



# **MID SUSSEX**

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## **DISTRICT COUNCIL**

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## Town and Country Planning Act 1990

### **PROOF OF EVIDENCE** **of Andrew Watt BSc (Hons), MTPL, MRTPI**

On behalf of  
MID SUSSEX DISTRICT COUNCIL

**CD8.3**

**PINS Ref:**  
APP/D3830/W/21/3266563

**LPA Refs:**  
DM/20/2877 & AP/21/0009

**Appeal by:**  
Hartmires Investments Ltd

**Appeal Site:**  
Land north of Turners Hill Road, Turners Hill, West Sussex

**Proposal:**  
Outline 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.

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## **1.0 QUALIFICATIONS AND EXPERIENCE**

- 1.1 My name is Andy Watt. I hold a Bachelor of Science degree in Geography from the University of Salford and a Master of Town Planning degree from the University of Manchester. I am a Chartered Town Planner, having been a Full Member of the Royal Town Planning Institute since January 2004.
- 1.2 I am a Senior Planning Officer in the Development Management team at Mid Sussex District Council ("the Council"). I have been employed in this capacity since October 2007. Prior to taking up my current post, I worked in the Development Control section at Brighton & Hove City Council for 4 years as a Planning Officer and 2 years in the Planning Strategy & Projects section as a Senior Planning Officer. I was previously employed by Winchester City Council as a Planning Assistant in the Development Control department for 1 year.

## **2.0 INTRODUCTION**

- 2.1 I was instructed by my Business Unit Leader in February 2021 to defend the Council's position on planning matters following the Council's decision to refuse outline planning permission for the development as set out in Section 1 of the Council's Statement of Case (CD6.3).
- 2.2 I have been involved with the Appeal Site since August 2013, acting as case officer for all pre-application enquiries, planning applications and discharge of conditions applications. I am also familiar with the wider Mid Sussex area and relevant national and local planning policy.
- 2.3 A Statement of Common Ground (SoCG) has been prepared between the Council and the Appellant, clarifying the areas of agreement and disagreement between the parties (CD6.1).
- 2.4 My evidence is focused on the planning history of this site, the planning policy issues associated with the appeal scheme, my detailed consideration of the development and how I reached the planning balance.
- 2.5 Expert evidence on landscape matters is provided by Stuart Ryder (CD8.1), and expert evidence on the need for a crematorium is provided by John Dodsworth (CD8.2). I refer to and rely on their conclusions in reaching my own conclusions on planning matters.

### **3.0 THE APPEAL SITE AND PROPOSAL**

- 3.1 The Appeal Site consists of two field parcels totalling 7.2ha in area, located to the north of Turners Hill Road and some 660m west of the main village centre crossroads (at its nearest point).
- 3.2 The Appeal Site has had a lawful use as a natural burial ground since 2016, which has been implemented but never operational.
- 3.3 The larger southern field adjoins the highway and contains a recently (March 2021) roughly surfaced vehicular access located fairly centrally. This was originally formed around 4 years ago by the translocation of a lengthy section of the boundary hedgerow. Within the field are some overgrown earthwork areas and some implemented planning permissions, marking out the newly tarmacked areas for a car park and reception building, a car park spur extension to the north, a car park extension to the west (more roughly surfaced) and the siting of the original chapel building. Hoardings identify the site of the revised chapel building. A gravel path has also been laid but does not appear to connect to other footpaths.
- 3.4 An approved maintenance building has been constructed more recently in December 2020, albeit unfinished with no roller shutter door or concrete slab and with an additional door to the front. An application for a Non-Material Amendment has been approved in April 2021 under ref: DM/21/1172 for the retrospective construction of an additional door (non-vehicular) in the eastern elevation of the building.
- 3.5 The southern field is elevated with long views to the north and west in particular. The eastern boundary is defined by a mature tree belt, which links to Butcher's Wood to the north-east, designated as ancient woodland. To the east of this tree belt is an arable field, which contains a path along its southern edge linking the appeal site to opposite the church (which was implemented as part of the original planning permission DM/15/1035). This is marked at either end as private property. The west and north-west boundaries of the field are marked by a public footpath (68W), near to which is an array of young deciduous saplings.
- 3.6 The northern field parcel has been formed from subdividing a field in two, without any existing boundary. It is smaller and sits on lower ground, which slopes down more sharply towards the fields beyond to the north, which rise on the opposite side of the valley bottom, separated by a mature hedgerow. The eastern boundary is defined by

the woodland edge of Butcher's Wood. Apart from the felling of some trees within the central section of the boundary with the southern field parcel some 2 years ago, this land remains overgrown and undeveloped.

- 3.7 The site lies adjacent to an access to Tulleys Farm to the west. Land on the opposite side of Turners Hill Road to the south (but not within the site) is designated as the High Weald Area of Outstanding Natural Beauty.
- 3.8 In policy terms, the site is located within the countryside.
- 3.9 The application for development on this site was submitted to Mid Sussex District Council on 5 August 2020 and registered as valid on the same day with the reference number DM/20/2877. The description of the development was:

*"Outline 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"*

- 3.10 The application was recommended for refusal at the Council's District Planning Committee on 17 December 2020, by reference to a committee report (M3.1). The Committee confirmed this recommendation and the application was refused by notice dated 21 December 2020 (M3.4), for the following reason:

- 1. The proposed development would have an adverse impact on the intrinsic character and beauty of the local countryside, including the setting of the High Weald Area of Outstanding Natural Beauty, which would be further harmed by the necessary woodland mitigation screen planting. This harm is not considered to be outweighed by an overriding need for this development and is therefore contrary to Policies DP12, DP16, DP25, DP26 and DP37 of the Mid Sussex District Plan, Policies THP8 and THP13 of the Neighbourhood Plan, the provisions of the NPPF, in particular, paragraphs 8, 11, 124, 127, 130 and 170, Objectives FH2 and FH3 of the High Weald AONB Management Plan 2019-2024 and Design Principles DG3, DG7 and DG11 of the Mid Sussex Design Guide SPD.*

#### **4.0 PLANNING HISTORY / POTENTIAL FALLBACK POSITION**

- 4.1 The planning history of the site is set out in full in the Council's Statement of Case (CD6.3).
- 4.2 There are three updates, as follows:
- 4.3 In February 2020, planning permission was granted for the re-siting and construction of a staff car parking area comprising 8 car parking spaces (DM/19/5107). This has been implemented in March 2021.
- 4.4 In March 2020, outline planning permission was granted for the construction of a barn/workshop for the storage and maintenance of operational vehicles with all matters reserved except for access, appearance, layout and scale (DM/19/5100). The remaining reserved matters application (for landscaping) was granted in July 2020 (DM/20/1557). Implementation of this building took place in December 2020, albeit the building is unfinished with no roller shutter door or floor (a concrete slab was specified in the submitted Sustainability Assessment of planning permission DM/19/5100) and with an additional door to the front (which was not shown on any approved plans). The approved landscaping details of the reserved matters consent has not been implemented. A Non-Material Amendment application was approved in April 2021 for the retrospective construction of an additional door (non-vehicular) in the eastern elevation of the building (DM/21/1172).
- 4.5 In March 2021, planning permission was granted for a proposed chapel building including basement, internal site access road and associated landscaping within natural burial ground (Renewal of planning consent DM/18/0677) (DM/21/0014). This has not been implemented.
- 4.6 In summary, therefore, the site currently benefits from the following consents:
- Change of use of the land to a natural burial ground and the erection of a reception building with associated access, parking and landscaping (DM/15/1035). IMPLEMENTED (IN PART), BUT NOT OPERATIONAL.
  - Construction of a barn/workshop for the storage and maintenance of operational vehicles (DM/19/5100 and DM/20/1557). IMPLEMENTED (IN PART), BUT NOT OPERATIONAL.

