

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **SPECIAL PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

DATE: **WEDNESDAY, 29 OCTOBER 2014**

REPORT BY: **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

SUBJECT: **FULL APPLICATION - ERECTION OF A CREMATORIUM WITH ASSOCIATED CAR PARKING, NEW ACCESS, LANDSCAPING AND GARDEN OF REST ON LAND EAST OF A5119 AND SOUTH OF TYDDYN STARKEY, STARKEY LANE, NORTHOP.**

APPLICATION NUMBER: **051043**

APPLICANT: **J.E. DAVIES & SON**

SITE: **LAND EAST OF A5119 & SOUTH OF TYDDYN STARKEY, STARKEY LANE, NORTHOP.**

APPLICATION VALID DATE: **18TH JULY 2013**

LOCAL MEMBERS: **COUNCILLOR M. BATEMAN**

TOWN/COMMUNITY COUNCIL: **NORTHOP COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT RELATIVE TO DELEGATION SCHEME**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This full application which has been submitted by J.E. Davies & Sons (Funeral Directors) proposes the development of a crematorium, together with car parking, access, landscaping and garden of rest. The application site covers an area of approximately 4.1 hectares (10 acres) of existing agricultural land. The site which is within a Green Barrier and the open countryside as defined in the adopted Flintshire Unitary Development Plan, and is located to the north of the A55, east

of the A5119 Northop – Flint Road and south of Starkey Lane between the settlements of Northop and Flint Mountain.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

2.01 Whilst the Local Planning Authority, does not dispute the qualitative and quantitative need for a crematorium within Flintshire the site the subject of this application is located within a Green Barrier. The Local Planning Authority has not been reasonably satisfied that there is no other suitable site outside the Green Barrier which would satisfy this need. Consequently it is not considered that the very exceptional circumstances exist which would justify the development, and that granting permission in these circumstances would be contrary to the provisions of Planning Policy Wales (2014) and Policy GEN4 of the adopted Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

3.01 Local Member

Councillor M. Bateman

Request site visit and Planning Committee determination. Her preliminary views are that she questions the need for such a facility in Flintshire and considers that there are more suitably located sites outside the Green Barrier where such a facility could be sited.

Northop Community Council

Oppose the application on the following grounds:-

- Proposal is contrary to Flintshire Unitary Development Plan Policy GEN4 – Green Barriers.
- Proposal would harm the openness of the Green Barrier.
- Proposal would increase the volume of traffic impacting on residential amenity and road safety.

Wales Government (Transport)

The Welsh Government as highway authority for the A55 trunk road does not issue a direction in respect of this application.

Wales Government (Environment)

Confirms that there is a moderate probability of 'Best and Most Versatile' agricultural land within the site.

Head of Assets and Transportation

Recommend that any permission be subject to the completion of a Section 106 Obligation/Unilateral Undertaking to secure funding of £3,000 towards the upgrading of existing bus stop facilities adjacent to the site. In addition, request that any permission includes conditions requiring the provision of a right turn facility pedestrian refuge and improvements to existing footways details of site access suitability

gradient of the access and provision of adequate parking facilities within the site.

Environment Directorate
(Rights of Way)

Public Footpath 5 crosses the site. The legally defined Public Right of Way must be marked out in strict accordance with the definitive map. The surface of the right of way must not be disturbed without lawful permission and development over the right of way must not commence until any necessary diversion or extinguishment has been authorised under appropriate legislation.

Head of Public Protection

No objections subject to there being a requirement for the applicant to apply for a permit to control emissions into the air from the development.

Ramblers Association

No comment to make on the suitability of the site for the development proposed. It is however considered important that the Public Right of Way Northop 5 is adequately safeguarded as part of the development.

Natural Resources Wales

No objection in principle. The proposal will not affect the features, ecological integrity or functionality of any statutory sites of ecological, geological and/or geomorphologic interest. The presence of a protected species is a material planning consideration and therefore if the Local Planning Authority is mindful to grant consent, request that any permission be subject to conditions to safeguard the habitat of Great Crested Newts (GCN). Whilst the preferred method of disposal of foul drainage would be to connect to the mains drain system, if this is not possible disposal must comply with relevant guidance/permits. In respect of surface water drainage from the car park, this must pass through an oil interceptor before discharge. If connection to the main foul sewer network is not possible, the treatment and disposal of sewage must comply with Planning Policy Guidance 4.

4.00 PUBLICITY

4.01 Press Notice, Site Notice, Neighbour Notification

The application has been advertised as a departure from the provisions of the development plan.

455 letters of objection have been received, the main points of which can be summarised as follows:-

- Development is inappropriate within a Green Barrier.
- There are more suitably located brownfield sites which should be developed in preference to this site.
- Development is contrary to planning policy framework.

- Loss of agricultural land.
- Proposal will have detrimental impact on flow of traffic on the A55 and A5119.
- Slow moving nature of traffic generated by the proposed development will result in congestion on existing road network.
- Emissions will have health implications.
- Detrimental impact on character of landscape.

