



Appeal Decisions

Hearing Held on 24 and 25 April 2019

Site visit made on 25 April 2019

by Mrs H M Higenbottam BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2019

Appeal A: APP/A0665/C/3202115

Land at Birches Lane, Lach Dennis, Northwich CW9 7SU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by All Faiths Remembrance Parks Limited against an enforcement notice issued by Cheshire West & Chester Council.
 - The enforcement notice was issued on 11 April 2018.
 - The breach of planning control as alleged in the notice is 'Without planning permission the construction of a crematorium, associated car park, access road and gardens of remembrance.'
 - The requirements of the notice are:
 1. Remove the Unauthorised Development and all associated materials and planting from the Land, restore the Land to its original condition as a grassed field and repair all hedgerows removed to facilitate the Unauthorised Development with species to match the existing hedgerow.
 - Or
 2. Implement the development as permitted and in accordance with planning permission ref. 12/02679/FUL, granted by virtue of appeal decision ref. APP/A0665/A/12/2186911, and associated discharge of conditions approval ref. 16/00950/DIS.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 as amended.
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Appeal Ref B: APP/A0665/W/3208631

Land at Birches Lane, Lach Dennis, Northwich CW9 7SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Armstrong UK Developments Limited against the decision of Cheshire West & Chester Council.
- The application Ref: 18/00978/S73, dated 8 March 2018, was refused by notice dated 6 July 2018.
- The application sought planning permission for the construction of a new crematorium, associated car park, access road and gardens of remembrance without complying with conditions attached to planning permission Ref: APP/A0665/A/12/2186911, dated 11 June 2013.
- The conditions in dispute are Nos 2 and 11 which state that:
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan dated 12 June 2012, site plan ref 1274-3B (excluding the details of the entrance gates and walls), car park and floor plan ref

1274-1A, floor plan ref 1274-2A, the elevations and section on plan ref 127-4A, and the access details on plan ref 4168/002B.

- 11) No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall identify existing trees and hedgerows to be retained, and shall include details of wildflower planting mixes, and a programme for implementation. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the implementation programme; and any trees or plants which within a period 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting with others of similar size and species, unless the local planning authority gives written approval to any variation.
- The reasons given for the conditions are:
 - 2) For the avoidance of doubt and in the interests of proper planning.¹

11) To safeguard the character and appearance of the area.²

Appeal Ref C: APP/A0665/W/3208634

Land at Birches Lane, Lach Dennis, Northwich CW9 7SU

- 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 All Faiths Remembrance Parks Limited or Armstrong UK Developments Limited against the decision of Cheshire West & Chester Council.
 - The application Ref: 18/00980/FUL, dated 8 March 2018, was refused by notice dated 6 July 2018.
 - The development proposed is for revised hard and soft landscaping across the site with specific revised boundary treatments to southern and part northern boundary.
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Preliminary Matters

1. At the Hearing the appellant withdrew Appeal C. This was confirmed in writing by letter dated 24 April 2019. I will therefore take no further action on this appeal.
2. Following discussions at the Hearing both main parties accepted that the allegation for Appeal A should be a breach of conditions 2, 10 and 11 of planning permission 12/02679/FUL and not an operational development allegation. Neither the Council nor the appellant considered that such a correction would result in any prejudice or injustice.
3. I will therefore correct the allegation and correct and vary the reasons for serving the Notice to address this matter.
4. The conditions the subject of Appeal B, conditions 2 and 11, were breached before the planning application was made. Therefore, the appeal will be dealt with under section 73A of the Act. The appellant requested in the letter of the 24 April 2019 that the appeal be dealt with on the basis that it seeks a variation of Conditions 2 and 11 in order to facilitate amendments to the building and hard and soft landscaping.
5. The Hearing was adjourned on 25 April 2019 and it was closed in writing on 12 July 2019. Between the adjournment and closing documents requested at

¹ Reason for condition 2 is set out in paragraph 55 of the appeal decision APP/A0655/A/12/2186911.

² Reason for condition 11 is set out in paragraph 22 of the appeal decision APP/A0655/A/12/2186911.

the Hearing were submitted. A list of documents received during this period is set out at the end of this decision.

