

Email only

September 21, 2020

Sally Blomfield
Divisional Leader of Planning and Economy
Mid Sussex District Council
Oaklands Road
Haywards Heath
West Sussex
RH16 QSS



Dear Sally,

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

I refer to the letter of 16/09/20 from Virginia Pullan in response to our questions to her in the letter of 08/09/2020 regarding her landscape consultation for the above application. I attach the relevant letters to this email.

The reason for my letter is that the response is wholly inadequate and is riddled with internal inconsistencies within the letter. The officer has failed to review her comments in the light of her original assessment and her subsequent clearly changed response to the application. She has also, unfortunately, declined our invitations to meet / talk so we can discuss the scheme and its impacts and clarify the nature and effects of the scheme and any elements of the LVIA she may have misunderstood.

Please note that this letter and its contents have been reviewed by Leading Counsel at 39 Essex Chambers.

Ms Pullan's unsatisfactory and contradictory response leaves us with no choice but to make further representations to the planning authority so that you are fully aware that this consultation response is not soundly based but founded on a series of unreasonable and unsupported comments.

The response from the County Landscape Architect has not answered the direct questions we posed on 08/09/2020.

My main concern, a concern identified by Leading Counsel at 39 Essex Chambers, is if her response is reported as originally drafted Council Members would be seriously misled by her errors and partial assessment. Any planning decision made on this basis could be open to legal challenge and would expose the Council to a costs application in the event an appeal were necessary.

In paragraph 1.0 of the response by the County Landscape Architect she says the reason the reference to policy NPPF 170 (a) is included in the summary is so that this test can be applied. This appears to be an acknowledgement that no breach of 170(a) is alleged. Please report this application on the indisputable basis that paragraph NPPF

170(a) is not engaged as the site is not a valued landscape in the terms set out in the NPPF. This is a matter which is not open to challenge or to interpretation.

In paragraph 3.0 she also states that the reference to NPPF policy 172 is included so that this test can be applied as the proposed development is adjacent to the AONB boundary. I note that nowhere in the NPPF does it refer to the protection of the setting of the AONB. Again, this appears to be an acknowledgement that paragraph 172 is not engaged here. Please report this application on the indisputable basis that paragraph NPPF172 is not engaged as the site is not within the AONB. This is also a matter which is not open to challenge or to interpretation

At 2.3 and point 4.0 in the response on 16 September there are direct contradictions. The County landscape architect states: "That it is not contested that the visual impact will be restricted to the local area". Yet she goes on to say: "there are likely to be significant long-term adverse visual impacts on the AONB immediately to the south, Turners Hill Road and the public footpath 68VV." This is in direct conflict with the sentence at 4.0 where she reports: "The conclusions of the LVIA with regard to visual impacts on the AONB are not contested." The comment about "*significant long-term adverse visual impact*" is both wholly unexplained and unparticularised, as well as being inconsistent with other acknowledgements in the letter. We urge the planning officer to reject Ms Pullan's inconsistent analysis, and to report this application on the basis that the visual impacts will be extremely localised, and that "*the conclusions of the LVIA with regard to visual impacts on the AONB are not contested*" (such conclusions being that the scheme will have very limited impacts on the setting of the AONB, reducing to negligible in a few years).

As for the specific mention of footpath 68VV, Ms Pullan fails to engage with the point emphasised in the letter to her (at pages 4 and 5) – that there is no material difference between the impacts of the proposed scheme as compared with the fall-back consent.

At 6.0 the County landscape architect suggests that the parking area will be much larger and at 8.1 of the letter she suggests that the approx. 110 spaces proposed should be added to the 44 already permitted. Clearly this is a mistake and must be acknowledged as the application before her only proposes approx. 110 spaces in the indicative plan (which the applicants have indicated sets the parameters of the scheme, which would be expected to be reflected in a suitable condition). Please ensure that the local planning authority's assessment of the proposal is (unlike that of Ms Pullan) based on the correct parameters applicable to the scheme before you.

At paragraph 7.0 and 8.3 the County landscape architect refers to the impact on tranquillity of the AONB. She does not address the question we asked. "*Given that the traffic levels generated by the proposal are no more than normal daily variations in traffic levels along Turner's Hill Road how is it possible that this proposal will have more impact on the AONB, can you explain what further impact on tranquillity would occur given that the site is outside of the AONB?*" Further, please note that the extent of proposed car parking reflects estimated maximum attended events, but it is not anticipated that this will be a frequent occurrence.

At 8.0 The County Landscape Architect has made the wrong assumption that the extant permission is being proposed "in combination with" the current proposal. This is a fundamental error and does not reflect the scheme before the Council. Please ensure that any report to Members of Ms Pullan's consultation responses make Members aware that she has considered the scheme on this manifestly incorrect basis.

At 8.2 the County Landscape Architect states that mitigation by extensive woodland planting would not be in keeping with local landscape character. This is absolute nonsense, and you only have to look at a satellite image of the site and locality to see this is not the case. Further, although Ms Pullan now acknowledges in her 2.2 that the fall-back consent envisages substantial planting, she contends for a quantitative difference. Even if she were right, this would be a point of no materiality overall. But she is not right. Ms Pullan's comments at 2.2 fail to take into account that the fall-back scheme proposals only relate to phase I of the approved development on the site thereof, and additional woodland planting will inevitably be part of later phases as subsequent natural burials take place. Please ensure that relevant matters are reported with complete accuracy to Members.

This latest response from Virginia Pullan failed to address our questions regarding the selective quotes from previous appeal decisions. It has also failed to take the positive advice from those appeal decisions and use it to guide the assessment of the current scheme. Again, please note that these parts of the County Landscape

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Architect's original assessment appear to have been withdrawn, upon the applicants' corrections being drawn to Ms Pullan's attention, so we insist that the planning officer reports the matter accordingly.

The response also fails to consider our previous point about impacts from viewpoints when making assertions about impact when viewed from the countryside to the north. It must be assumed that Ms Pullan has again abandoned these aspects of her initial consultation response. It is important that this matter is reported accordingly to Members.

Taken together these errors lead to a completely uncharacteristic assessment of the landscape and visual impact of this planning application and with the internal inconsistencies within the letter if this was presented to members in a committee report it could mislead the assessment of the application and lead to an unjustified and unreasonable decision.

I believe it is within your remit and the remit of Jennifer Bale to take action in relation to the planning and legal points that I have raised, and I request that you take the necessary steps to correct the position. Please note that my attempt for a dialogue though a meeting has been rebuffed by Virginia Pullan who has said that she has no authority to talk to me or our experts. I have also requested a call with the case officer on 11 September, which he declined, and I have also requested a call from the case officer on 21 September, but I have not had a response to this second request and at the time of writing.

Yours sincerely

Lisa Jackson MA BSc MRTPI

Attached Consultation Response from Virginia Pullan dated 01/09/20
Letter 08/09/20 from Lisa Jackson & Mark Gibbins to Virginia Pullan
Letter 16/09/20 from Virginia Pullan to Sally Blomfield

cc: Jennifer Bale: Jennifer.Bale@midsussex.gov.uk
Mark Brassey: mb@cbglaw.co.uk
Andrew Tabachnik QC Andrew.Tabachnik@39essex.com