- Re-siting and construction of a staff car parking area comprising 8 car parking spaces (DM/19/5107). IMPLEMENTED, BUT NOT OPERATIONAL.
- Re-siting of the consented chapel building with excavation and construction of new basement, internal site access road and associated landscaping (DM/18/0677). EXTANT UNTIL 29 MAY 2021. NEW PERMISSION (DM/21/0014) UNTIL 8 MARCH 2024.

4.7 These consents constitute a potential fallback position in determining this Appeal. This is considered further in Section 8.



## **5.0 STRUCTURE OF THIS PROOF**

- 5.1 The following sections in this Proof are intended to explain the reasoning that I will follow in reaching my conclusions.
- 5.2 First of all, I analyse the performance of the Appeal Scheme against the Development Plan, in order to form a view on whether it accords with the Plan taken as a whole (Section 6).
- 5.3 Secondly, I consider whether there are any material considerations that may outweigh any conflicts with the Development Plan (Section 7).
- 5.4 Next, I compare the fallback position with the Appeal Scheme (Section 8).
- 5.5 Finally, I weigh up the overall planning balance (Section 9).

## 6.0 ANALYSIS OF DEVELOPMENT PLAN POLICIES AND VISION

6.1 The development plan for this part of Mid Sussex consists of:

- Mid Sussex District Plan (Adopted March 2018) (CD4.1)
- Turners Hill Neighbourhood Plan (Made March 2016) (CD4.2)
- West Sussex Joint Minerals Plan (Adopted July 2018) (CD4.3)
- West Sussex Waste Local Plan (Adopted April 2014) (CD4.4)

### Relevant Development Plan Policies

6.2 The following policies are all considered to be relevant to the consideration of the Appeal Scheme, as confirmed in the Statement of Common Ground (CD6.1). Those in bold are those that the Appeal Scheme is alleged to be in breach of, and are considered in more detail in the rest of this section:

#### Mid Sussex District Plan:

Policy DP1: Sustainable Economic Development

**Policy DP12: Protection and Enhancement of Countryside**

Policy DP14: Sustainable Rural Development and the Rural Economy

**Policy DP16: High Weald Area of Outstanding Natural Beauty**

Policy DP17: Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)

Policy DP21: Transport

Policy DP22: Rights of Way and other Recreational Routes

Policy DP25: Community Facilities and Local Services

**Policy DP26: Character and Design**

Policy DP29: Noise, Air and Light Pollution

Policy DP37: Trees, Woodland and Hedgerows

Policy DP38: Biodiversity

Policy DP41: Flood Risk and Drainage

#### Turners Hill Neighbourhood Plan:

**Policy THP8: Countryside Protection**

**Policy THP13: Business Development**

#### West Sussex Joint Minerals Plan:

Policy M9: Minerals Safeguarding Resources

Development Plan Vision

**Mid Sussex District Plan**

- 6.3 The Mid Sussex District Plan provides a framework for new development, employment growth, infrastructure and measures to ensure the protection of the countryside.
- 6.4 Two of the priority themes running through the Mid Sussex District Plan are:
- a) Protecting and enhancing the environment; and
  - b) Promoting economic vitality (2.11)
- 6.5 In respect of protecting and enhancing the environment, the Plan draws upon a long-established evidence base which assessed the landscape character across the District and the capacity of the District to accommodate development in order to identify the most sustainable areas for development.
- 6.6 The Vision and Objectives section notes that the District is rural in character and '*a desirable place to live, benefiting from a high standard of living and a superb and easily accessible natural setting.*' (2.1). This consists of '*nearly 50% of the District being within the High Weald Area of Outstanding Natural Beauty and over 10% being within the South Downs National Park. Between them is an area of small-stream valleys and hedgerows within a gently rolling landscape known as the Low Weald*' (2.3).
- 6.7 The Appeal Site forms a key component of this special character, being assessed by both Parties as having a High landscape value with a High sensitivity to change. It is therefore necessary that developments respect the intrinsic character and beauty of the countryside within the District, given its predominantly rural context and relatively low population level, concentrated mainly in the 3 towns in the District.
- 6.8 In respect of promoting economic vitality, the Plan notes that the District has a very low level of unemployment and is the location for a number of innovative and nationally known businesses, with approximately 7,300 businesses. However, the

resilience of the Mid Sussex economy cannot be taken for granted and hence the Plan aims to ensure that the local economy is supported and businesses district-wide are able to thrive and grow in the future. In particular, it is recognised that the high level of commuting impacts on traffic levels and environmental quality, so it is important that appropriate employment opportunities are promoted within the District to ensure people who live locally have the opportunity to work locally (2.9). This indicates a desire for new developments to be sustainable in terms of their scale and their benefits to local communities.

6.9 The Mid Sussex District Plan is therefore based on the following vision:

*'A thriving and attractive District, a desirable place to live, work and visit. Our aim is to maintain, and where possible, improve the social, economic and environmental well-being of our District and the quality of life for all, now and in the future.'* (2.10)

### **Turners Hill Neighbourhood Plan**

6.10 The Purpose of the Turners Hill Neighbourhood Plan is to provide *'a vision for the future of the parish [which] sets out how that vision will be achieved through planning and controlling land use and development change, together with other community projects.'* (1.1)

6.11 Three aims and objectives of the Plan are as follows:

- *To preserve and protect the countryside and open spaces of Turners Hill parish;*
- *To make the parish an attractive place for businesses and to protect and support local businesses providing essential service offerings for the local community, including the development of a sustainable visitor and tourism sector;*
- *To ensure that the community has adequate access to the key services it needs, including health facilities, convenience shops, and schools*

6.12 The Plan identifies that *'the village blends well within its rural setting and any future development will need to be carefully sited in order not to spoil or detract from the environment'* (4.14).

6.13 As noted in the public consultation processes, *'there is a desire for future development to maintain the scale and style of the existing settlements and also to protect the countryside'* (7.11).

6.14 The Plan recognises that local needs and essential services are provided for the Parish's population. This indicates that developments should be of an appropriate scale in recognition of the low population in the Parish (1,919 people, based on the 2011 Census).

6.15 The Turners Hill Neighbourhood Plan is therefore based on the following vision:

*'It is intended that through a process of careful evolution and considered design our history and heritage will continue to be maintained. Our aim is for Turners Hill to thrive as a modern and flourishing village which maintains the rural feel and setting of which we are rightly proud.'*

Policies relating to the character and appearance of the countryside including the setting of the High Weald Area of Outstanding Natural Beauty

**DP12**

6.16 As the site is located in the countryside, Policy DP12 of the Mid Sussex District Plan is relevant and states (in part, emphasis added):

*'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.'*

and:

*'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.'*

6.17 The supporting text to Policy DP12 states:

*'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. New development to meet local needs can be proposed through Neighbourhood Plans where this will support local services and is otherwise compatible with District Plan policies.'*

6.18 I understand there to be two elements to this policy. The first is whether a proposal maintains or enhances the rural and landscape character of the District. The second is whether a proposal is necessary for agriculture or supported by a specific policy reference. Hence if a proposal were to comply with both elements, I would consider this policy to be met. However, if a proposal were to comply with one but not the other, I would consider the policy to be breached, as it explicitly requires compliance with both elements (i.e. as directed by the highlighted 'and' above).

