short term and could be minimised by the use of good (printed) construction hoardings adjacent to the path).*

9.3.4 *Following construction, substantial adverse effects are predicted in both summer and winter for viewpoints 3 and 4 and major adverse effects are predicted for viewpoint 5 in the short term (all on Footpath 68W where it passes directly through the Site). These are all considered to be “significant”.*

9.3.5 *Moderate adverse effects are also predicted in both summer and winter for viewpoint 11 (where Footpath 69W emerges from the vegetation on the south side of Tumers Hill Road directly opposite the southwest corner of the Site); and slight adverse effect are predicted in both summer and winter for viewpoint 6 (opposite the site*

entrance) and in winter only for viewpoint 12 (crossing the field to the south of the Site). Effects from all other viewpoints are judged to be neutral.

9.3.6 As mitigation planting establishes, however, and additional screening / filtering of the proposals is provided, the majority of these effects identified would also reduce to neutral in the medium term. For users of Footpath 68W in particular, whilst the view would change, the crematorium building would be largely or entirely screened by the hedgerow and woodland planting proposed on the south side of the Footpath, and by year 7 with the exception of winter glimpses through the hedgerow from viewpoint 3, the proposals would, most likely, be screened from sight.

9.3.7 The only long term effects would be at the Site entrance where drivers passing the Site would experience very slight adverse effects in both summer and winter. In the longer term (year 15+) all other effects would be neutral.

9.3.8 From within the High Weald AONB, other than at viewpoint 11 directly opposite the southwest corner of the Site (see above), there would be no effects in summer, and only glimpses from the field between Turners Hill Road and Paddockhurst Road in winter. Effects on the wider AONB are so minimal as to be considered negligible.

9.3.9 Overall, the effects of the proposed development on receptors in the public domain are extremely limited. Views of the Site are constrained by surrounding vegetation and the effects of topography to a restricted area; and other than in the short term from those few locations on the Footpath crossing the Site itself, none of the effects experienced by receptors at the representative viewpoints assessed in the public domain are judged to be "significant".

...

#### **Effect on overall visual amenity**

9.3.12 Overall, the effects of the proposed development on receptors in the surrounding landscape are extremely limited. Views of the Site are restricted by surrounding vegetation and the effects of topography to a restricted area; there are minimal (almost negligible effects) on receptors at private residences; and only a few short term effects that would be experienced by receptors at the representative viewpoints assessed in the public domain are judged to be "significant".

9.3.13 Whilst it is clear that some adverse Visual effects are likely to be felt by receptors (people) in the landscape immediately surrounding the Site in the short term, it is equally clear that these effects would be limited to a small number of locations where views of the proposals would be possible, and that the majority of these would be mitigated by the proposed planting in the medium to longer term.

9.3.14 In conclusion, therefore, in considering the development as a whole it is clear that the effects are limited and are focused primarily on a few location in the public domain, which pass directly through the Site. In the wider context the effects on overall visual amenity are very small."

**As set out above in the relevant conclusions of the LVIA can you please reconsider your first sentence of paragraph 2.6? Is it a fair or complete representation of the LVIA? If you arrive at a different overall assessment of the LVIA we believe it would be necessary to reconsider your overall recommendation accordingly?**

**Turning to the second part of your paragraph 2.6:**

- Your stated concerns about views of the crematorium building from Footpath 68W appear as exaggerated? As quoted from the LVIA above, visual effects would be largely or entirely screened by the proposed planting by year 7.
- In any event, views from Footpath 68W do not fall to be assessed in a vacuum, but in the context of the established fall-back consent. On this, we remind you of the comparative analysis in paragraph 10.3.2 of the LVIA:

*"Due to the existing vegetation and nature of the surrounding topography, for both proposals there would be very limited visibility from the north, east or west, with the exception of views from Footpath 68W which passes through the Site. The proposed crematorium building would sit further from the*

*path at its closest point (c58m as opposed to c45.5m), and being lower it would be less prominent from parts of the path, but it is a bigger building and in the early years before the planting is established its car park would have more significant effects, being greater in size. In the medium term, however, as the proposed path-side hedgerow and the extensive woodland planting gets established these effects would reduce to neutral, and given the significant increased levels of planting proposed when compared to the approved planting associated with the chapel ... the effects of the crematorium would be less significant. In the longer term it is assumed that woodland planting associated with the natural burials would fill this area of the site ... and the effects of both schemes would be dissipated".*

- Can you please reflect upon this and confirm that you agree and accept this analysis, and if not could you please explain your reasoning?
- Next, your paragraph 2.6 asserts that assessing impacts on the AONB is difficult, but we consider that this reflects the misconception as to the assessed parameters explained above.
- You conclude that “Depending on the detail design the proposed car-parking, crematorium building and increased activity **could have** an adverse impact on the setting of the AONB” (our emphasis). Given that the approval of the design of the car park is entirely within the control of the planning authority. Please confirm that, subject to appropriate controls, a suitable detailed design can be secured which will avoid a material adverse impact on the setting of the AONB, and perhaps if you cannot please can explain your reasoning.

Your paragraph 2.7 states that the LVIA’s assessment of landscape impact is “*moderate adverse on completion reducing to slight adverse at year 15*”. To be precise, the LVIA’s assessment is moderate adverse on completion reducing to slight adverse in the medium to longer term. Further, you record the LVIA’s assessment is “*that the magnitude of effect would be medium to low*”. This is wrong. Magnitude in the LVIA is medium-low in the short-term, falling to low in the medium/long term.

