
Appeal Decision

Site visit made on 22 September 2020

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 14th October 2020

Appeal Ref: W/4000394

10 acre field north of Grevatts, Yapton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Tice of Landlink Estates Ltd against the decision of Arun District Council.
 - The application Ref Y/103/18/PL, dated 21 December 2018, was refused by notice dated 21 October 2019.
 - The development proposed is single chapel crematorium with car parking, landscape works, surface water drainage features and associated highway improvements.
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Decision

1. The appeal is allowed and planning permission is granted for single chapel crematorium with car parking, landscape works, surface water drainage features and associated highway improvements at 10 acre field north of Grevatts, Yapton in accordance with the terms of the application, Ref Y/103/18/PL, dated 21 December 2018, subject to conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Andrew Tice of Landlink Estates against Arun District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. All parties agree that there is an error in the council's decision notice. The first reason for refusal should be related to eastbound movements along the A259 rather than westbound movements. The second reason for refusal makes reference to eastbound movements and this should be in reference to westbound movements. I have determined the appeal on this basis and having regard to the evidence of the parties am satisfied that no party has been prejudiced by this.
4. A S106 Planning Obligation was submitted as part of the evidence and I shall return to this matter in more detail below.

Main Issue

5. The main issue is the effect of the proposal on highway safety.

Reasons

6. The appeal site is some distance from the nearest settlement and aside from Grevatts Lane West (GLW) to the immediate south, the surrounding land is agricultural. The closest dwellings are to the west fronting Bilsham Road. There is a small light industrial site to the west with a second access point from GLW also west of the site. The section of GLW between the appeal site and the A259 is closed to public vehicles and used solely by agricultural traffic. The location of the proposal is governed by the extant 1902 Cremation Act which stipulates that a crematorium should not be built within 182.88 metres (200 yards) of a dwelling house nor within 45.72 metres (50 yards) of a public highway.
7. Access to the site would be from an improved junction on the A259, GLW would be widened within the highway boundary to provide a continuous width of approximately 4.8 metres. To the west of the access from the site onto GLW the carriageway width would taper to the existing carriageway width. Signage would be erected on the A259 to provide suitable warning of the junction and allow vehicles to begin to slow down accordingly, which would also warn other road users of the driver's intention. As such I am satisfied that, subject to the proposed improvements, the site would be accessed safely. In respect of concerns regarding the use of GLW as a route for general traffic, whilst I have very limited evidence to suggest that this would occur it would be possible to ensure that such movement was monitored and if necessary access along GLW from the A259 towards Bilsham Road could be restricted to ensure that the access only served the appeal site.
8. The west bound carriageway of the A259 would be widened to accommodate a right turn ghost lane so that those waiting to turn right would not hold up other traffic. The widening of the A259 carriageway to allow the creation of the ghost lane would solely utilise existing highways land on the southern side of the road. The junction onto the A259 would include a crossing point across the access to allow cyclists and pedestrians to continue along the existing shared surface route safely, therefore not creating a conflict between those accessing the site by car and those using the wider network by other modes of transport.
9. The A259 carries a high volume of traffic and I have considered the evidence submitted by the Council in respect of the Comet Corner and Oystercatcher junctions, both of which I am familiar with. These are heavily trafficked junctions which serve a variety of routes. In contrast, the access for the proposal would be indicated through the use of signage as being an access to the crematorium, and I have very limited evidence to lead me to conclude that the route would be used for the same intense traffic movements as the junctions elsewhere along the A259. As such I am satisfied that the use of the access along GLW would not be as intense as other junctions. Whilst the A259 has a 60mph speed limit at the point of the new junction, the visibility along the A259 is not hindered at this point, and drivers would be able to time their vehicle manoeuvres accordingly.
10. Moreover, the crematorium operation peak hours of use are anticipated to be around lunchtime. Therefore, the majority of trips would be outside of peak hours and would not significantly increase the volume of traffic at peak times which would be advantageous to both users of the crematorium and the wider transport network.

11. I find that the proposal would not conflict with policy TSP1 of the Arun local plan and would not cause severe harm to pedestrians, cyclists or motorists using the A259. The proposal would comply with paragraph 109 of the National Planning Policy Framework as the impact on highway safety would not be unacceptable, nor would the residual cumulative impacts on the road network be severe.

Planning Obligation

12. A Planning Obligation under S106 of the Town and Country Planning Act 1990 has been submitted relating to the provisions of contributions and regulatory issues (the Planning Obligation).
13. The Planning Obligation would secure a financial contribution of £7500 towards the cost of a Traffic Regulation Order which would be required if the necessary trigger of vehicle movements travelling west along GLW was exceeded. This contribution would be used to cover the installation of lockable bollards adjacent to the crematorium access on GLW and also in place of the existing gate on GLW to the west of the site. An additional contribution of £975 would be made to pay for the bollards.
14. The Planning Obligation would require the removal of the crematorium building by the year 2110 if a future flood risk assessment (FRA) confirmed that the site would be at a high risk of flooding.
15. The Planning Obligation would require the applicant to enter into a S.278 Agreement with West Sussex County Council Highways which would include a provision for new traffic warning signs.
16. Having found that the proposal would be suitable subject to mitigation measures, I am satisfied that the contributions and obligations secured are directly related to the development, necessary to make it acceptable in planning terms, and fairly and reasonably related in scale and kind to the development. As such the Planning Obligation would comply with the tests set out in the Community Infrastructure Levy Regulations.