6.19 In my view, compliance with the first element (landscape character) requires either a neutral or positive outcome from a development. Conversely, any landscape harm would indicate a conflict.

6.20 Compliance with the second element is dependent upon either an agricultural necessity or support from a specific policy.

6.21 I consider that the Appeal Scheme on its own merits is contrary to the first element of Policy DP12, as it would cause permanent, irreversible harm to the rural and landscape character in this location. In this respect, I rely on the evidence submitted by Stuart Ryder and refer to some of his key conclusions in Section 7 of his Proof (CD8.1) as follows:

- a) The crematorium development will have a Major/Moderate, Adverse effect<sup>1</sup> on landscape character on completion at the Site;
- b) The mitigation planting will reduce this to a Moderate, Adverse and Permanent effect<sup>2</sup> in the longer term;
- c) The crematorium development will have a Moderate, Adverse effect on the surrounding landscape on completion, reducing to Moderate/Minor, Adverse on maturity of the mitigation screen planting.
- d) The change will be visible from Footpath 68W as it crosses the site, and the mitigation planting will restrict all other views from this rural path;
- e) The intrinsic character of the countryside would not be protected but rather replaced with a more intensively developed group of proposals when compared to the consented natural burial ground. The crematorium complex would not complement the local rural scene but rather imposes its own style upon it (para 7.31 of Stuart Ryder's Proof) (CD8.1).

6.22 Therefore the degree of harm identified is sufficiently large that the overall outcome of the Appeal Scheme in landscape terms is clearly negative. It could not, in my view, be categorised as slight or neutral.

6.23 So far as the second element of the policy is concerned, clearly the Appeal Scheme is not necessary for the purposes of agriculture. In terms of any other "*specific policy reference*", an assessment is made later in this Section under the heading, 'Policies relating to need'. In summary, I consider that the Appeal Scheme gains some support from DP25.

6.24 Following my logic set out above, I judge the Appeal Scheme to be contrary to Policy DP12 of the Mid Sussex District Plan overall.

6.25 I next turn to whether this policy is to be treated as up-to-date and accordingly the weight that should be attached to it.

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<sup>1</sup> Stuart Ryder defines Major, Adverse as: The proposals will result in a large negative change in the key characteristics of the landscape receptor arising from either their loss, reduction or introduction of uncharacteristic elements to it so as to destroy it or seriously degrade the integrity of the landscape receptor. The proposals may also be in conflict with adopted planning objectives for the landscape.

<sup>2</sup> Stuart Ryder defines Moderate, Adverse as: The proposals will result in a partial change in the key characteristics of the landscape receptor arising from either their partial loss, reduction or introduction of some uncharacteristic elements to it so as to moderately reduce or degrade the integrity of the landscape receptor. The proposals may also be partly in conflict with adopted planning objectives for the landscape.

- 6.26 I note in the Appellant's Statement of Case (CD6.2) references to Policy DP12 being out of date:

*"The assessment in the supporting statement in the planning application by the appellant considered why the tilted balance in NPPF 11d) was engaged as overall the key policies that would otherwise prevent the development were all out of date. Whilst DP25 supports the proposal, this policy should have included an express exception to DP12, however as DP12 is itself out of date the support from policy DP25 should prevail."* (para 10.4); and

*"Policy DP12, that normally prevents development in the countryside, is out of date as it lacks consistency with NPPF84"* (para 11.2)

- 6.27 NPPF84 states that plans and decisions should recognise that sites to meet community needs in rural areas may have to be found beyond existing settlements. Among other things, it confirms that it will be important to 'ensure that development is sensitive to its surroundings'.
- 6.28 I disagree with the Appellant on this matter. The over-arching wording of DP12 is in essence positive (i.e. "Development will be permitted in the countryside ..."), subject to limitation. I therefore consider the nuance of this wording to be consistent with NPPF84, as it recognises that some development will be acceptable in countryside locations. The caveat in both is similar: In NPPF84, development must be sensitive to its surroundings; whilst in DP12, development must maintain or enhance rural and landscape character. In any event, NPPF84 relates to 'Plans' [pluralised] so should be reflected in the plan as a whole rather than in a single policy. Accordingly, DP12 links to DP25 which relates to community needs and is capable of being a 'specific policy' supporting community needs proposals within the countryside for the purposes of DP12.
- 6.29 Accordingly, I identify no conflict or inconsistency between DP12 and NPPF84 and nor do I identify any conflict between DP12 and the NPPF taken as a whole, such as Chapter 15 "Conserving and enhancing the natural environment".
- 6.30 For this reason, I consider that DP12 is a fully up-to-date policy and should be accorded full weight in determining this Appeal.
- 6.31 As the Appeal Scheme is considered to conflict with this policy, **I judge the weight to be given to this conflict as Significant**, due to this being the principal District Plan policy on countryside matters and the high degree of conflict with it.



## THP8

- 6.32 Policy THP8 of the Turners Hill Neighbourhood Plan is also relevant for development proposals within the countryside in the Turners Hill Parish. It states (emphasis added):

*'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.'*

- 6.33 I understand that this policy is worded less permissively overall than DP12 but with criteria structured in a cumulative manner, except for criterion f), which stands alone. Thus, in order to achieve compliance with this policy, either a)-d) must all be met or f) must be met. Criterion e) does not apply in this instance, as the site is not 'within' the AONB.

- 6.34 In respect of criterion a), Policy THP1 refers to housing site allocations in the Parish, so is not applicable to this Appeal Scheme. Policy THP7 refers to building extensions or infill development, neither of which are applicable to this Appeal Scheme. Policy THP14 refers to local initiatives for renewable energy, which is not applicable to this Appeal Scheme. Although the Appeal Site is not allocated for housing development it is subject to another relevant policy applying to the area, i.e. DP25, which as summarised in 6.23 would mean that this criterion is met.
- 6.35 In respect of criterion b), paras 5.56 and 5.57 of Stuart Ryder's Proof, summarising Table 7 of his LVIA (CD8.1) notes that the site is of High landscape value and sensitivity. Because this is the highest value (consistent with the Appellant's LVIA), I consider that criterion b) is directly applicable to the Appeal Site. As I consider the Appeal Scheme would have a harmful impact on the local landscape character, then this criterion is breached. Evidently, the Appeal Scheme does not enhance this landscape either. Thus the breach of this criterion is considered to be significant.
- 6.36 In respect of criterion c), Stuart Ryder notes that the Site forms part of a westerly approach to the village of Turners Hill (Section 5, Summary Box). He states in para 7.28 of his Proof (CD8.1) that *'This cumulative landscape effect also influences the quality of the approach to the village of Turners Hill. At the moment the approach has sufficient undeveloped land along the Turners Hill Road corridor so that Tulleys Farm appears as a rural enterprise set some distance from the village. If development of the crematorium complex occurs this would reduce the effective undeveloped break between Tulleys Farm and the village to the single field opposite to the Church of St Leonard.'* I agree with this evidence that the Appeal Scheme would have a negative impact on the landscape setting of Turners Hill and accordingly this criterion would not be met.
- 6.37 In respect of criterion d), the eastern boundary of the Appeal Site is located approximately 450m from the built-up area of Turners Hill. Viewpoints 8 and 9 in Stuart Ryder's Turners Hill Viewpoint Photography Fig. 7 (CD8.1, Appendix B) show the views towards the site from St Leonard's Church, which is beyond the built-up area boundary. He finds that there is no sight of the existing consented or proposed development from this location. This is also the case with Viewpoints 1 and 2. Therefore, this criterion is not applicable to the Appeal Scheme.
- 6.38 In respect of criterion f), the Appeal Scheme is not for utility infrastructure, and therefore this criterion is not met.