122 letters of support have been received, the main points of which can be summarised as follows:-

- Flintshire is in desperate need of a crematorium, given that the population have to currently travel outside the County for such a facility.
- Site offers an attractive and peaceful location for such a facility.
- Site has excellent road links and is easily accessible from all directions.
- Buildings are well designed and sympathetic to the surrounding landscape.
- Ideal location away from significant housing development.
- Good access by public transport.

5.00 SITE HISTORY

5.01 None relevant.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
 Policy STR1 – New Development.
 Policy STR2 – Transport & Communications.
 Policy STR7 – Natural Environment.
 Policy STR10 – Resources.
 Policy GEN1 – General Requirements for Development.
 Policy GEN3 – Development in the Open Countryside.
 Policy GEN4 – Green Barriers.
 Policy D1 – Design, Quality, Location & Layout.
 Policy D2 – Design.
 Policy D3 – Landscaping.
 Policy D4 – Outdoor Lighting.
 Policy TWH1 – Development Affecting Trees & Woodlands.
 Policy TWH2 – Protection of Hedgerows.
 Policy L1 – Landscape Character.
 Policy WB1 – Species Protection.
 Policy WB5 – Undersigned Wildlife Habitats.
 Policy WB6 – Enhancement of Nature Conservation Interests.
 Policy AC21 – Pedestrian Provision & Public Rights of Way.
 Policy AC4 – Travel Plans for Major Traffic Generating Developments.
 Policy AC13 – Access & Traffic Impact.

Policy AC18 – Parking Provision & New Development.
Policy MIN8 – Protection of Mineral Interests.
Policy MIN9 – Borrow Pits.
Policy MIN10 – Mineral Buffer Zones.

Additional Guidance

Cremation Act 1902

Planning Policy Wales (PPW)

7.00 PLANNING APPRAISAL

7.01 Introduction

The site the subject of this application amounts to approximately 4.1 hectares (10 acres) of existing agricultural land which is within a Green Barrier and the open countryside, to the north of the A55, east of the A5119 and south of Starkey Lane between the settlements of Northop and Flint Mountain.

7.02 The site extends over a series of gently undulating fields interspersed by hedgerows some containing native trees. On the western boundary there is a shallow valley running along the base of the embankment with the A5119 Northop – Flint Road that connects to the A55. To the north of the site is Starkey Lane along which there are a number of residential properties including Ash Mount, Belgrave, The Old Barn and Tyddyn Starkey.

7.03 Proposed Development

The application which has been submitted by J.E. Davies & Sons (Funeral Directors) proposes the development of a crematorium, together with associated car parking, formation of a new vehicular access, landscaping and garden of rest. In addition to the standard application forms and plans, the application is accompanied by:-

- A Design & Access Statement.
- A Building Design Statement.
- Ecological Statement.
- Traffic Statement.
- Landscape & Visual Impact Assessment.
- Need Assessment.
- Minimum Drive Catchment Assessment.
- Alternative Site Search Assessment.

7.04 In terms of the detailing of the proposed elements of the application, this can be summarised as follows:-

• **Crematorium Building**

A single storey structure which measures approximately 43 m x 35 m x 5.5 m high. It is proposed that the building incorporates an entrance/lobby, a chapel to accommodate 90 – 100, a waiting area with space for 20 – 30 persons, an office/staffroom, book of

remembrance room, crematory and clergy vestry. It is proposed that the roof of the building is contemporary in its form (double curve) the applicant being of the view that this will help to assimilate the building into the landscape in a more sympathetic fashion than were it of traditional roof profile. It is proposed that the building be constructed having stone/render external walls with a profiled sheeting roof system and is sited within the south western part of the site with it being orientated so that its main elevation/entrance faces northwards when approached from the driveway off the A5119. The height of the associated chimney would be approximately 6.5 m this being incorporated within the roof structure and protruding above it by approximately 1 m. There would be a service yard with staff/hearse parking area for 10 No. vehicles to the south of the building.

7.05 • **Vehicular/Pedestrian Access**

The application proposes that the development be served by utilisation/adaptation of an existing agricultural field access into the site from the A5119 with a proposed visibility splay of 2.4 m x 136 m in a northerly direction and 2.4 m x 160 m in a southerly direction. It is also proposed that the improvements to the access are accompanied by the introduction of a right-turn facility/separation island into the site from the Northop direction.

• **Parking Provision**

The site layout plan shows the provision of a total 60 No. car spaces with 6 No. disabled spaces to serve the development. These are proposed to be sited to the west of the crematorium, between the building itself and A5119.

• **Parkland/Grazing Meadows/Remembrance Pavilion**

The crematorium building is proposed to be sited within a landscaped setting, encompassed by grazing meadows to the north of the building adjacent to the site access and along the northern site building relative to existing properties at Tyddyn Starkey. A remembrance garden/pavilion is to be located to the south of the crematorium building and car park.

7.06 **Implications of the Cremation Act 1902**

For Members' information, proposals for new crematoria must have regard to the Cremation Act 1902. In addition to numerous requirements imposed on the operation of such a facility, the Act places restrictions on the layout and siting of the crematorium. In particular, it is required that:-

“No crematorium shall be constructed nearer to any dwelling house than 200 yards (182.88 m), except with the consent, in writing of the owner, lessee and occupier of such house, nor within fifty yards of any public highway, nor in the consecrated part of the burial ground of any burial authority”.