Other matters

17. The evidence leads me to conclude that there are no alternative sites to the appeal site that are at a lower flood risk, outside the strategic gap and compliant with the 1902 Crematorium Act locational criteria. I am satisfied that the need for the facility would outweigh the need for the future retention of this 2.47 hectares parcel of grade 2 agricultural land and the remaining availability of good quality agricultural land in the vicinity and wider area leads me to conclude that the loss of 4.75 ha is not significant.
18. The development is of sufficient distance away from nearby heritage assets such that it would not affect the assets or their settings, and as such the setting of the heritage assets would be maintained. The proposal has been designed so as not be out of character with the built form of nearby structures or the character of the surrounding landscape. As such it would not result in material harm to the rural character of the locality and the landscaping would, in time, screen the site from view and enhance the wider landscape.

19. I am satisfied that due to the distance to the nearest residential property the proposal would not result in harm to the living conditions of occupiers in respect of overlooking, loss of light or loss of outlook.
20. I find that the scheme has been sensitively designed to mitigate and enhance ecology and biodiversity, taking into account the recommendations of various ecological surveys. Nature conservation interests in terms of the landscaping proposals on site could be safeguarded by the imposition of appropriate planning conditions. I therefore find no harm in this regard. Matters relating to air quality, lighting and noise can be adequately addressed by way of condition.
21. I have carefully considered the points made by interested parties during the course of the application and appeal. However, I find that those matters do not, either individually or cumulatively, lead me to conclude that the appeal should fail.

Conclusion and conditions

22. I have found that the proposal would not be detrimental to highway safety and is a sustainable form of development, accordingly the proposal should succeed.
23. I have considered the Council's suggested conditions. I have specified the plans in the interest of certainty. Conditions relating to landscaping and materials are necessary in the interest of ensuring that the proposal would sit comfortably within the landscape and not result in harm to the character of the area. Conditions relating to highway matters are necessary in the interest of highway safety. A condition securing a Construction Management Plan, and conditions relating to hours of construction, parking provision, cycle storage and hours of opening are necessary to ensure that parking is provided along with encouraging alternative modes of transport, and in the interest of protecting the amenity of those living near to the site. Conditions relating to lighting, shrub clearance, ecological matters, and the provision of a buffer are necessary in the interests of protecting birds and wildlife and encouraging increased biodiversity. A condition relating to archaeological investigation is necessary due to the location of the site and the possibility of finding items of archaeological significance. Conditions relating to drainage are necessary to ensure that the site is adequately drained. A condition relating to soil investigation is necessary having regard to the agricultural nature of the site.
24. I have not included a condition relating to the provision of the toilet as this is secured through compliance with the plans and I have no evidence to demonstrate that a separate condition is necessary.
25. For the reasons above, I conclude that the appeal is allowed.

J Ayres

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the following approved plans:
Dwg. 1176/1000 "OS Location Plan";
Dwg. 1176/1002 "Proposed Site Plan" (1:1250);
Dwg. 0524-DR-100 Rev PL01 "Proposed Site Plan" (1:500);
Dwg. 1176/1003 Rev A "GA Ground Floor Plan";
Dwg. 1176-1004 "GA Roof Plan";
Dwg. 1176-2000 "GA Elevations - Main Building 1 of 2";
Dwg. 1176-2001 "GA Elevations - Main Building 2 of 2";
Dwg. 1176-2002 "GA Elevations - Remembrance Court";
Dwg. 1176-2007 "GA Elevations - Main Building 1 of 2 Detailed";
Dwg. 1176-2008 "GA Elevations - Main Building 2 of 2 Detailed";
Dwg. 1176-2009 "GA Elevations - Remembrance Court Detailed";
Dwg. 1176-2003 "GA Section - Main Building";
Dwg. 1176-2004 "GA Section - Remembrance Court";
Dwg. 1176-2005 "Detailed Elevation";
Dwg. 1176-2006 "Proposed Approach View";
Dwg. 1176-2007 "GA Elevations - Main Building 1 of 2 (Detailed)";
Dwg. 1176-2008 "GA Elevations - Main Building 2 of 2 (Detailed)";
Dwg. 1176-2009 "GA Elevations - Remembrance Court (Detailed)";
Dwg. 128.001.007 Rev D "Access Road Amendments"; and
Dwg. 128.0001.001 Rev D "Site Access with Right Turn Lane from Grevatts Lane".
3. The development must be carried out in accordance with the mitigation and enhancement measures as set out within sections 5.0 and 6.0 of the Ecological Impact Assessment by Lizard Landscapes ref LLD1584 Rev 01 (26/11/18). The enhancements and mitigation measures shall be implemented as per the document and then permanently retained and thereafter maintained as fit for purpose.
4. The preparation and development of the site must be carried out in accordance with the protection and mitigation measures as set out within the submitted Soil Resource Plan by Tim O'Hare Associates LLP ref TOHA/19/6507/2/ML (22/07/19 - Issue 1). The soil protection/mitigation measures shall be implemented as per the document and then permanently adhered to throughout the construction process.
5. No development other than site surveys shall be carried out until a Construction & Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority (who shall consult with West Sussex County Council and the Councils Environmental Health Officers). Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters;
 - an indicative programme for carrying out of the works;
 - the anticipated number, frequency and types of vehicles used during construction;