- 6.39 Following my logic set out above, I conclude that the Appeal Scheme breaches criteria b) and c) and also breaches criterion f). 3 relevant criteria out of 4 are breached, albeit there is some mitigation in that criterion f) is held not to be supportive of the Appeal Scheme, because it limits support to specific proposals only. Nonetheless, it does not change my view that the Appeal Scheme is contrary to Policy THP8.
- 6.40 I next turn to whether this policy is to be treated as up-to-date and accordingly the weight that should be attached to it.
- 6.41 The Neighbourhood Plan was made in March 2016, two years before the adoption of the Mid Sussex District Plan. 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. This would indicate that primacy be given to DP12 over THP8 if there is a conflict. Both policies are relatively consistent with each other, DP12 providing a fairly overarching approach to protecting and enhancing the countryside, whilst THP8 sets out a more detailed series of criteria to protecting and enhancing the countryside. Both seek to avoid – by reference to differing wording – landscape harm resulting from inappropriate proposals.
- 6.42 Although I see DP12 as a slightly more permissive policy than THP8 in terms of its high-level wording (cf. "Development will be permitted ..." versus "A proposal for development will only be permitted"), the practical application is similar. It requires the decision-maker to exercise a judgement as to whether a proposal would fundamentally have a neutral or positive impact on landscape character. If so, this would steer a decision in a positive direction in general terms; whereas if a proposal were to have a negative/adverse impact on landscape character, the initial steer would be in a negative direction.
- 6.43 I consider that this high-level approach is consistent with that of the NPPF, which seeks to ensure that developments have either a neutral or positive effect on the environment (for example, see Chapter 15). Similarly NPPF84 aims to ensure that proposals outside existing settlements are sensitive to their surroundings. I interpret this to mean 'not cause harm'.

- 6.44 For these reasons, I consider that THP8 is consistent with the NPPF taken as a whole. While the reference to Strategic Gaps has been rendered out of date by the adoption of the Mid Sussex District Plan, the policy does not contain any criteria relating to strategic gaps and therefore the substance of the policy is not out of date. I consider that full weight should be given to this policy. This is because it effectively supplements DP12 (and its predecessor in the Mid Sussex Local Plan) by reference to more detailed assessment of proposals and their effects on the landscape setting of Turners Hill and maintaining views out from the built-up area.
- 6.45 As the Appeal Scheme is considered to conflict with Policy THP8, **I judge the weight that should be given to this conflict as Significant**, due to this being the principal Neighbourhood Plan policy on countryside matters and the relatively high degree of conflict with it.

#### **DP16**

- 6.46 Due to its proximity to the High Weald AONB, Policy DP16 of the Mid Sussex District Plan is relevant and states (in part):

*'Development on land that contributes to the setting of the AONB will only be permitted where it does not detract from the visual qualities and essential characteristics of the AONB, and in particular should not adversely affect the views into and out of the AONB by virtue of its location or design.'*

- 6.47 'Setting' forms only the final part of this policy and is absent from NPPF172 (although is referenced in Planning Practice Guidance instead). However, there is no dispute between the Parties that DP16 overall is consistent with national policy, and therefore full weight should be given to this policy.
- 6.48 The Statement of Common Ground confirms that the effects of the Appeal Scheme on the setting of the AONB would be minimal. This is expanded upon in evidence from Stuart Ryder, where he states that: *'The setting of the AONB will in the long term experience a **Moderate to Minor, Adverse and Permanent** effect. This is caused by the greater extent and more noticeable form of development of the crematorium complex (including its external area) being a greater adverse landscape change adjacent to the AONB when compared to either the current rough grass field or the consented natural burial ground (with chapel) landscape character'* (para 7.19).

- 6.49 I conclude that the Appeal Scheme would result in some conflict with this policy, albeit at a relatively low level due to its limited short-term impact on the AONB setting. On this basis, **I judge the weight that should be given to this conflict as Minor**, due to the lesser importance of 'setting' within this key policy and the relatively low degree of conflict with it.

## **DP26**

- 6.50 In respect of general design matters, the relevant part of Policy DP26 of the Mid Sussex District Plan states (in part):

*'All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:*

- *creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*

- 6.51 This is one of the key policies in the District Plan, which is applicable to developments in all parts of the District. It requires high quality in design, such that new development should contribute positively to the private and public realm.
- 6.52 It is quite clearly a generalised design policy, as evidenced by the Council's subsequent adoption of the Mid Sussex Design Guide Supplementary Planning Document in November 2019, which provides much greater detail of the design standards expected in Mid Sussex.
- 6.53 This means that there is some degree of flexibility in its application; however, the decision-maker is required to make an assessment of the design of a proposal on its own merits and in relation to its specific context. This is set out via a series of largely positively-written criteria.
- 6.54 There is no dispute between the Parties that Policy DP26 is consistent with the NPPF and Planning Practice Guidance, and therefore full weight should be given to this policy.
- 6.55 Given that the Appeal Scheme is in outline form, this policy cannot be fully engaged, as the detailed design is not yet known and can be controlled. However, sufficient

information has been submitted in order to set out some design parameters, particularly to inform the landscape assessment.

- 6.56 I agree with evidence from Stuart Ryder that the Appeal Scheme would not be sensitive to the countryside. He states that *'the identified landscape benefits associated with the proposals do not offset the harm caused to the rural character of the Site itself and the attractive rural landscape context in which it is set.'* (para 10.18 of his Proof) (CD8.1).
- 6.57 I take from this that the Appellant would not be able to demonstrate that the Appeal Scheme would address the character of the surrounding landscape in a positive manner. The harm identified above (due to the amount of development associated with a crematorium facility within this open field parcel) would indicate a failure to be sensitive to the countryside.
- 6.58 Based on the outline nature of the Appeal Scheme and the 'generalised' wording of the criteria set out in para 6.50 above, I conclude that the Appeal Scheme would result in some conflict with this policy overall. **I judge the weight that should be given to this conflict as Minor.** This is due to the importance of this key policy being lowered as a result of the outline nature of the Appeal Scheme.

### THP13

- 6.59 Policy THP13 of the Turners Hill Neighbourhood Plan states (emphasis added):

*'The conversion of existing buildings and the small-scale expansion of existing employment premises across the parish will be supported. Development of this nature must meet **all** the following criteria:*

- *Respect the character of the area;*
- *Not harm the surrounding landscape; **and***
- *Safeguard residential amenity and road safety.'*

- 6.60 The site benefits from a lawful use as a natural burial ground facility with reception building, chapel and basement, maintenance building and car parking. Throughout the sequence of planning applications, starting with DM/15/1035, the Appellant has advised that 3 people will be employed by this facility.

- 6.61 Clearly the construction and landscaping works that have been carried out on site so far have resulted in some employment opportunities, albeit limited in number and duration.
- 6.62 Given the lawfulness of the consented land use (DM/15/1035) as a result of the implemented surface works (and latterly, the construction of the maintenance building), this site can no longer be treated as being agricultural in use and therefore should be treated as an employment-generating site.
- 6.63 The policy supports the *small-scale* expansion of such uses (emphasis added), subject to three cumulative caveats.
- 6.64 I do not consider the Appeal Scheme to be 'small-scale', as assessed in Section 8 of this Proof, and therefore consider there to be a breach of this policy.
- 6.65 In any event, THP13 also requires compliance with all 3 listed criteria. I do not consider that the Appeal Scheme would respect the rural and open character of the area and I also consider that it would harm the surrounding landscape (as set out in evidence given by Stuart Ryder).
- 6.66 While I do not identify any conflict with the final criteria, overall, the lack of a 'small-scale' expansion, allied with conflict with 2 of the 3 qualifying criteria, means that there is a clear breach of THP13 in my view. **I judge the weight that should be given to this conflict as Significant.** This is because of the importance of this policy at Neighbourhood Plan level and the high degree of conflict with it.