- 7.07 Whilst this is not a planning requirement it provides a useful indicator of the potential impact on residential amenity and with this in mind the approximate distances to existing dwellings located adjacent to the site are:-

Property	Distance to Site Boundary	Distance to Crematorium Building
Ashmount	58 m	225 m
Belgrave	58 m	201 m
The Old Barn	60 m	150 m
Tyddyn Starkey	23 m	116 m

It will be noted that two of the properties fall within this 200 m threshold and whereas the applicant has confirmed that Tyddyn Starkey and The Old Barn are currently within his ownership, it is his responsibility to ensure that the requirements of the Cremation Act in relation to these properties are met.

7.08 **E.I.A. Screening**

Prior to the formal submission of the planning application a screening opinion was requested by the applicant in accordance with the Town & Country Planning (Environmental Impact Assessment) Regulations 2011, to ascertain whether the proposal would be subject to the requirement for an Environmental Impact Assessment (EIA). It is concluded in accordance with Regulation 2(1) that an EIA is not required with ecological, transport and landscape considerations assessed adequately through the submission of separate reports accompanying the planning application.

7.09 **Planning Policy Framework**

There is no specific national planning policy guidance setting out the criteria which must be taken into account when assessing applications for new crematoria. Crematoria are not mentioned explicitly in Planning Policy Wales (PPW) or the adopted Flintshire Unitary Development Plan (FUDP). Each application must therefore be considered and assessed on its own merits, although both PPW and the FUDP provide a policy framework within which to consider the development of a crematorium.

- 7.10 PPW contains policies relating to Green Belts and locally designated "Green Wedges". The FUDP uses the term "Green Barriers". There is a general presumption against inappropriate development in Green Wedges/Green Barriers. The construction of new buildings is inappropriate development unless it falls within certain exceptions, defined in Policy GEN4 of the FUDP and paragraph 4.8.16 of PPW. Otherwise, inappropriate developments should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would cause to the Green Barrier/Green Wedge.

7.11 In recent years there have been a number of appeals regarding applications for crematoria. These have highlighted matters which can be material when determining such applications - in particular, whether there is a need for such development, and that in cases where a crematorium is proposed in a Green Barrier, Green Belt or Green Wedge that "very exceptional circumstances" can only be properly made out if there are no other suitable sites outside these designated areas.

7.12 **Main Planning Considerations**

It is considered that the main issues to be taken into account in determination of this application are:-

- i. The quantitative/qualitative assessment of whether there is a need for a crematorium within the County and the expected catchment area that the new crematorium might be expected to serve.
- ii. If such a need is established, whether there is an optimum location for such a facility.
- iii. The implications for the crematorium at Northop should a separate proposal for a crematorium at St. Asaph submitted to Denbighshire County Council (currently subject to appeal) be allowed.
- iv. The principle of the proposed development within a Green Barrier having regard to the planning policy framework
- v. The site selection process undertaken and the implications of the current undetermined Memoria application (Ref. 052334).
- vi. Agricultural land classification.
- vii. Adequacy of highway network and access to serve the development.
- viii. Impact of development on the character of the landscape and the openness of the Green Barrier.
- ix. Impact on amenity of occupiers of nearby properties.
- x. Design.
- xi. Impact on ecology.
- xii. Impact on mineral resources.
- xiii. Adequacy of drainage.

7.13 In order to assist in the assessment process, Flintshire County Council have commissioned independent consultants who have considerable experience in dealing with applications for crematoria (Peter Brett Associates) to appraise various aspects of the proposed application. This appraisal has had regard to material submitted by both the applicant in support of the application and highway consultants commissioned by objectors opposed to the development, concerned with the adequacy of the access to serve the proposal. The conclusions of this exercise have informed the preparation and conclusions contained in this report to Members.

7.14 In commenting in detail in response to the above issues, I wish to advise as follows:-

7.15 **Qualitative/Quantitative Assessment/Existing Provision**

There are currently no crematoria located in Flintshire and only three in North Wales at Bangor, Colwyn Bay and Pentrebychan (near Wrexham). Together with the crematorium at Chester these existing facilities help to serve the current needs of the population of Flintshire.

7.16 **Qualitative Assessment**

In looking at the issue of qualitative need Peter Brett Associates have examined journey and waiting times at existing crematoria as it is acknowledged that waiting times between death and cremation have been cited as evidence of qualitative need.

7.17 In addition an important measure of qualitative need for crematoria is based on the population which is beyond an acceptable distance from an existing facility. Inspectors in previous appeal decisions have considered that an industry standard or rule of thumb has been applied whereby a funeral cortege should not have to undergo more than a 30-minute drive to access such a facility.