6. The revised Statement of Common Ground (SoCG) signed and dated 30 April 2019 in the revised draft planning conditions section referred to plan no 1733.07P2. The plan provided with the SoCG, and listed elsewhere in the document, is referenced 1733.06.07P2. I have used the actual reference of the plan provided to me.

Decisions

Appeal A – reference APP/A0665/C/3202115

7. It is directed that the enforcement notice be corrected by:

- In paragraph 1 delete '(a)' between the words 'paragraph' and 'of section 171A(1)' and substitute it with '(b)'
- In paragraph 3 delete the words 'Without planning permission the construction of a crematorium, associated car park, access road and gardens of remembrance [the Unauthorised Development]' and substitute the following words:

'The construction of a crematorium, associated car park, access road and gardens of remembrance without compliance with conditions 2, 10 and 11 of planning permission reference APP/A0665/A/12/2186911, dated 11 June 2013.

Condition 2 required the development to be carried out in accordance with the following approved plans: location plan dated 12 June 2012, site plan ref 1274-3B (excluding the details of the entrance gates and walls), car park and floor plan ref 1274-1A, floor plan ref 1274-2A, the elevations and section on plan ref 1274-4A, and the access details on plan ref 4168/002B.

It appears to the Council that this condition has not been complied with, the development differs from the approved plans. These differences are considered to be minor material amendments. No minor material amendments have been approved.

Condition 10 required a scheme of proposed ground levels to be submitted to and approved in by the local planning authority. All ground level changes shall be carried out in accordance with the approved scheme.

It appears to the Council that this condition has not been complied with because although details of ground level changes were submitted and approved, noting there were no changes, ground level changes have been carried out which are not in accordance with the discharge of conditions approvals reference 16/00950/DIS'

Condition 11 required a scheme of landscaping to be submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping was required to be carried out in accordance with the implementation programme. While a scheme of landscaping has been carried out it is not in

accordance with the discharge of conditions approvals reference 16/00950/DIS.

It appears to the Council that this condition has not been complied with because the landscaping scheme that has been carried out, including mounding and hard surfacing as well as planting, seeding and turfing has not been carried out in accordance with the approved details. No variation of the approved scheme of landscaping has been approved.

- In paragraph 4:

In the first sub paragraph delete the word 'four' between 'last' and 'years' and substitute the word 'ten';

In the fourth sub paragraph delete the words 'The variation from the approved plans and details has resulted in a development which is materially different to that originally granted planning permission.' And substitute the words 'This is in breach of Conditions 2, 10 and 11 of planning permission reference APP/A0665/A/12/2186911.'

In the seventh sub paragraph delete the words 'It is considered that the Unauthorised Development fails to pay regard to the established landscape character as described in the SPD. The cumulative impact of the Unauthorised Development' And substitute the words 'The breach of Conditions 2, 10 and 11 of planning permission reference APP/A0665/A/12/2186911 fails to pay regard to the established landscape character of the Lostock Plain. The cumulative impact of this'

Delete the eighth sub paragraph in full.

- In paragraph 5 the deletion of the words;

'5.1 Remove the Unauthorised Development and all associated materials and planting from the Land, restore the Land to its original condition as a grassed field and repair all hedgerows removed to facilitate the Unauthorised Development with species to match the existing hedgerow. Or'

The renumbering of requirement '5.2' to '5.1'; and

And the insertion of the following words after the renumbered requirement 5.1;

'Or

5.3 Alter the development to be wholly in accordance with planning permission reference APP/A0665/A/12/2186911 including the approved plans and approved landscaping scheme.

8. Subject to the corrections to the enforcement notice the appeal is allowed in so far as it relates to the crematorium building and car parking. In accordance with section 177(1)(b) and section 177(4) of the 1990 Act as amended, condition No 2 attached to the planning permission APP/A0665/A/12/2186911 granted 11 June 2013 is discharged and the following new condition (Condition A) is substituted. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the construction of a new crematorium, associated car park, access road and

gardens of remembrance at Land at Birches Lane, Lach Dennis, Northwich CW9 7SU without complying with the said condition but subject to the other conditions attached to that permission so far as the same are still subsisting and capable of taking effect, and to the following new condition (Condition A):

A) The development hereby permitted shall be carried out in accordance with the following approved plans: NTA Site Location Plan 1733.06.00P1; NTA Car Park Plan 1733.06.06P4 (Note this drawing sheet contains details of as built landscaping which are not approved); NTA As Built Plans and Elevations 1733.06.07P2; and Bellamy Roberts Access Details on Plan 4168/002B and the details approved under local planning authority reference 16/00950/DIS.

