

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

DATE: **7TH SEPTEMBER 2016**

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

SUBJECT: **APPEAL BY MEMORIA LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CONSTRUCTION OF A NEW CREMATORIUM, ASSOCIATED CAR PARK, ACCESS ROAD AND ANCILLARY WORKS, LANDSCAPING AND GARDENS OF REMEMBRANCE AT KELSTERTON LANE/OAKENHOLT LANE, NEAR NORTHOP – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 052334

2.00 APPLICANT

2.01 Memoria Ltd.

3.00 SITE

3.01 Land at Kelsterton Lane/Oakenholt Lane,
Near Northop.

4.00 APPLICATION VALID DATE

4.01 20th June 2014.

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in respect of the refusal to grant planning permission for a new crematorium, associated car park, access road and ancillary works, landscaping and gardens of remembrance at Kelsterton Lane/Oakenholt Lane, Near Northop.

- 5.02 The application the subject of this appeal was refused following consideration at the Planning & Development Control Committee held on 12th February 2015 and the appeal was dealt with at a Public Inquiry held on 28th June – 1st July and 5 – 6th July 2016. The appeal was allowed, subject to conditions.

6.00 REPORT

- 6.01 The Inspector considered that the main issues in this case were:-

- Whether the proposal would provide an appropriate site for a crematorium in particular having regard to the need for it to be located in the countryside and its effect on the character and appearance of the area; and
- The effect of the proposal on highway safety.

- 6.02 In commenting on these main issues the Inspector concluded as follows:-

6.03 The Need for a Countryside Location

The Inspector drew specific reference to the requirements of the Cremation Act 1902 and the provisions of the Department of the Environment Guidance LG1/232/36 1978 – “The Siting & Planning of Crematoria”.

“The Inspector’s report advises that the Cremation Act requires no crematorium be constructed nearer to any dwelling house than 200 yards (182.9 metres), nor within 45.7 metres of a public highway. The guidance advises that ideally a site should be between 2 and 4 hectares, with a well wooded site with natural undulations and good views. These requirements and advice clearly require a relatively large and attractive area of land, away from existing dwellings and which inevitably restricts the availability of sites within settlements for such development. Nonetheless there is no express requirement for crematoria to be located in the countryside or relaxation of the normal restriction on development in the countryside in national policy that would allow crematoria to be located in the countryside as a matter of principle”.

- 6.04 The Inspector confirmed that whilst there is no dispute that there is a quantitative and qualitative need for a crematorium in Flintshire, that the following was also noted: (a) the Council’s view that a further assessment of the other alternative sites within the countryside should have been carried out with consideration given as to whether there were other more sustainable sites than the appeal site and (b) the Council’s and Rule 6 Party (J.E. Davies & Son) view that they do not accept that there is an essential need for the development to be located in this particular location in the open countryside.

- 6.05 The Inspector was satisfied that the criteria used by the appellant in carrying out an alternative site assessment was adequate and appropriate. The Inspector noted that most sites were discounted on the basis of their proximity to large infrastructure, commercial or industrial premises, which would not be considered to providing the ambience advocated by the guidance. Others were discounted due to their allocation for other uses such as employment.
- 6.06 In terms of the site's sustainability credentials it was concluded that the appeal site lies within a central location to the catchment area that it would serve and enable approximately 80,000 people to travel to the crematorium within 30 minutes. This would result in a significant mileage saving and associated reduction in CO₂ emissions and would be beneficial to local well-being.
- 6.07 The Inspector noted that the site is also located close to a regular bus route operating 11 buses a day (Monday – Saturday) with a bus stop located to the south of the site. The availability of other means of transport would provide a choice for users of the development in line with the objectives of Planning Policy Wales. The central position of the site was also considered by the Inspector to meet the sustainability objectives of Welsh Government.
- 6.08 The Inspector also commented on an alternative site at Starkey Lane put forward at the Inquiry by J.E. Davies & Son. The contention that the site would be located closer to main access routes and the built up area and provide a higher reduction in CO₂ emissions than the appeal proposal was also noted. The Inspector advised that no substantive evidence was provided in this respect. Nevertheless the Inspector concluded that the site at Tyddyn Starkey is too located within the open countryside and with a designated Green Barrier, which is a comparative designation to a Green Wedge and provides a presumption against inappropriate development in such locations. The Inspector noted that the Council has refused permission on this site on the basis that it has not been demonstrated that there are no other suitable sites outside the Green Barrier that could meet the need. As such the Inspector did not consider the potential of the alternative site to be demonstrably preferential to the appeal site.
- 6.09 Character & Appearance
From the evidence provided and the Inspector's own observations, the Inspector considered that the site contains the characteristics and features of the wider mosaic rolling lowland. This comprises an attractive area of medium sized agricultural fields, strongly bordered by mature hedgerows, trees and woodlands with an overall undulating landform.
- 6.10 Whilst noting the consideration that the site has an overall higher landscape value than its surroundings the Inspector did not concur with this view as it does not comprise any national or local landscape