7.18 The assessment undertaken by Peter Brett Associates to establish need has been documented in significant detail in a report which is background to this report. In summary, the main conclusions of this exercise are that:-

- There is evidence of waiting times in excess of one week at the Chester crematorium whilst there is unfilled capacity at both Colwyn Bay and Wrexham.
- There is a population of around 84,000 persons who currently reside in excess of 30 minutes drive time from a crematorium who would be served by the new facility together with a further 15,500 persons who are not currently within 45 minutes drive time of an existing crematorium who would be within 45 minutes of the proposed development. This is a significant level of population and an important indicator of qualitative need for crematorium provision within Flintshire.

7.19 For Members' information consultants commissioned by the applicant (Peter Mitchell Associates) have used different methodology in assessing need, this being based on a Minimum Drive Catchment (MDC). This data has also been assessed by Peter Brett Associates who have confirmed that this assessment is also robust in supporting a qualitative need for such a facility.

7.20 **Quantitative Assessment**

A detailed analysis of Minimum Drivetime Catchment (MDC) around

the proposed site at Northop has been undertaken. This has shown that there is a population of 174,000 who would be closer to a new facility at Northop than to any existing crematorium – a population which could rise to around 178,000 by 2033. This population would be expected to generate a demand for 1,233 cremations per year – rising to 1,458 per year in 2033. These figures indicate a quantitative need for a new crematorium in this part of Flintshire.

7.21 **Optimum Location**

Peter Brett Associates have advised that it is not possible to identify one site which is the 'Optimum Location' for a crematorium in Flintshire. It is however considered possible to identify a broad area of the county within which a number of sites could potentially meet the identified need for a new crematorium. Peter Brett Associates consider that in setting out the Optimum Drive Area (ODA) for a new crematorium the agents acting on behalf of the applicant, Harrison Design Development (HDD), have undertaken this process in an effective manner. On the basis of the application site's location adjacent to the A55 it is therefore considered that the application site could be considered an optimum location but it is recognised that other sites within a few miles of the site may also fulfil this criterion. It is recognised therefore that the site selection process as referred to elsewhere in this report (paragraph 7.31 onwards) is an important part of the consideration of this application.

7.22 **Implications of the St. Asaph Crematorium Proposal**

In preparing this report it is acknowledged that an application for a crematorium at St. Asaph submitted to Denbighshire County Council has recently been refused planning permission and is now the subject of an appeal to The Planning Inspectorate. Notwithstanding the above Peter Brett Associates were requested to consider the implications, in respect of need, of this appeal succeeding.

It is considered that a need case can be demonstrated for both the current proposal and the St. Asaph proposal. If the proposal at St. Asaph were to become operational, it is true that a sizeable section from the north and west of the Minimum Drivetime Catchment in the County would be lost but this area is thinly populated in relation to the main central areas of population at Mold, Flint, Buckley and Deeside which would remain within the MDC. The view is therefore that even if the application at St. Asaph is granted permission there is still likely to be a qualitative and quantitative need for a crematorium within Flintshire.

7.23 **Planning Policy/Green Barrier**

Planning Policy Wales (PPW) is the principal document of the Welsh Government which sets out the land use policy context for the consideration and assessment of proposed development. The main thrust of PPW is to promote sustainable development by ensuring that the planning system meets society's needs in a way that is consistent

with overall sustainability principles.

- 7.24 In drawing up the Flintshire Unitary Development Plan, detailed consideration has been given to the appropriateness of designating Green Belts in Wales, rather than the continued use of Green Barriers, in the light of guidance contained in para. 4.7.1 of Planning Policy Wales (February 2011). Green Barriers have been operating throughout the former County of Clwyd for many years and play a similar role to Green Belts in protecting key areas of open land and preventing the coalescence of settlements. The key differences between Green Belts and Green Barriers is their degree of permanence. Land within a Green Belt should be protected for a longer period than the current development plan period whereas Green Wedges or Green Barriers should be reviewed as part of the development plan review process. The site the subject of this application is within a Green Barrier as defined in the adopted Flintshire Unitary Development Plan. Section 4.8 of PPW sets out the approach to development within Green Belts/Green Wedges and Green Barriers which can be treated in the same way. Paragraph 4.8.14 advises:-

'When considering applications for planning permission in Green Belts or Green Wedges, a presumption against inappropriate development will apply.'

- 7.25 Paragraph 4.8.16 states that the construction of new buildings in a Green Belt or in a locally designated Green Wedge (in this county, a Green Barrier) is inappropriate development unless it is for the following purposes:
- *Justified rural enterprise needs.*
 - *Essential facilities for outdoor sport and outdoor recreation, cemeteries and other uses of land which maintain the openness of the Green Belt or Green Wedge and which do not conflict with the purpose of including land within it.'*
 - *Limited extension, alteration or replacement of existing dwellings;*
 - *Limited infilling (in those settlements and other development sites which have been identified for limited infilling in the development plan) and affordable housing for local needs under development plan policies; or*
 - *Small scale diversification within farm complexes where this is run as part of the farm business.*

- 7.26 Whilst the provision of cemeteries is specifically referred to as an example of appropriate development in a Green Wedge/Green Barrier, a crematorium is by its nature a different type of development. A crematorium is typically a fairly large building whereas cemeteries often include no buildings at all, or only buildings which are ancillary to the main purpose of the site. In the absence of any reference to crematoria in paragraph 4.8.16 of PPW, officers have to conclude that they would be inappropriate development in the Green Barrier.