9. The enforcement notice is upheld.

Appeal B – reference APP/A0665/W/18/3208631

10. The appeal is allowed and planning permission is granted for the construction of a new crematorium, associated car park, access road and gardens of remembrance at Land at Birches Lane, Lach Dennis, Northwich CW9 7SU in accordance with the application Ref: 18/00978/S73, dated 8 March 2018, without complying with condition 2 previously imposed on planning permission granted and set out in planning permission APP/A0665/A/12/2186911 granted on 11 June 2013 at appeal, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following condition A.

A) The development hereby permitted shall be carried out in accordance with the following approved plans: NTA Site Location Plan 1733.06.00P1; NTA Car Park Plan 1733.06.06P4 (Note this drawing sheet contains details of as built landscaping which are not approved); NTA As Built Plans and Elevations 1733.06.07P2; and Bellamy Roberts Access Details on Plan 4168/002B and the details approved under local planning authority reference 16/00950/DIS.

Appeal A on ground (c)

11. This ground is that what is alleged i.e. “Without planning permission, the construction of a crematorium, associated car park, access road and gardens of remembrance” does not amount to a breach of planning control. The appellant stated in the initial grounds of appeal that the development was permitted by planning permission reference APP/A0665/A/12/2186911.
12. I have set out above that the allegation will be corrected to refer to breaches of conditions 2, 10 and 11 of permission APP/A0665/A/12/2186911 under section 171A(1) (b) of the Act.
13. The appellant has provided further plans of the ‘as built’ crematorium building and the hard and soft landscaping including changes in the levels across parts of the site. As such, it is clear that what exists on site does not accord with condition 2 or the details submitted and approved pursuant to conditions 10 and 11 of planning permission reference APP/A0665/A/12/2186911. I therefore find that there has been a breach of conditions 2, 10 and 11 all of which were necessary.
14. The appeal on ground (c) therefore fails.

Appeal A ground (a) and Appeal B

Main Issues

15. The main issue in both appeals is whether the conditions in question remain reasonable and necessary having regard to the effect of the development on the character and appearance of the area.
16. Appeal B does not relate to condition 10 which required a scheme for proposed ground levels. However, the landscaping the subject of condition 11 has been carried out and has changed levels across the site where paths, hard surfacing and other built structures and soft landscaping have been carried out. So inevitably consideration of the landscaping scheme requires consideration of the levels which have been altered. I am therefore required to consider the changes in levels as part of Appeal B.

Reasons

Background

17. Planning permission for the erection of a proposed crematorium, associated car park, access road and gardens of remembrance was granted at appeal in 2013 (application reference 12/02679/FUL; appeal reference APP/A0665/A/12/2186911) (the 2012 appeal). Further to this decision, an application to discharge the pre-commencement conditions was submitted in 2016 (application reference 16/00950/DIS) and approved in June 2016. The Council and the appellant consider that a lawful commencement of the development took place shortly afterwards.
18. Although a landscaping scheme was submitted and approved under reference 16/00950/DIS on 8 June 2016 (the 2016 scheme), the landscaping scheme that has been carried out was not in accordance with the 2016 scheme. Four planning applications were submitted on behalf of Armstrong UK Developments Ltd to regularise the development. These applications were part prospective and part retrospective, for revisions to the approved scheme.
19. One of those applications is the subject of Appeal B. The Council also declined to determine an application for extensions to the crematorium building, erection, alteration and replacement plant / machinery (including hardstanding for repositioning 3 gas tanks, an external fridge store, shed for storing gardening equipment) and a biodigester (Klargester) (reference 18/03158/FUL) by exercising its powers under section 70C of the Act.
20. The "as built" crematorium building differs from that which received planning permission in the 2012 appeal. These differences include:
 - The chimney position, height and materials – the chimney is now within the roof of the building rather than being sited on the north gable end of the building. It is a metal flue whereas the consented chimney was shown to be brick clad.
 - Front elevation: double gable is joined. This has created two areas of additional floor area. The floor plan comparison drawing no 1733.06.3P2 notes the areas as an additional 6.25m² and 2.8m².
 - Length of building: the building has been elongated towards the road end and a further 32.8m² of floorspace has been noted on drawing no

1733.06.3P2. This results in the building length being increased by 3.55m towards the vehicular entrance/road.