Your paragraph 2.8 is extremely confusing, and again suggests it is appropriate to invite you to reconsider your whole consultation response. You purport to quote from Table Y of the LVIA, but what you have quoted as “high adverse” reflects “medium-high adverse”; what you have quoted as “medium adverse” is in fact “medium-low adverse”; and what you quote as “slight adverse” (a criterion which does not exist in Table Y) is in fact “low adverse”.

We invite you to re-consider the entirety of your paragraph 2.9 having regard to what is set out above, and also the following:

- You are wrong to assess the proposal as having of a total of 154 car parking spaces. It is proposed for around for 110 parking spaces. Please remind yourself of paragraph 4.14 of the Transport Assessment which tested this level of parking spaces.
- Generally, the points you make focus exclusively on what is proposed to occur within the site. Having regard to the minimal off-site visibility of development (certainly after a few years of vegetation growth), please explain what (if any) wider landscape character impacts arise in consequence. As you know, our view is that there are no such wider landscape character impacts.
- Please can you explain why you emphasise “*activity associated with a crematorium*”. The movement of people on site around the crematorium would be low-key and in any event will barely be perceived from the surrounding landscape. Do you disagree, and if so why?

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- You state that “the impact of the crematorium building, and parking would be greater when viewed from the countryside to the north than the permitted development”. Please explain what viewpoints you have in mind when making this assertion? Please also confirm whether you have taken into account the minimal ZVI to the north of the site (LVIA, page 21) and the lack of public access in this area? Even if you were correct, once the mitigation planting has grown in, it would only be a short time before the position was materially the same as with the fall-back consent in views from the north.
- The LVIA’s full conclusions on landscape impacts include (§9.2.2):

*“In this case the restricted area over which the proposals would be seen limits the area of the surrounding landscape over which effects may be felt; and the majority of the key components of the receiving landscape would experience neutral effects. Of the 20 key components considered, whilst the Land Use and complexity on site would inevitably change, there would only be a small effect on Topography (which would be imperceptible from outside the site boundaries, particularly once the proposed woodland planting on the Site is established); effects on Access would be slightly positive (due to the creation of the permissive path across the site frontage); there would be significant long term beneficial effects on Vegetation; and whilst landscape pattern and Enclosure / Openness would change on the Site, the changes would not be out of keeping with the surrounding landscape character. Finally in terms of tranquillity, whilst there would be a limited increase in traffic to the Site, noise levels on the crematorium site are likely to be very low, and whilst there would be some short term and very localised effects associated with the views of the chapel and parking area from Footpath 68W, the landscape around the site is already affected by the presence of traffic on Turners Hill Road; the array of small buildings, seasonal parking areas and activities associated with Tulleys Farm (on the fields immediately to the west); and by the presence of the power lines and pylons which traverse the landscape to the north of the Site; and in the medium to longer term the effect on (visual) tranquillity would be largely dissipated by the woodland planting which would screen / filter views of the development from the surrounding landscape”.*

- Could you please explain which of these conclusions you disagree with (if any) and why?
- You refer to the Inspector’s decision in appeal 3179872 somewhat selectively, we are bound to say. The approved chapel building is **2.5m** higher than the upper-bound height parameter for the crematorium (and 5m higher than the majority of the roof). Further, the Inspector in that case also noted that visual impacts of the chapel would quickly dissipate (DL10), that impacts on Footpath 68W would be satisfactorily addressed through landscape mitigation (DL11), that there would be limited visibility only of the proposal off site (DL13), and that impacts on the AONB were not material (DL14). In light of such conclusions for the chapel building, please now reconsider your recommendation for this scheme.

Turning to your paragraph 2.10, we have reminded you of the LVIA’s findings on “tranquillity”, in the passage quoted above. Can you please reconsider your only comments on this topic in light of what is stated in the LVIA, and if you continue to disagree with the LVIA, perhaps you could provide a full and coherent explanation of your reasoning. If you maintain your view, please explain how activity around the crematorium has any effect of significance on the tranquillity of the AONB given its position outside the AONB and the very limited extent of any visual relationship between the two; coupled with the fact that traffic levels that are generated by the proposal are no more than normal daily variations in traffic flows along Turners Hill Road.

Your paragraphs 2.11 and 2.12 on proposed mitigation do not mention that the fall-back consent envisages significant long-term woodland planting – see the phase I drawing (LLD787/02) within the LVIA’s appendix G – seemingly to a greater extent than with the current scheme. In any event, the landscape proposals are in outline,

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and we would certainly be open to discussion with you as to whether some more “open meadow” areas would be preferred. Equally, we are open to a discussion about a woodland management plan, which can be secured by condition.

As to your paragraph 2.13, we have addressed the Inspector’s reasoning above. The comment about the chapel being close to the car park has no material bearing on the assessment on this application. It cannot sensibly be suggested that this was the fundamental, determinative reason that scheme was approved (on appeal). And we again note that while you describe the chapel as having a “modest scale”, it is proposed to be taller than the proposed crematorium building. We ask that you please reconsider these matters, and in consequence your recommendation.

We do not consider that your paragraph 2.14 is relevant given that it was in relation to a decision for a completely different type of development, and we have already addressed your paragraph 2.15.

We would like you to conclude your revised landscape assessment in the light of the above and any discussion by 18 September when the consultation period ends. We both have some availability this week and early next week and look forward to your suggested times and dates for a video meeting, or a meeting on site.

Yours faithfully

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