7.27 Paragraph 4.8.15 of PPW states that inappropriate development should not be granted planning permission except in :

“Very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or Green Wedge”.

7.28 Policy GEN 4 – Green Barriers of the adopted Flintshire Unitary Development designates 18 areas within the County as Green Barrier. The purpose of the Green Barrier Flint Mountain – Northop (6) as referred to under GEN 4 para.4.15 (e) is to “protect major road junctions from development which would be visually intrusive and compromise the appearance of a junction within its rural setting”.

7.29 It is considered that this is clearly the primary function of this designation as opposed to preventing the coalescence of settlements (Policy GEN 4, paragraph 4.15 (b)) as it does not cover the intervening land between Northop and Flint Mountain to the north of Starkey Lane, this being ‘white land’ and not within the Green Barrier designation.

7.30 Research of appeal decisions in other areas confirms that in some circumstances, the identified need for a crematorium can demonstrate very exceptional circumstances. In addition and due to the requirements of the Cremation Act 1902 and the need for an appropriate landscaped setting for the facility, by their nature, new crematoria are very likely to be developed in rural locations.

7.31 **Site Selection**

As the site the subject of this application is located within a Green Barrier, it is important, having regard to previous appeal decisions, to consider whether there are any suitable sites outside the Green Barrier which may be appropriate to meet the identified need.

7.32 It is recognised that this sequential site search is difficult to undertake as it is not practically possible to compare every greenfield site in the County. The catchment area for crematoria tends to be geographically large and by the nature of usage, proposals almost inevitably come forward on greenfield sites in semi-rural to rural locations. However, there must be sufficient evidence that alternative sites not in the Green Barrier have been considered before the Authority can be reasonably satisfied that very exceptional circumstances exist to justify granting planning permission, on a site in a Green Barrier.

7.33 The applicant has provided additional information during progression of the application outlining the site selection process undertaken and this has been examined in further detail by Peter Brett Associates on behalf of the Council.

7.34 For Members' information the applicant initially considered 23 potential sites as part of a stage 3 assessment for a new crematorium. Subsequently 15 were discarded and the remaining 8 were considered as part of the more detailed site selection process. The remaining 8 sites have been assessed against the following factors:

- Location relative to the Optimum Drive Area.
- Adequacy of access/associated traffic movements.
- Conflict with existing users in proximity to the sites identified.
- Conflict with setting of Listed Building/Scheduled Ancient Monument.
- Sustainability and ease of access to public transport.

The applicants consider that the alternative sites are judged to be inferior to the application site when the matrix of factors (above) is applied. It is considered by the applicant that the site which is the subject of this application best meets the needs for a new crematorium in the County.

7.35 Peter Brett Associates have confirmed that, in general the applicant's report is thorough and the methodology used is appropriate, but they recognise that the assessment has been done after the application, to show that the site already selected is the most suitable, rather than prior to selecting a site, as would have been preferable. Notwithstanding this, it is considered that there is evidence of a structured approach to the site selection and by using the Optimum Drive Area (ODA) this identifies specifically the most appropriate location in the County for a new crematorium to be sited.

Peter Brett Associates have advised however, that:- "The approach by which 23 sites were filtered down to 8 – is a little subjective, but it should be recognised that attempting to compare suitability between a large number of superficially similar areas of greenfield land will inevitably include a large element of subjectivity. It may for example, be possible to improve accessibility of some of the sites identified as having a 'poor access' – this might be considered a preferable solution to development in the Green Barrier". Peter Brett Associates also go on to conclude that "the proposed application site could therefore be considered an 'optimum location' – particularly due to its accessible location adjacent to the A55. However, there are likely to be numerous other locations within a few miles of the application site which also fulfil these criteria".

7.36 On 20th June 2014, Genesis Town Planning, the agent acting on behalf of Memoria Limited (a crematorium developer and operator who are promoting a crematorium in Denbighshire) submitted an alternative application for a crematorium on land at Oakenholt Lane/Kelsterton Lane, Near Northop under Code No. 052334.