designation and its value is influenced by the presence of power lines and pylons, the busy B5126 and the surrounding dispersed pattern of development of farms, houses and diversified farm buildings.

- 6.11 The Inspector noted that the introduction of a new crematorium, associated car park, access road, (involving the removal of a small section of hedgerow to create an access point) and ancillary works, landscaping and gardens of remembrance would inevitably result in a change to the character and appearance of the site and change the use from agricultural land.
- 6.12 The Inspector noted however that the land to be utilised is not the best and most versatile agricultural land and the proposal would retain the mosaic of medium sized fields divided by mature hedgerows and trees. The development would comprise a relatively low level building that would not be of such a size or scale as to be out of keeping with other buildings within the general area. Whilst the gardens of remembrance would comprise a more manicured landscape, they would not be out of character with other properties in the landscape that contain landscaped and ornamental gardens.
- 6.13 The Inspector noted the contention of J.E. Davies & Son's that the proposed widening of Oakenholt Lane would result in the likely loss of parts of the hedgerows and the need for regular maintenance to provide visibility splays, would result in them being out of character with the area due to their heavy cut appearance.
- 6.14 Whilst the Inspector noted that there would be some loss of trees and remedial works to branches to achieve the visibility splays, the hedgerows and remaining trees would remain as a result of the cutting back. Evidenced as a result of the site visit undertaken by the Inspector, a formation cut of the hedgerows had been undertaken, with it being agreed at the Inquiry that this had not resulted in their destruction and with regrowth and supplemental planting, the Inspector did not consider this to be out of character with the overall landscape as maintained hedgerows are a feature of the surrounding area.
- 6.15 As such the Inspector is satisfied that the proposal would not be harmful to the visual and sensory aspect of the landscape character. Whilst acknowledging that the proposal would result in the loss of agricultural land, this would represent a small proportion within the wider landscape and does not comprise the best and most versatile land. The Inspector is therefore satisfied that the development would not result in any material harm to the overall cultural, historic, landscape habitat or geological aspects of the landscape character.
- 6.16 In respect of visual amenity, the Inspector notes that the site is surrounded by a network of local roads with a number of footpaths to the north-west, west and east. Whilst there would be some views of

the development from this road network, these are partially filtered by vegetation and due to the sunken nature of the lanes behind hedgerows, there would be few open views of the site. In addition the Inspector considered that whilst there would be some views from nearby footpaths, as these are located some distance away from the proposed development, this would not comprise a dominating or intrusive feature in this context.

- 6.17 In conclusion, the Inspector considers that the proposal would provide an appropriate site for a crematorium that would not be harmful to the character and appearance of the area.

6.18 Highway Safety

The Inspector drew specific reference to National and Local Planning Policy requirements to ensure that an acceptable vehicular access can be provided to serve the proposed development. The Inspector specifically comments on the acceptability of the existing road network, widening of Oakenholt Lane, visibility splays and Forward Sight Stopping Distances (FSSD) which are referenced in further detail below.