#### Conclusion on compliance with policies relating to character and appearance

- 6.67 For the above reasons, I identify a conflict between the Appeal Scheme and Policies DP12, THP8, DP16, DP26 and THP13. I accord the conflict with DP12, THP8 and THP13 as Significant. I accord the conflict with DP16 and DP26 as Minor.

#### Policies relating to need

- 6.68 The need for this Appeal Scheme is relevant to development plan policy, as set out in DP12 and DP25. However, it is necessary to weigh up the level of support given to a need case in these policies. This is also explored in Section 7 as a material consideration.

## DP25

- 6.69 The supporting text to DP25 states: *'Community facilities and local services are important and should be ... provided alongside new development ... New community facilities and improvements to existing facilities form an important part of the requirements [to support future growth in the district] ... The community facilities and local services referred to in this policy include: ... cemeteries and burial grounds'*
- 6.70 I consider the Policy itself which follows this supporting text to reflect Chapter 6 in the NPPF, in particular NPPF83a), which seeks the sustainable growth and expansion of all types of business in rural areas and NPPF83d), which enables the *'development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship'*.
- 6.71 The wording of DP25 is that the *'provision or improvement of community facilities that contribute to creating sustainable communities will be supported'*, followed at the end by the qualifying statement, *'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'*.
- 6.72 This policy is engaged by the second limb of DP12, i.e. 'it is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.'
- 6.73 Evidence from John Dodsworth demonstrates that there is no immediate need for a crematorium sited at Turners Hill, because the improvements to drive times are marginal and the nearest crematorium is not capacity constrained (para 8.1, CD8.2)
- 6.74 John Dodsworth concludes that there is no clear need for this development (para 8.10, CD8.2).
- 6.75 Neither the Turners Hill Neighbourhood Plan (March 2016) nor the Submission Draft Site Allocations Development Plan Document (July 2020) has identified a need for crematoria in the Parish or the District. The 'local needs' referred to in the Neighbourhood Plan identifies only housing stock (paras 7.4 and 7.12-7.17), not any community facilities.
- 6.76 Thus the policy support for this Appeal Scheme in DP25 is tempered by the lack of an identified need at this strategic level and by the evidence of John Dodsworth.



6.77 Even if the second limb of DP12 is found to be supportive towards the Appeal Scheme, both elements of the policy need to be complied with. As set out throughout this Proof, the landscape harm that has been identified by Stuart Ryder (which I agree with) would mean there is still a conflict with DP12.

Assessment against development plan as a whole

6.78 It is common ground between the Parties (CD6.1) that the Appeal Scheme would be in compliance with various elements set out within the development plan, including:

- Contribution to economic development
- Traffic generation and highway safety (including Water Access infrastructure)
- Footpath improvements
- Residential amenity
- Environmental pollution
- Land contamination
- Archaeology
- Trees, Woodland and Hedgerows
- Biodiversity
- Drainage and Flood Risk
- Mineral Safeguarding
- Impact on Ashdown Forest

6.79 In addition, due to the Outline nature of the Appeal Scheme, it should have the potential to comply with other elements of the development plan, including:

- Sustainable Design and Construction / Renewable Energy

6.80 However, based on the suite of policies which run through both development plans, that seek to balance sustainable economic growth and ensuring that the rural character of the area is not harmed, it can be seen that the Appeal Scheme would not comply with their over-arching vision. This is because the Appeal Scheme would result in a strong degree of harm to the landscape character of the area. This harm would be of such a strength that it would outweigh the benefits of the Appeal Scheme.

6.81 Accordingly, I conclude that the Appeal Scheme does not comply with the Development Plan as a whole.

## 7.0 MATERIAL CONSIDERATIONS

7.1 The following material considerations were highlighted in the Council's Statement of Case. Those in bold are most relevant to my evidence:

- **Mid Sussex Design Guide Supplementary Planning Document (Nov 2020)**
- **National Planning Policy Framework (Feb 2019)**
- National Planning Practice Guidance
- **High Weald Area of Outstanding Natural Beauty Management Plan 2019-2024 (4th ed, Feb 2019)**
- Air quality and emissions mitigation guidance for Sussex (2019)
- The Cremation Act 1902.
- 'The Siting and Planning of Crematoria' published by the former Department of Environment in 1978.
- 'Recommendations on the Establishment of Crematoria' published by The Federation of Burial and Cremation Authorities (FBCA) in 2007.
- **Appeal decisions on this site:**
  - o **APP/D3830/A/14/2219950 (dismissed 17 September 2014)**
  - o **APP/D3830/A/16/3165199 (dismissed 6 June 2017)**
  - o **APP/D3830/W/17/3179872 (allowed 22 December 2017)**
  - o **APP/D3830/W/18/3217677 (dismissed 29 April 2019)**
- National Character Area (NCA) 122 (High Weald), Natural England
- Mid Sussex Landscape Character Assessment (2005) – High Weald
- Mid Sussex Landscape Capacity Study (Jul 2007) – Major's Hill High Weald

7.2 In addition, the Need for this Scheme, as proposed by the Appellant, is a material consideration.

7.3 Finally, the Benefits of the Appeal Scheme constitute a material consideration. These can be summarised as follows:

- Job creation during and post-development;
- Creation of a new permissive footpath along the southern part of the site to connect Footpath 68W with the existing permissive footpath in the adjacent field to the east (the Blue lined area in the Appellant's ownership);
- A small improvement to journey times of between 5 and 14 minutes for up to 80,000 people (John Dodsworth Proof, CD8.2); and

- Some quantitative improvements, such as greater choice, shorter waiting times between death and cremation, and an alternative experience.

#### Mid Sussex Design Guide SPD

- 7.4 The Mid Sussex Design Guide SPD aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. It contains a range of design principles which support the aims of the District Plan regarding protection of the landscape.
- 7.5 Design Principle DG3 seeks the retention of the existing natural landscape as far as possible. Although the proposal is in outline form with landscaping as a reserved matter, the Appeal Scheme requires a significant degree of screen planting to reduce the visual impact of the proposed development. I do not consider that the Appeal Scheme would comply with this principle, as it clearly works against, rather than with, the existing landscape, thus offering a contrived solution to mitigate the clear harm that both the appellant's LVIA and Stuart Ryder have identified would result from this development in the short, medium and long-term. **I therefore accord the conflict with DG3 as Moderate.**
- 7.6 Design Principle DG7 relates to topography and views, due to the site's location on elevated ground on one of the highest points in the Mid Sussex District. It advises that larger scale developments must be carefully managed to minimise adverse impacts and that new buildings should not obscure or cause adverse impact on existing views. I consider, along with Stuart Ryder, that the mitigation screen planting would result in precisely this effect that this principle seeks to avoid. **I therefore accord the conflict with DG7 as Minor.**

#### National Planning Policy Framework

- 7.7 Chapter 2 provides policies for achieving sustainable development.
- 7.8 Paragraph 11 sets out the presumption in favour of sustainable development. In respect of decision-taking, this means:

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

7.9 As set out in the Council's Statement of Case, paragraph 11(d) is not engaged by this Appeal Scheme, as I consider all cited development plan policies to be up-to-date and in compliance with the NPPF. I have demonstrated this in Section 6 of my Proof. Overall, it means that this material consideration does not indicate a departure from the Development Plan.