- 7.37 The site at Oakenholt Lane/Kelsterton Lane is located within the open countryside but is not within a Green Barrier. A detailed assessment of this application is currently being undertaken but has not been finalised. It should be noted however that the application site falls within a larger site area which was subject to the stage 3 desk top alternative site analysis undertaken as part of the application submitted by J.E. Davies under Code No. 051043. This was not considered beyond the first round of analysis (23 sites down to 8) where it was discounted because of perceived issues with mine shafts, traffic movements though Northop Hall and Northop and ecological concerns.
- 7.38 At the Planning & Development Control Committee's meeting on 8th October 2014, it resolved that a Special Meeting for the J.E. Davies application be held on or before 29th October 2014, rather than waiting until the Memoria application could be determined at the same meeting. It must be stressed that we are not in a position to fully assess the Memoria proposal at this stage but the fact that it has been submitted as a formal planning application means that it is a material consideration in the determination of application 051043.
- 7.39 It should however be noted that whilst the Memoria proposal is not within a Green Barrier, this is not necessarily the sole or main determinant when considering proposals for a crematorium. The Memoria application needs to be assessed against all relevant planning criteria and if it is found to be acceptable in planning terms then it has to be deemed to be a preferable location to the J.E. Davies site because of the Green Barrier constraint which applies to the latter.
- 7.40 The application submitted by Memoria on part of the site previously discounted, tests the conclusions initially advanced as part of the initial site assessment in more detail. It is for this reason that my recommendation to the Planning & Development Control Committee on 8th October 2014, was that application ref. 052334, should be formally assessed in conjunction with application 051043 as the application submitted by Memoria questions the conclusions reached on a site discounted by an alternative operator of a crematorium facility.
- 7.41 Two appeal decisions are particularly relevant to the situation that currently exists in respect of this application and that submitted under Code No. 052334. These appeals both of which were dismissed, related to the development of a crematorium on land within a Green Belt/Green Wedge on land within the Vale of Glamorgan Council (Ref: 1134272) and Sevenoaks District Council (Ref: 2810128).
- 7.42 In the case of the appeal against the Vale of Glamorgan, the Inspector concluded in paragraph 16 of his report as follows:-

“I therefore consider that the need for a crematorium could amount to very exceptional circumstances. However to conclude that it would do so, I would need to be reasonably satisfied that there were no suitable sites outside the Green Wedge”.

7.43 The Inspector concluded in the Sevenoaks case that he was not able “to be certain that there are no alternative sites which would have less overall impact on Green Belt openness. This would be a key factor in reaching a conclusion in respect of the existence of very special circumstances”.

7.44 Having regard to the above, which sets out a framework which may sensibly be adopted when considering proposals of this nature, it is my view that it is not possible at this stage to conclude that there are no alternative sites which would have less overall impact on Green Barrier openness, if developed, then the site that is the subject of the current application submitted under Code 051043, which is within a Green Barrier. An assessment of application 052334 is currently being undertaken, although at this stage is not possible to comment fully on the acceptability of that proposal. It is considered that it would be premature to determine the current application until a full assessment of the appropriateness or otherwise of this alternative site has been undertaken.

7.45 Agricultural Land Classification

Since the initial site selection process was undertaken an assessment of the agricultural land classification of the site has been sought. This has established that the soil types present are possibly a mixture and equitable split of subgrade 3a and 3b which are defined being a mix of good/moderate quality agricultural land.

7.46 A comparison of the agricultural land quality on the 8 sites considered as part of the detailed site selection process has also been undertaken. It has been confirmed that all the sites have been classified as a moderate probability for best and most versatile agricultural land being present.

7.47 Whereas there are both national and local policies which seek to protect the ‘best and most versatile’ agricultural land, this development does not require formal consultation with Wales Government (Agriculture). Considering that the nature of the agricultural land is similar to that of the alternative sites put forward and that a relatively flat, rural location for a crematorium is almost inevitable, it is considered that the loss of approximately 5 acres of grade 3a agricultural land would not lead to a significant reduction in the amount of good quality land within the County. Consequently it is not considered that agricultural land quality is a significant factor in the determination of this application.

7.48 Adequacy of Highways

Given the relationship of the site to the A55 Trunk Road and with direct access into the site being proposed from the A5119, consultation on the application has been undertaken with both Welsh Government Transport and the Council's Head of Assets & Transportation. Accompanying the application is a Transport Assessment and this together with a report prepared by JMP Consultants commissioned by objectors to the development on highway grounds, have been assessed by Peter Brett Associates.

- 7.49 For Members' information, the Transport Assessment initially submitted in support of the application on the basis of a speed survey undertaken, proposes that a visibility splay of 2.4 m x 136 m in a northerly direction and 2.4 m x 160 m in a southerly direction be provided to serve the development. The speed survey data submitted by JMP on behalf of objectors to the development however considers that visibility in a northerly direction should be increased to 2.4 m x 151 m. Whilst Peter Brett Associates are of the view that a visibility splay of 2.4 m x 151 m would be more appropriate at this location, the Head of Assets & Transportation has advised that the speed data collected on behalf of the applicants is robust in order to support the provision of the visibility splay of 2.4 m x 136 m as initially advanced. Notwithstanding this assessment it would be possible if necessary to achieve a visibility splay of 2.4 m x 160 m in a northerly direction within land in the ownership/control of the Highway Authority although this will require the removal of existing vegetation within the highway verge.
- 7.50 In addition to the above, the Head of Assets & Transportation has advised that there is no objection to the development subject to (i) the completion of a Section 106 Obligation/Unilateral Undertaking to secure funding towards the upgrading of existing bus stop facilities adjacent to the site and (ii) that conditions are imposed on any permission to ensure improvements to the A5119 to facilitate the provision of a right turn facility/pedestrian refuge together with details of the site access and parking facilities.
- 7.51 Landscape Impact
The application site of 4.1 hectares comprises a number of existing agricultural fields interspersed by hedgerows and trees. A Landscape and Visual Impact Assessment of the site has been submitted in support of the application which is considered to assess the existing landscape character and the potential impact of the proposed development adequately.
- 7.52 The character is defined both within the site and in the wider context by the following elements and features:-
- Semi-improved/improved grassland extending over undulating topography.
 - Field boundaries of managed hedgerows.