6.19 Existing Road Network

The Inspector noted the concerns of the Council and J.E. Davies & Son together with third party representation that the development would result in the use of a substandard existing highway network through nearby villages and approach roads and the associated impact on highway safety.

- 6.20 The Inspector references disputes between parties regarding the precise routes that would be most commonly used to access the site, some of which were based on the use of satellite navigation systems with a range of data provided to the Inquiry to this effect.

- 6.21 In addition, the Inspector referenced differences between the parties in respect of the likely number of traffic movements with the appellant relying on an average figure based on observation of several crematoria and the Council relying on the 85th percentile trip generation based on one crematorium over one week.

- 6.22 The Inspector notes that the nature of a crematorium is such that the number of cars accessing the site per service can vary considerably and range from 2 – 200 vehicular movements per service with an average of four or five services taking place per day.

- 6.23 The Inspector notes that with the exception of Oakenholt Lane which is considered in further detail in the decision letter, that there is no evidence that the surrounding road network could not accommodate the increase in traffic. The Inspector considers that most people would seek to travel to the crematorium by the quickest route rather than the shortest, which on the evidence submitted and Inspector's

observations would result in the catchment area using the main arterial routes rather than the more localised and rural village roads which are designed for heavier traffic volumes and it is considered by the Inspector could accommodate the additional traffic.

- 6.24 The Inspector does however make reference to all of the various routes into the site and whilst acknowledging that some mourners may enter or leave through Northop or Northop Hall that the roads would be capable of absorbing the additional traffic without causing harm to road safety. In addition the Inspector considers that the situation would be controlled through services being operated at hourly intervals to minimise traffic travelling in both directions at the same time.
- 6.25 The Inspector also notes the impact of traffic on Oakenholt Lane if people use a navigation system to access the site. The Inspector notes that Oakenholt Lane narrows at the northern end where it becomes Papermill Lane, but that it is illogical that much of the catchment area would seek to use the northern section of Oakenholt Lane in preference to main routes and the southern end of the lane as it would not provide the quickest or more direct route.
- 6.26 The Inspector advises that the nature of a crematorium is such that visitors would be unfamiliar with the destination and seek directions prior to attending. This it is considered would be normally done through accessing the crematorium's web site or by a phone call with instructions given as to the most relevant postcode or reference point for navigation from the south. Even should the northern sector of Oakenholt Lane be utilised, it is considered by the Inspector that on the basis of peak flow traffic data, that an average number of 25 vehicles per service is likely to be minimal in relation to traffic flows and would not be harmful to highway safety.

Widening of Oakenholt Lane

The proposal includes the widening of a 170 m section of the southern end of Oakenholt Lane to 4.8 m with the Inspector acknowledging concerns raised that this would not be sufficient to allow two cars to pass comfortably.

- 6.27 The Inspector notes that this stretch of road is of straight alignment, and is subject to an advisory sign against use by HGVs and whilst there are no road demarcations the carriageway would have a 450 mm edge clearance of the hedgerows which would minimise vehicles needing to drive shy of the hedgerows. The Inspector considers that this is typical of the rural nature of numerous roads that accommodate a range of vehicles including cars, vans, lorries and farm machinery. Whilst the Inspector noted accidents reference by local residents no recorded accidents have taken place in the last five years. As most traffic generated by the proposal would be travelling in one direction due to the time intervals between the services this would reduce the

likelihood of additional traffic passing in either direction. The Inspector is therefore satisfied that the width would enable two cars to pass each other without conflict.

- 6.28 The Inspector also draws specific reference to Manual for Streets Guidance which indicates that where cars and lorries meet in a carriageway of 4.8 m they would be able to pass each other. The Inspector concluded that an increased width to 4.8 m would not result in unacceptable risks to highway safety and would enable the hedgerows to be retained to the benefit of the character and appearance of the area.