7.10 Chapter 8 provides policies for promoting healthy and safe communities.

7.11 Paragraph 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.'*

7.12 Paragraph 92 is permissively worded to plan for and treat favourably the provision of community facilities and other local services that contribute towards day-to-day needs being met. These should not be delivered in isolation; rather they should form part of a package of strategically planned development. Evidence from John Dodsworth

(CD8.3) confirms that there is no immediate need for a crematorium in Turners Hill because the improvements to drive times are marginal and the nearest crematorium is not constrained by capacity. This indicates that the Appeal Scheme would provide, at best, a benefit but not a clear need. **Accordingly, I do not identify a conflict with Paragraph 92.**

7.13 Chapter 12 provides policies for achieving well-designed places.

7.14 Paragraph 127 states (in part):

*'Planning policies and decisions should ensure that developments:*

*a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

*b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

*c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);'*

7.15 Paragraph 130 (in part) requires that:

*'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.'*

7.16 I consider that the Appeal Scheme would not comply with these policies due to the harm to landscape character set out in evidence from Stuart Ryder. **I accord the conflict with Paragraphs 127 and 130 as Moderate.**

7.17 Chapter 15 of the NPPF provides policies for conserving and enhancing the natural environment.

7.18 Paragraph 170 states (in part) that:

*'Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) *protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;'*

7.19 The Statement of Common Ground acknowledges that the site is not a valued landscape in terms of paragraph 170(a). However, I agree with Stuart Ryder that the Appeal Scheme would fail to recognise or respect the intrinsic character and beauty of the countryside and accordingly **I identify the conflict with Paragraph 170 as Moderate.**

#### High Weald Area of Outstanding Natural Beauty Management Plan

7.20 The setting of the AONB is defined within this Plan to include '*areas outside the AONB where development and other activities may affect land within an AONB*', with particular reference to '*views into and out of the AONB*'. It further advises that '*The Plan may be applied to the designated area and its setting, especially where the setting falls within the High Weald National Character Area*'.

7.21 Objective FH2 seeks '*To maintain the pattern of small irregularly shaped fields bounded by hedgerows and woodland.*

*Rationale: To maintain fields and field boundaries that form a part of the habitat mosaic of the High Weald; and to maintain this key component of what is a rare UK survival of an essentially Medieval landscape.*

*Two of the Proposed Actions by Public bodies are to:*

- *Give great weight to medieval field systems in planning decisions especially where there is a high degree of intactness and strong presence or relationship with other notable landscape and heritage features;*

- *Require development masterplans to protect and enhance existing field patterns including hedges, ditches or other boundary features, and where possible to restore them when lost, particularly within retained public spaces'*

7.22 I do not consider that the Appeal Scheme complies with Objective FH2 as it would not maintain the pattern of fields bounded by hedgerows and woodland. I agree with evidence from Stuart Ryder (para 9.25 of CD8.1) that the proposals will remove the existing field forms from the surrounding landscape, so would no longer have the form of a rural field. **I accord the conflict between the Appeal Scheme and FH2 as Minor.**

### Appeal Decisions

#### **Access**

7.23 The Inspector for the first appeal decision on this site (dismissing a scheme for an access), APP/D3830/A/14/2219950 (CD13.1), identified in para 14 that:

*'the character of the area in which the site is located is clearly rural and not a transitional suburban area between the village and countryside. Travelling westwards along Turners Hill Road beyond the village and past the church, the character changes totally into open countryside with narrow lanes bounded by trees and hedgerows. The land immediately to the north of the proposed access is clearly undeveloped and reads as a patchwork of fields and woodland separated by boundary hedging.'*

7.24 This analysis of landscape character is consistent with Stuart Ryder's evidence regarding the setting of the site in the western approach to the village (paras 5.48-5.51 of CD8.1). This appeal decision is still relevant despite the currently disturbed nature of the site, as described by Stuart Ryder throughout his Proof.

#### **Affordable Housing**

7.25 The appeal Inspector for the second decision on this site (dismissing a scheme for affordable housing), APP/D3830/W/16/3165199 (CD13.2), agreed with this site appraisal, noting in para 8 that:

*'The parish church is situated on a high point to the west of the village centre, just beyond the junction of Turners Hill Road and Paddockhurst Road. It marks the extent of the village and a distinct change in the character of the area. To the west of the church there is open countryside with narrow lanes enclosed by mature trees and hedgerows. Although Turners Hill Road is the boundary between the AONB and other countryside, the land on both sides shares similar characteristics of a mix of fields and woodland. The roadside trees and other vegetation is taller and more mature enclosing the AONB to the south, whereas on the northern side there are occasional gaps which give long views over the open countryside and towards the North Downs.'*

7.26 She considered in para 10 that:

*'In this context a development of 22 modest-sized dwellings set in small plots would be completely out of character with the surrounding rural area. Neither can it be compared with the permitted use of the remainder of the field as a natural burial ground. Whilst that will include some hard-surfacing and modest buildings, over time the planting and growth of trees would ensure that this low-key use would integrate effectively into the countryside. By contrast a residential development would introduce buildings, roads, parking areas, boundary treatments and people into this otherwise unspoilt, tranquil and open countryside. In order to accommodate the number of dwellings proposed, the layout is likely to be typical of that which would normally be found in an urban environment and would therefore appear alien and out of place in this rural location.'*

7.27 In para 11, she stated:

*'Immediately to the north of the site the land falls away and the development would be highly visible from footpath 68W which passes along the edge of the approved burial ground and into Butchers Wood. At the entrance to the woodland the development would be particularly prominent due to its position on much higher ground, from where it would appear to be on the skyline. This would reinforce its alien and incongruous character within this rural setting.'*

7.28 She made a pertinent point in para 12 that:

*'In any event the purpose of landscaping is not to hide otherwise unacceptable development, but to permit the successful integration of development into its surroundings.'*



7.29 She noted in para 13 that:

*'The tree screen on the southern side of Turners Hill Road would reduce visibility of the site from the AONB throughout most of the year. However, in the winter months the roofs could well be seen from footpath 70W. Regardless of the visual screening, the introduction of a residential development so close to the boundary of the AONB would adversely affect its essential character arising from the more intensive use of the site.'*

7.30 She concluded in para 14 that the proposal would be unacceptably harmful to the character and appearance of the countryside and the setting of the AONB.

7.31 These conclusions are relevant to the current Appeal Scheme as the Inspector identified (as Stuart Ryder does) the similarities between the designated AONB landscape and the non-designated site. The similarities between a housing development dominated by buildings and hard landscaping, roads, parking areas and people and this Appeal Scheme in terms of the quantum of hard landscaping, parking and human activity are clear. The Inspector's understanding of the purpose of soft landscaping is consistent with that of the Council's evidence in this Appeal Scheme, that it should not be used to hide otherwise unacceptable development. Accordingly this Appeal Decision is useful in establishing how a proposed development on this site is deemed to be inappropriate, even when compared to the approved change of use.