- Interspersed mature hedgerow trees.
- Small blocks of woodland.
- Areas of low lying wetland or ponds with trees.

7.53 There are also man-made features which assist in defining the wider character of the landscape including:-

- Lanes with high hedgerows or banks.
- Electricity poles along the A5119.
- Dispersed farmsteads and residential properties.
- Man made embankment of the A5119/A55 junction and slipways.
- Road lighting columns.

7.54 There are a number of views into the site from Starkey Lane, the A5119 Northop – Flint Road, Footpath 5 which runs alongside and through the site; with partial glimpses from the A55. The objections relating to the impact of development on the character of the landscape and openness of the Green Barrier are duly noted.

7.55 During the construction phase, it is acknowledged that disturbance, movement and additional noise would affect the landscape character of the site and locality. However, the impact will be temporary and only for the duration of the works. The effects would be highly localised and would diminish upon moving away from the site into the wider landscape.

7.56 In terms of permanent effects and impacts upon the landscape, the new buildings would by definition reduce the openness of the site, but it is not considered that the degree of openness lost would lead to 'unacceptable harm to the open character and appearance of the Green Barrier', within the meaning of Policy GEN4(ii) of the UDP. The operational development proposed would only consume a relatively modest proportion of the overall site, with most of the site remaining entirely open and being enhanced through extensive landscaping treatment.

7.57 Residential Amenity

The nearest residential properties to the application site are Ashmount, Belgrave, The Old Barn, Tyddyn Starkey all of which are accessed off Tyddyn Starkey. Whilst the Tyddyn Starkey site has a common site boundary with the application it is proposed that there is a buffer zone of approximately 50 m between the rear curtilage boundaries of Ashmount and Belgrave and the northern site boundary of the crematorium to the south-west of which a grazing meadow is proposed. There is currently no formal site boundary/hedgerow to delineate the 50 m distance from the site boundary to the rear of Ashmount, Belgrave.

7.58 The concerns raised from residents being in proximity to the site in respect of increased noise/disturbance from the additional traffic

generated by the development together with light pollution are duly noted. It is acknowledged however that the A55 and A5119 are currently heavily trafficked roads and whilst there will be an inevitable increase in vehicular movements at this location over and above that which currently exists, it is considered that the associated highway improvements that are required will help to accommodate and enable the free movements of vehicles at this location. In addition the respective distances to the curtilage boundaries of existing dwellings and the associated substantial internal planting proposals, mean that the issues of noise, disturbance, and impact on privacy/amenity can be adequately mitigated.

7.59 Design/Siting

In accordance with the requirements of proviso (ii) of Policy GEN4 of the adopted Flintshire Unitary Development Plan, any new development must “not unacceptably harm the open character and appearance of the Green Barrier”. To this effect the design/siting and associated landscaping are important when assessing the impact of development on the site’s Green Barrier designation. As indicated in paragraph 7.04 of this report the proposed building is contemporary in its form, with the provision of a double curve roof. This approach to design has been endorsed by the Council’s Design and Conservation Officer. Whilst there is no objection to the general ‘low key’ form of the building proposed, it is considered that a minor alteration to the design of the axial corner approach to the chapel entrance is required. This could be achieved with some minor internal alterations or changes to the window pattern on this elevation.

7.60 In addition to the above, the siting of the building away from the site boundaries will help to frame it within the overall site area and in combination with the landscaping proposals help to assimilate the development into the locality without causing demonstrable harm.

7.61 Ecological Considerations

The site has been the subject of an ecological assessment and species survey which accompanies the application. This confirms that there are a number of ponds within 250 m of the site boundaries with evidence of the presence of Great Crested Newts (GCN). In addition to the above, the site has been surveyed for the presence of bats, badgers and nesting birds.

7.62 The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places, in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment and provided that there is no satisfactory alternative and no detriment to the maintenance of the species population at favourable conservation

status in their natural range.

- 7.63 The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994, now the 2010 Regulations, which contain two layers of protection a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements above, and a licensing system administered by the Welsh Ministers.
- 7.64 Planning Policy Wales (Edition 7, paragraph 5.5.11) advises Local Planning Authorities that: “The presence of a species protected under European or UK legislation is a material consideration when a local planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its Habitats”.
- 7.65 Technical Advice Note 5 - Nature Conservation and Planning (2009) states at para. 6.3.6 :- “Regulation 3(4) of the Habitats Regulations [*Regulation 9 (5) in the Habitats Regulations 2010*] requires all local planning authorities, in the exercise of their functions, to have regard to the provisions of the Habitats Directive so far as they might be affected by the exercise of those functions. Consequently, the Directive’s provisions are relevant in reaching planning decisions where a European protected species may be affected and it is therefore important that such planning decisions are reached in a manner that takes account of, and is consistent with, the Directive’s requirements. Those requirements include a system of strict protection for European protected species, with derogations from this strict protection being allowed only in certain limited circumstances and subject to certain tests being met. These requirements are transposed by the provisions of the Habitats Regulations. The issues of whether development could give rise to a breach of the Regulations’ requirements, and whether there may be a potential need for a licence to avoid such a breach, are therefore a material consideration in a relevant planning decision, and where a licence may be needed, the three licensing ‘tests’ required by the Directive should be considered by the local planning authority. Paragraph 6.3.7 then states:- “It is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development either would not impact adversely on any European protected species on the site or that, in its opinion, all three tests for the eventual grant of a regulation 44 (of the Habitats Regulations) licence are likely to be satisfied”.
- 7.66 Whilst there is no direct impact on the Great Crested Newt Habitat, the development will require the issue of a license under the above regulations in accordance with the tests outlined. This will be dependent upon:
- (i) The need for this facility having been proven in undertaking