21. The Council raise no objection to the above stated deviations from the approved plans for the building. However, local residents and interested parties have raised objections to these deviations. I will deal with those objections below.
22. The landscaping scheme as first implemented was not in accordance with an approved landscaping scheme. In addition, through negotiations with the Council the appellant has modified it and further plans showing further modifications have been submitted as part of the appeal submissions. I will determine whether the landscaping scheme based on the landscape plans prepared by Liz Lake Associates and referenced 2096 A2 01A, 2096 A2 02A and 2096 A2 03A, the NTA as built Site Levels drawing no 1733.06.05P2 (excluding area marked 'sunken/buried congregating area') and Birches Lane Crematorium Planting Schedule Rev 25/04/2019 would be an acceptable alternative to that approved.

Character and appearance

Landscaping and Levels

23. A Landscape Strategy for Cheshire West and Chester Borough dated 2016 has been adopted by the Council and replaces all former landscape guidance. The site forms part of the Landscape Character Type LCT10: Cheshire Plain East of this landscape strategy (the strategy).
24. The settlement pattern across the Cheshire Plain East is low density and dispersed. Development is typically of red brick with white washed and timber framed buildings in a distinctive black and white style.
25. The appeal site is located within Landscape Character Area LCA10c: Lostock Plain. The strategy notes that the flat plain like topography results from the uniform characteristics of the underlying bedrock. The fields are bounded by an intact hedgerow network and occasional hedgerow trees, mostly oak, providing unity across the landscape. While there are occasional copses or shelter belts the landscape is largely devoid of woodland. It has a pastoral character with small strong field pattern with a mixture of small and medium sized irregular shaped fields and some larger regular fields where agricultural improvement has been undertaken.
26. The area is a distinct area defined by its function as a brine field and with built structures associated with brine/salt extraction and underground ethylene/gas storage throughout. The built infrastructure of the brine well heads results in small structures every 500m on a grid system. Local interested parties explained that there were pipelines all around the village and that brine leaks have killed hedgerows in the past which have affected the local landscape.
27. The 2012 appeal was allowed, and planning permission was granted for the crematorium. A significant issue in that appeal was the effect of the development on the character and appearance of the area which included consideration of the landscape in which the development would sit and the proposed landscaping masterplan. The Inspector in the 2012 appeal noted that the building was a relatively uncomplicated single storey structure with two projecting gables to add interest to the east elevation. He also noted that

having regard to the extent of the site, which would remain largely open, the height of the existing and proposed tree cover and the presence of a nearby group of buildings, the scale of the crematorium would be in keeping with its surroundings.

28. In relation to the landscape master plan considered at the time of the 2012 appeal the greater part of the site around the building and car parks was proposed to be grass or scrub cover. The Inspector considered this would neither give the appearance of a wooded area nor increase the prominence of the site in the landscape. At the 2012 appeal the parties agreed that the detailed form of tree cover could be appropriately dealt with by a condition requiring a landscaping scheme. However, the overall form and design philosophy for the landscaping scheme, which would help to assimilate the crematorium into the landscape of the Lostock Plain, was clearly considered and supported by the Inspector in that case. The assessment of the 2012 appeal proposal clearly required consideration of the landscape and whether or not it was possible to assimilate the development so as not to cause unacceptable harm to the character and appearance of the area. This was the basis for the imposition of conditions 2, 10 and 11 of that planning permission.
29. The Inspector in the 2012 appeal noted that the appeal site then was part of a larger field: the north west and north east boundaries were marked by hawthorn hedges and the land sloped gradually down towards the north west.
30. The hard and soft landscaping that is shown on drawing 2096 A2 O3 is the scheme that the appellant's wish to pursue. This results in some existing elements being removed that have been constructed within the landscaped areas.
31. The appellant notes that the development of the site for a crematorium was always recognised as causing some limited harm and that this was acceptable based on mitigation of that harm. The appellant has sought to address the concerns of the Council and has put forward remedial landscape works. The appellant considers the additional planting adds to the character of the area and there would be a net gain in key landscape resource features of the site and biodiversity interest particularly associated with the boundaries. The appellant accepts that the memorial gardens within the site are somewhat ornamental in nature along with the accessible paths. However, the appellant considers that this is within the boundaries of the site and the effect will not be felt within the wider character area.
32. The Inspector in the 2012 appeal found that the landscape masterplan, at that time, with the greater part of the site around the building and car parks proposed to be grass or scrub cover would assimilate the development into the landscape. Paths and hard landscaping were proposed close to the car park and building only. Clearly what is envisaged now is a more structured hard landscape setting to the crematorium building, with level changes and more ornamental planting, albeit that has been reduced in later planting schedules. The introduction of paths the full depth and width of the appeal site, mounds, structures and low walls results in a more formal landscape setting to the low key crematorium building and grounds. In my view, this is at odds with what was envisaged and promoted in the 2012 appeal scheme.
33. While I can appreciate that the appellant sought to provide an area where clients can reflect over the loss of their loved ones before, at the time or after