- the method of access and routing of vehicles during construction;
 - the parking of vehicles by site operatives and visitors;
 - the loading and unloading of plant, materials and waste, including permitted times for deliveries;
 - the storage of plant and materials used in construction of the development;
 - the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
 - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);
 - Measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s);
 - measures to control the emission of dust and dirt during construction;
 - Details of any floodlighting, including location, height, type and direction of light sources and intensity of illumination; and
 - a scheme for recycling / disposing of waste resulting from demolition and construction works.
6. No construction or demolition activities shall take place, other than between 08:00 to 18:00 hours (Monday to Friday) and 08:00 to 13:00 hours (Saturday) and no noisy working activities shall take place on Saturday afternoon, Sunday or Bank Holidays.
7. No development other than site surveys shall be carried out until the appellant has provided a 5m deep buffer zone to the hedges and watercourses along the site boundaries to be secured by temporary security fencing. The habitat within the buffer zones shall be maintained as existing and there shall be no access to these buffer zones during the construction process. Once construction is completed, the fencing shall be removed and the buffer zones left as a natural area for wildlife in perpetuity.
8. No development other than site surveys shall be carried out until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and winter Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage. No building / No part of the extended building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.
9. No development other than site surveys shall be carried out until details have been submitted to and approved in writing by the Local Planning Authority for any proposals: to discharge flows to watercourses; or for the culverting,

diversion, infilling or obstruction of any watercourse on or adjacent to the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run-off values. No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities in respect to any watercourse or culvert on or adjacent to the site.

10. No development other than site surveys shall be carried out until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual for the lifetime of the development.
11. No development other than site surveys shall be carried out until the appellant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.
12. No development of the crematorium building above damp proof course (DPC) level shall take place unless and until a monitoring regime to assess the impact of vehicle flows along Grevatts Lane West, west of the site access has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. Thereafter the monitoring data shall be made available upon request to either the Local Planning Authority or the Local Highway Authority.
13. No development above damp proof course (DPC) level shall take place until there has been submitted to, and approved by, the Local Planning Authority, a landscaping scheme including details of hard and soft landscaping and details of existing trees and hedgerows to be retained, together with measures for their protection during the course of the development. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
14. No development above damp proof course (DPC) level shall take place unless and until a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in the construction of the buildings.
15. Before the development is first occupied or brought into use a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall then be carried out as approved and

- permanently adhered to unless otherwise agreed in writing with the Local Planning Authority.
16. Before the development hereby permitted is first brought into use the appellant shall enter into an agreement pursuant to Section 278 of the Highways Act 1980 with the County Council to provide for the junction improvements as shown on Drawing 128.0001.0001 REV D. The junction shall then be provided prior to first use of the crematorium and retained in perpetuity.
 17. No part of the development shall be first brought into use until such time as the vehicular access with Grevatts Lane West to serve the development, to include the proposed new road lining and road signage, has been constructed in accordance with the details shown on the drawing titled "Access Road Amendments" numbered 128.001.007 Rev D.
 18. No part of the development shall be first brought into use until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.
 19. No part of the development shall be first brought into use until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority. The approved cycle storage/parking spaces shall thereafter be permanently retained in good working condition.
 20. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The scheme should seek to conform with the recommendations within BS5489:1-2013 but also minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding. The lighting approved shall be installed and shall be maintained in accordance with the approved details.
 21. No removal of trees, shrubs or other vegetation that may contain birds' nests shall take place between 1st March and 31st August inclusive, unless a suitably qualified ecologist/wildlife specialist has undertaken a careful, detailed, check of vegetation for active birds' nests immediately before the vegetation is cleared and confirmed that no nests will be harmed. Where nests are discovered, the vegetation shall remain in place until nesting activity has ended naturally and the ecologist has confirmed that it is safe to proceed.
 22. No crematorium services shall take place outside of the hours of 09:00 and 17:00 Monday to Saturdays and there shall be no more than 8 services per day. There shall be no services on Sundays or Bank Holidays.

END OF CONDITIONS