the qualitative and quantitative need assessment referred to earlier in this report.

- (ii) That there is no satisfactory alternative to the development of this site (i.e., in this context, a suitable site outside the Green Barrier).
- (iii) That mitigation measures would compensate for any adverse impacts arising from the increase in activity from the development of this site in this location. These would include:
 - Reasonable avoidance measures being undertaken to include temporary amphibian fencing prior to the commencement of development and provision of amphibian friendly road drains, gutters and kerbs.
 - The creation of a terrestrial habitat buffer and mitigation between the development and breeding ponds.

7.67 The proposed development and mitigation proposals have been assessed by the County Ecologist and it is considered that the development is not likely to have a significant effect on the GCN population. In addition to the above, an assessment of the impact of the proposed development on bats, badgers, nesting birds and barn owls has been undertaken. It is acknowledged that the proposal would entail the removal of an oak tree at the site entrance with this identified as a potential bat roost. In terms of mitigation it is proposed that a bat box is installed within the crematorium building in order to compensate for the removal of the tree. There is no evidence of badgers on site and limited hedgerow removal is proposed, which can be timed to avoid disturbance to nesting birds. With the supplemental planting which is proposed within the site, this will help to maintain the diversity of the habitat at this location. In terms of the impact of development on barn owls, the enhancement of grassland through the use of wildflower seed with low key management could benefit the vole population as a food resource for owls. In these circumstances it is considered that this application satisfies the three tests required by the Habitats Directive. In these circumstances it is considered that the suggested mitigation could be secured through an appropriately worded condition were permission to be granted.

7.68 Impact on Mineral Resources

For Members information the site is located on an area of land containing gravel deposits and Policy MIN8 of the adopted Flintshire Unitary Development Plan recognises that where there are significant deposits of important mineral resources that these are safeguarded to ensure their availability in the future.

7.69 Whilst the applicant has not submitted any information with regards to the quality/extent of mineral deposits in this locality, it is considered that given the site area involved i.e., 4.1 hectares (10 acres) that this would have a small impact on the potential availability of sand and

gravel resources within the County. In addition, and recognizing that there are a number of existing residential properties close to the mineral resource, it is unlikely that the mineral resource would be worked except as a potential borrow pit for future highways infrastructure works. Given the proximity of the site to residential properties this would also reduce the extent of the deposit that could be worked due to the application of a buffer zone of 100 m for sand and gravel workings as required by Policy MIN10 of the UDP. In these circumstances it is not considered that the retention of this land is fundamental to the County's mineral supply or extraction would be acceptable given the proximity of existing residential properties.

7.70 Adequacy of Drainage

It is proposed that foul drainage from the site is dealt with by the provision of a septic tank given that there is no mains drains network located in close proximity to the site. Consultation on this aspect of the proposal has been undertaken with Natural Resources Wales who have confirmed that in these circumstances the treatment and disposal of foul drainage must comply with relevant guidance and permits. In addition, and in respect of surface water drainage from the car park, this must pass through an oil interceptor before discharge and is not an issue, considering the small proportion of building coverage in relation to the total site area.

8.00 CONCLUSION

8.01 Following consideration of this application and taking the advice of consultants employed to assess various aspects of the development on behalf of the Council, it has been confirmed that a qualitative and quantitative need for a crematorium in Flintshire has been established. The site is within a Green Barrier as defined in the adopted Flintshire Unitary Development Plan, with the applicant advising that this is the most suitable site to meet the identified need. However, an alternative application for a crematorium on land at Oakenholt Lane/ Kelsterton Lane, near Northop, has been submitted under Code No. 052334. An assessment of this application is currently being undertaken, although at this stage it is not possible to comment fully on the acceptability of this proposal. In light of the planning policy context and having regard to recent appeal decisions, it is considered that it would be premature to determine this application until a full assessment of the appropriateness or otherwise of the site at Oakenholt Lane/Kelsterton Lane has been undertaken. Only then can it be reasonably ascertained that there is not likely to be a suitable site outside the Green Barrier, which would entail the very exceptional circumstances needed to support the J.E. Davies & Son proposal. I therefore recommend accordingly.

8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic

society in furtherance of the legitimate aims of the Act and the Convention.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents.

National & Local Planning Policy.

Responses to Consultation.

Responses to Publicity.

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