## **Chapel**

7.32 The appeal Inspector for the third decision on this site (allowing a single storey chapel building), APP/D3830/W/17/3179872 (CD12.1), held in para 8 that:

*'Given the planning permission for the site as natural burial ground, the provision of a commensurate chapel building is not unreasonable. The siting of the building close to and parallel with the consented reception building is appropriate and would concentrate activity close to the car park. The building would be longer and higher than the reception building, but its bold modern design form would reflect its use as a chapel. In view of its height, it would be a conspicuous building when viewed from close quarters but the proposed materials would help its assimilation into this rural setting.'*

7.33 In para 10, he stated that:

*'The chapel building in particular would result in some short to mid term adverse impacts on landscape character, when viewed from close positions but these impacts would be dissipated in the longer term as the proposed planting matures.'*

7.34 Overall, he concluded in para 15 that:

*'the appeal proposals are proportionate to the scale of the site and that the design of the chapel is acceptable in this context. It would be of attractive appearance and the use of materials to match those on the consented reception building would assist in its assimilation with the wider site and to blend in with rural character of this site.'*

7.35 Whilst this appeal was allowed against the Council's decision, it highlights that a single building could be deemed appropriate when clearly related to the permitted land use and in its use of high quality materials. That the Inspector did not require the building to be completely screened by vegetation, is a further acknowledgement that it was functionally an integral part of the permitted use.

### **Conclusion on Appeal Decisions**

7.36 These decisions, together with the most recent decision referenced in Section 8 below, have informed both my and the Council's approach to determining subsequent applications on this site, including this Appeal Scheme, in the interests of consistency. The current Appeal Scheme process has identified certain consistencies with these previous decisions, such as in terms of landscape character, use of the land and how developments must stand on their own merits. Accordingly, the Inspector is invited to consider these decisions in the context of the current proposals.

### **Need for the Appeal Scheme**

7.37 Need for this crematorium is a material consideration (in addition to being relevant to compliance with policy DP25) and is examined in evidence presented by John Dodsworth (CD8.2).

- 7.38 As John Dodsworth explains, the existence and extent of any need for a new crematorium can be assessed by using drive times from the local population, and by examining the capacity of existing crematoria. This allows a judgement to be made about how much of an improvement would be made if the crematorium were built.
- 7.39 This analysis followed on from a Crematorium Need Assessment by Peter Mitchell (AD1.7 and AD1.7a), which was summarised in detail in the Council's Committee Report (M3.1).
- 7.40 Both Parties accept that a 30 minute cortege drive time (accepted as an 'industry standard' in most appeal decisions) should be the starting point. However, John Dodsworth notes that some appeal decisions have accepted that longer drive times are acceptable in rural areas (as Mid Sussex district is) and cautions that '*... travelling further than 30 minutes introduces a gradual qualitative decline in service rather than suddenly creating need.*' (para 4.3 of CD8.2).
- 7.41 John Dodsworth's analysis shows that fewer than 39,000 people will be brought into a 30-minute drive time of any crematorium for the first time, of which nearly 30,000 are to the east and south of Haywards Heath. This does not indicate that the Turners Hill site is the most optimal location to capture the population not already served. Hence there will still be 112,159 people beyond 30 minutes drive-time of any crematorium as a result of this Appeal Scheme - of these, just under 27,000 in the area between Haywards Heath and Uckfield in the Mid Sussex area.
- 7.42 I agree with John Dodsworth's analysis that the Turners Hill Crematorium will only result in a marginal improvement to journey times (of 5-14 minutes), which will not be alleviated substantially. The addition of a crematorium at Turners Hill would reduce the maximum driving time for the area from 41 minutes to 37 minutes (para 4.46 of CD8.2). This evidence is based on a rigid 30-minute drive time standard, but is tempered by residents in the Mid Sussex district and further beyond being in a rural area where strict adherence to this standard is not deemed as important as it could be in a more urban area.
- 7.43 As John Dodsworth concludes, the benefits to Mid Sussex residents are reduced as a result of the location of the proposed crematorium, and the benefit is not considered to be a significant one, given the rural nature of the District. I agree with this analysis which does not indicate a clear need for a crematorium in Turners Hill.

- 7.44 In addition, John Dodsworth concludes that the neighbouring Surrey and Sussex crematorium is not currently over-trading and has accommodated the peak months in the past few years. He asserts that it will be about 6 years before this crematorium will reach its practical capacity of 80% (para 6.2 of CD8.2) and will be 2034 before it reaches its technical capacity of 75% (para 6.3 of CD8.2).
- 7.45 Accordingly, **I consider this 'Need' should be accorded Moderate weight** as a material consideration.

#### Benefits of the Appeal Scheme

- 7.46 Job creation during and post-development will contribute to the economic growth of the country and the economic objective of NPPF8, so should be accorded **Moderate weight**. This is due to the very limited number of permanent jobs resulting from the use and limited duration of the construction jobs.
- 7.47 Creation of a new permissive footpath along the southern part of the site to connect Footpath 68W with the existing permissive footpath in the adjacent field to the east will extend and enhance footpaths in the village in a safe manner. Although it is possible to make the same link through Butcher's Wood back to the main village, **I consider that this benefit should be accorded Moderate weight**.
- 7.48 A small improvement to journey times to a crematorium of between 5 and 14 minutes for up to 80,000 people will provide a geographic benefit. However, this is tempered by the benefit not extending to some Mid Sussex residents at all (mainly in the south-east of Haywards Heath). **I consider that this benefit should be accorded Moderate weight**.
- 7.49 Finally, the Appeal Scheme will provide some quantitative improvements, such as greater choice, shorter waiting times between death and cremation, and an alternative experience. However, this is offset by the Appellant's own survey of funeral directors not identifying that existing crematoria were operating unsatisfactorily in terms of meeting current need or making available core slots. **I consider that this benefit should be accorded Minor weight**.

#### Conclusion on considerations

7.50 Based on the above reasoning, I identify whether these material considerations are of sufficient weight to justify a decision which is not in accordance with the development plan, as follows:

Design Guide Principle DG3 – Negative weight

Design Guide Principle DG7 – Negative weight

NPPF92 – No weight

NPPF127 – Negative weight

NPPF130 – Negative weight

NPPF170 – Negative weight

FH2 of the HWAONB Management Plan – Negative weight

7.51 Therefore these material considerations do not support or indicate a departure from the development plan.

7.52 I have set out why I believe 4 appeal decisions on this site are relevant for the Inspector in determining this current Appeal Scheme, due to the consistency in reasoning.

7.53 I am in agreement with the evidence of John Dodsworth and conclude that a Need for this facility has not been clearly demonstrated. I therefore attribute Moderate weight to the lack of clear Need, and therefore I do not consider that this provides sufficient support to depart from the development plan.

7.54 I acknowledge several Benefits associated with the Appeal Scheme, as follows:

- Job creation: Moderate benefit
- New permissive footpath: Moderate benefit
- Improvement to journey times: Moderate benefit
- Qualitative improvements: Minor benefit

7.55 Overall, whilst the Appeal Scheme provides several Benefits, it does not meet a clear Need and does not attract support from the planning policies and guidance referenced above. Taken together, I conclude that none of these material considerations are sufficiently weighty as to indicate a departure from the Development Plan, taken as a whole.

## 8.0 FALLBACK POSITION

- 8.1 As set out in Section 4.6, it is common ground that the natural burial ground facility with reception building, chapel and basement and car parking is capable of being implemented (referred to as the "Fallback Position").