the cremation, the landscaping does not reflect the setting and attributes of the Lostock Plain. In particular, through the introduction of level changes with planting on top, low walls and hard surfaced paths the setting of the building appears unnatural within its landscape context. The contouring of the site, with various level changes, including the introduction of hillocks and then flat paved areas the depth and width of the site is in stark contrast to the surrounding landscape and appears manicured rather than natural. The 2012 appeal scheme proposed a building set within a largely unchanged natural flat landscape with little formality. The scheme that is shown on the landscape plans for consideration in this appeal has an overtly man-made managed and created form at odds with the established character and appearance of the Lostock Plain.

34. Due to the flat topography of Lostock Plain the mid and longer distance views allow, at the time of my site visit, views that take in the raised planting above the boundary hedge line. However, this is not a dominant view and approaching along the public highway there are only limited glimpses of planting/raised levels. The landscaping will mature and dependant on the height of the boundary hedges will either expose or limit the views into the site. However, I am not satisfied that the landscaping scheme as envisaged assimilates the development into the landscape in a way to safeguard the key features of the character and appearance of the area. The key feature is one of a flat landscape and the raised levels and hard landscaping features throughout the width and depth of the site, introduces a fundamental change to this site that was not envisaged in the 2012 appeal scheme. It results in a markedly different setting to the building and thus how it is perceived and appreciated.
35. On entering the site, viewing it through open entrance gates or being within the site, the alterations to the levels to create a separation between the paths or for people walking around the grounds is at fundamental odds with the flat plain within which the site is set. As such, it is at odds with the character and appearance of the area and, in my view, harms the character and appearance of that area.
36. The general mix of species and revised planting schedules contained in Planting Schedule Rev 25/04/2019, are not such that I consider they would of themselves result in harm to the landscape. Moreover, a landowner may choose to plant non-native species on a site at any time. The planning system cannot prevent that. However, what a landscaping scheme should do is provide structural elements that enhance and, where appropriate, assimilates a built development or use within its setting to create good design. While I consider the planting schedules are generally acceptable in their revised format it is the introduction of level changes and increased and more extensive hard surfacing or walls that result in the unacceptability of the schemes pursuant to condition 11. The landscaping cannot be found to be acceptable unless the level changes on which the soft landscaping is planted are approved.
37. As the landscape scheme before me relies upon the contouring/level changes that have taken place on the site it is contrary to policies STRAT 1 and ENV2 of the Cheshire West and West Local Plan (Part One) Strategic Policies (adopted 29 January 2015) (CWCLP) which seek to protect enhance and improve the natural environment, enhance landscape character and local distinctiveness; saved Policies BE1 and NE7 of the Vale Royal Borough Local Plan First Review

Alteration (adopted June 2001) (VRBLP) which seek a high standard of design and where possible improve and enhance the environment being compatible with the local character and encourage local distinctiveness and all development should maintain or improve the quality and variety of the landscape in which it takes place.

38. It is also contrary to what were at the time of the Hearing emerging policies GBC2 and DM3 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies ³which require development to protect, and where possible, enhance landscape character and distinctiveness, integrate into the landscape character and have regard to key landscape characteristics, sensitivities and values, achieve a high standard of design that respect the character and protects the visual amenity of the local area and conserve, manages and where possible enhances existing trees, woodlands traditional orchards and hedgerow.
39. I therefore find for Appeal A that the level changes and landscaping are unacceptable, and thus I reject the details set out on drawing no 2096 A2 O3 for conditions 10 and 11. In relation to Appeal B the landscaping details submitted pursuant to condition 11 are also unacceptable.