6.29 Visibility Splays

The Inspector noted that visibility splays can be provided to serve the development in line with guidance contained within the Design Manual for Roads and Bridges (DMRB).

- 6.30 The Inspector acknowledges that to retain the visibility splays that the hedgerows will require regular maintenance with some dispute expressed at the Inquiry as to how often that would need to be undertaken. The Inspector concludes that the maintenance of the hedgerows 2/3 times a year is realistic and not unduly onerous or unreasonable. This requirement is to be secured through the obligation in the Undertaking provided at the Inquiry.

6.31 Forward Sight Stopping Distances

The Inspector notes concerns that in applying DMRB Standards for FSSD due to limited visibility on the approach to the site from access to the north, that there are concerns that there may be conflicts and increased risk of rear end shunts due to the lack of forward visibility.

- 6.32 The Inspector notes that DMRB has been developed principally for motorways, trunk roads and other roads with similarly characteristics. Where it is applied to local roads it shall be decided the extent to which the document is appropriate in any given situation.

- 6.33 The Inspector concludes that following the taking of measurements on site that the access could be viewed from the edge of the carriageway at a distance of approximately 115 m to the north.

- 6.34 Whilst the Inspector acknowledges that this falls below the DMRB standards, this is based on worst case weather situations such as snow and is applicable primarily to major busy routes with heavy traffic flows. Furthermore, evidence was provided by J.E. Davies & Son in respect of the available forward visibility and measurements were taken at the site visit. On the evidence provided the Inspector confirms that at the time of the site visit, the site access could be viewed from the edge of the carriageway at a distance of approximately 115 metres to the north. Whilst this clearly falls below the DMRB recommended standard, the evidence provided indicates

that this is based on stopping distances with a braking force in worst case situations such as on snow and is applicable primarily to major, bus routes with heavy traffic flows. Furthermore, traffic travelling south has right of way, and there is no reason why priority would be given to vehicles turning into the crematorium necessitating the need to stop. Even if they did, the Inspector acknowledges that it is courteous to allow a cortege to pass without stopping and, the traffic levels referred to are not so significant to lead to the likelihood of a tailback of multiple vehicles. At worst, based on the vehicle numbers, it is likely that only up to 2 cars would be stopped for a short period of time.

6.35 The Inspector commented that the proposed FSSD to the north would be sufficient to ensure that there would not be an unacceptable risk to highway safety and on the basis of the evidence submitted a satisfactory FSSD would be provided to the south.

6.36 Concern relating to the need for vehicles to cross the centre of the highway to access/exit the site and the resulting potential for conflict were noted by the Inspector. On the basis of the swept path diagrams provided, the Inspector is satisfied that there is little likelihood of the majority of vehicles needing to cross the centre of the carriageway to represent an unacceptable risk.

6.37 Other Matters

The Inspector references J.E. Davies & Son and third parties contention that an alternative site at Starkey Lane offers a more suitable location than the appeal site given the concerns relating to the proposal's impact on landscape character and highway safety. The Inspector notes and takes into account case law cited in respect of the consideration of alternative sites, particularly as the evidence suggests that there is only a need for one crematorium to serve Flintshire.

6.38 The Inspector concludes that the proposal the subject of the appeal is acceptable on landscape and highway safety grounds and taking into account that the alternative site at Starkey Lane is also located within the open countryside and additionally within a Green Barrier the Inspector is satisfied that the potential of this alternative site is not demonstrably preferential to the appeal site, sufficient to justify the refusal of the appeal proposal.

7.00 CONCLUSION

7.01 The Inspector concluded that the appeal should be allowed subject to the imposition of conditions and the requirements of the Unilateral Undertaking regarding the maintenance regime of the hedgerows on Oakenholt Lane.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

Contact Officer:

Mark Harris

Telephone:

(01352) 703269

Email:

mark.harris@flintshire.gov.uk