### Comparison

- 8.2 I agree with the Inspector's assessment in CD13.3 that the consented natural burial ground 'is a low intensity use' as well as its activity, commensurate with its rural location (which has always been intended to employ only 3 people).
- 8.3 By contrast, the Appeal Scheme would constitute a larger amount of development than previously approved (for example, the approved reception building would be 98 sq m in floor area (13.1m in width by 7.5m in depth, and the approved chapel building would be 253 sq m in footprint (24.4m in length by 10.4m in width). Stuart Ryder estimates in his Proof (CD8.1, para 3.27) that the proposed crematorium building footprint would be approximately 515 sq m, increasing to approximately 830 sq m when the porte cochere is included. The majority of the southern field would be subject to development, whether by way of buildings, hardstanding or essential screen planting, which would constitute a much greater land take than the permitted scheme.
- 8.4 The same Inspector noted in paras 10 and 11 in relation to the location of a new barn/workshop building (300 sq m in floorspace) and road distant from the approved group of buildings at the front of the site that:

*'Even with planting as a longer-term form of mitigation, I am not satisfied it would ameliorate the scale of the building, particularly in views from the public right of way, which is in close proximity. This part of the site has previously been planned solely for landscaping in connection with the burial ground use and so was not envisaged for built development. In my view it forms an attractive part of the wider landscape, despite its lower level in relation to the chapel building, and, with it, part of the burial ground site.'*

and

*'This would result in a significantly wide and lengthy road, with the footway, cutting through the centre of the burial ground. This would in my view be intrusive and have*

*an urbanising and scarring effect in this countryside location that would be harmful to the character and appearance of the area.'*

- 8.5 Stuart Ryder further notes in para 3.67 of his Proof (CD8.1) that *'the existing consented buildings and surfacing elements are grouped together in a small area to the immediate west of the Site entrance. They would all fit within a rectangular space approximately 60m long by 50m or 3,000m<sup>2</sup>. If just the consented building and surfacing schemes were measured this equates to a total area of development of 1,036m<sup>2</sup>.'*
- 8.6 He contrasts with the Appeal Scheme in para 3.68 that *'The overall space that the proposed crematorium building and associated car parking would fit into it equates to a trapezium 95m by 95m or just over 9,000m<sup>2</sup>. The combination of increased car park surfacing (4,000m<sup>2</sup>) and larger crematorium building (1,580m<sup>2</sup>) totals to 5,580m<sup>2</sup>.'*
- 8.7 He confirms in para 3.69 that *'In simple scale comparison terms the complex formed by the crematorium building and hard surfacing is three times larger than the consented proposals (9,000m<sup>2</sup> to 3,000m<sup>2</sup>). If a more concise measure of building footprints and surfacing is taken then the crematorium building and car park is at least five times the size of the existing consented schemes (1,036m<sup>2</sup> to 5,580m<sup>2</sup>)'.*
- 8.8 In respect of the landscaping proposals, Stuart Ryder concludes that the original natural burial ground proposals are more naturalistic, low key and with its buildings set in a discreet location with associated screening. Overall, the consented schemes would remain subservient to the landscape character of the site and in keeping with the surrounding landscape that it is set in.
- 8.9 Stuart Ryder concludes that the Appeal Scheme, in contrast, would have a more formalised arrangement, be larger in scale and would deliver a more intensively developed landscape than the current consented natural burial proposals. He doubts whether the crematorium complex, with a larger main car park and bigger crematorium building footprint, could be placed as discreetly on the site as the consented schemes.
- 8.10 I agree with these conclusions.

#### Prospect of Fallback Position being implemented

- 8.11 It is difficult for me to form a judgement on whether the Appellant intends to implement the fallback proposals.

8.12 Following the formation of the access to the site onto Turners Hill Road by way of a translocated hedge, the Appellant has benefited from a planning permission for a change of use of the land to a natural burial ground since 2015, with conditions discharged in 2016. Yet 5 years later, the site is still not in any operational use, despite several subsequent planning permissions. The only substantive activity on site has occurred immediately prior to the following events:

- Laying out of the car parking areas with rough surfacing (immediately prior to the Appeal Hearing for 22 affordable houses in May 2017);
- Erection of the maintenance building (kit form) without a concrete slab or roller shutter door and with an additional (at the time, unauthorised) pedestrian door (immediately prior to the committee meeting in December 2020 to determine the Crematorium application, subject of this Appeal);
- Tarmaced surface of the internal car parking areas (immediately prior to this Inquiry in March 2021).

8.13 These developments appear to have been carried out to pave over the consented site areas, construct hoardings and plant saplings to screen the site from the public footpath. No foundations have been dug and no approved soft landscaping (in connection with the approved developments) has been carried out, other than the translocated hedge to form the access. I note that there is history of attempting to provide housing on this site, via an affordable housing planning application (DM/16/1887 and appeal AP/17/0010).

8.14 Finally, I note that this crematorium application has been submitted in outline form only, which does not indicate that an operator has been identified.



## **9.0 PLANNING BALANCE**

- 9.1 Taken as a whole, both the Mid Sussex District Plan and the Turners Hill Neighbourhood Plan conform with national planning policy guidelines and hence the relevant Policies referred to in this Proof are up-to-date and should be afforded full weight in the decision-making process.
- 9.2 For the reasons advanced in Section 6, I judge the weight to be given to the Appeal Scheme conflict with Policies DP12, THP8 and THP13 as Significant and the conflict with Policies DP16 and DP26 as Minor.
- 9.3 Whilst I recognise that the Appeal Scheme does not conflict with several elements of the development plan, there is a fundamental conflict with the overall balance between sustainable economic growth and ensuring that the rural character of the area is not harmed.
- 9.4 I therefore conclude that the Appeal Scheme is contrary to the Development Plan taken as a whole.
- 9.5 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, I am then required to assess whether there are any material considerations of sufficient strength to outweigh the conflict with the Development Plan.
- 9.6 For the reasons advanced in Section 7 above, I conclude that none of the cited material considerations are sufficiently weighty as to indicate a departure from the Development Plan, taken as a whole.
- 9.7 I acknowledge that the Appeal Scheme would have a number of Benefits, such as job creation during and post-development, provision of a modern, new crematorium within the District which will assist in giving greater choice to the local population, and a reduction in the travel time for residents.
- 9.8 However, I agree with the evidence of John Dodsworth that there is no clear Need for this facility. It does not represent an identified need at either the Parish or District level. It is thus unplanned for and speculative. I therefore attribute Moderate weight to the lack of clear Need, and therefore I do not consider that this provides sufficient support to depart from the development plan.
- 9.9 Both Benefits and Need would clearly weigh in favour of a development scheme, but as they are insufficiently strong when taken as a whole (and in relation with conflicts

in other policy documents), I do not consider that there is sufficient support in these material considerations to outweigh the harm identified in landscape terms and supported by Development Plan policies. Accordingly, the conflict with the Development Plan taken as a whole must be the determining factor in judging the acceptability of this Appeal Scheme.

## **10.0 CONCLUSION**

- 10.1 I consider that the Appeal Scheme is contrary to the Development Plan taken as a whole and agree with Stuart Ryder's conclusion that it would cause Major or Moderate harm to the landscape character of the area. I agree with the conclusion of John Dodsworth that there is no clear need for this crematorium in Turners Hill. While the Appeal Scheme would have some benefits in terms of, for example, providing a new crematorium facility, greater choice and a limited reduction in journey times, these and other material considerations are not considered to be of such a magnitude as to constitute a need that overrides this landscape harm and outweighs the planning policy conflict that I have identified.
- 10.2 On this basis, I respectfully request that the Inspector upholds the council's decision to refuse outline planning permission for this Appeal Scheme and dismisses the appeal accordingly.
- 10.3 If, on the other hand, the Inspector is minded to allow the appeal, it is respectfully requested that the conditions set out in Appendix A of the Statement of Common Ground (CD6.1) are attached to the permission.