The Building and alteration to Car Park Layout

40. The drawings for consideration in both appeals are the "as built" car parking plan which shows the location and footprint of the as built building drawing no 1733.06.02P2; as built floor plan drawing no 1733.06.03P2 and the as built elevations plan drawing no 1733.06.04P2.
41. As stated above the Council raise no objections to the materials, additional floor space or position and size of the chimney or the revised parking layout.
42. In relation to the new car park layout (as built car parking plan 1733.06.02P2) I find that this does not result in a material difference to the effect of the car parking on the character and appearance of the area. The minor alterations to layout are therefore acceptable.
43. The building was apparent within the landscape at the time of my site visit, and likely more visible than would have been the case as boundary hedges had been reduced in height somewhat. The chimney was visible, as was the length of the roof. I appreciate if boundary hedgerows were allowed to grow taller and kept at this higher height then views of the building from paths, permissive rights of way and the public highway would be limited. However, landscaping to 'hide' a development that is of an inappropriate form or scale is not good design as envisaged by the National Planning Policy Framework, it just limits the immediate effect of it.
44. The additional areas of floor space of the building to the front and extending towards the road are not significant. These additions do result in an elongated building when compared with the 2012 appeal scheme. However, within the context of a site of this size with no immediate other buildings adjacent it does not result in an overly large or dominant structure.

³ I understand that the emerging plan has since been adopted and this does not change my findings on the conflict arising.

45. The utilitarian form of the chimney emerging part way through the roof does result in a more industrial form to the design. The chimney is functional and I understand it results directly from the choice of the equipment and the needs of the crematorium use including regulations controlling emissions. While I appreciate residents and interested parties would prefer a brick chimney on a gable end, in terms of design the installed chimney reflects the function of the building and the requirements of the equipment used. It is not fundamentally an inappropriate design just one that is a product of its function. As such, I do not accept that the position or use of materials for the chimney results in unacceptable harm to the character or appearance of the area.
46. I consider that the building as constructed to be of a design which respects the functionality of the use and its location. As such, I consider it accords with VRBLP Policy BE1 which seeks a high standard of design.

Other matters

47. Concerns were raised about drainage and water runoff from the appeal site. On the evidence available, there is no substantiated evidence that the run off results in a specific issue. However, I consider the level changes have inevitably led to some of the run off issues referred to. I have for other reasons found those level changes to be inappropriate. Therefore, it is likely that by addressing the harm of the level changes on the character and appearance of the area there will be changes to levels and this may change the way drainage and water run off from the appeal site is dealt with. Although, if it remains as it is, then it is unlikely to result in material harm on the evidence available.

Conclusion on Appeal A ground (a) and Appeal B

48. For the reasons given above I concluded that the building as built, and the car park layout are acceptable and should be approved. However, the changes to the levels, the hard and soft landscaping are unacceptable and so the relevant conditions remain unchanged.
49. Planning permission subject to conditions only approving the building as built and the car park layout will be granted on Appeal A. The enforcement notice will be corrected and then upheld.
50. On Appeal B condition 2 will be revised to reflect the building as built and car park layout. Condition 11 will not be revised.
51. The requirements of the upheld notice will cease to have effect so far as it is inconsistent with the permissions which I will grant by virtue of section 180 of the Act.

Appeal A on ground (f)

52. This ground of appeal is that the steps required to comply with the requirements of the notice are excessive and lesser steps would overcome the objections. The Council confirmed the purpose of the Notice was to remedy the breach of planning control.

53. While the appellant did not specify specific lesser steps in the original appeal submissions it was confirmed at the Hearing that it relates to the requirement to make the building comply with the 2012 appeal approved plans. The appeal on ground (a) succeeds to this extent and so there is no ground f appeal to deal with.

Hilda Higenbottam

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Keen QC	Instructed by Mrs Wright
Mrs Wright BSc Hons ARchTech	La Ronde Wright Limited, on behalf of the
MSC MA	appellant
Mr Flatman BA Hons Dip LA	Director of Liz Lake Associates, on behalf of the
CMLI	appellant
Mrs A Dunn FICCM	Appellant company
Mr Heinrich	Technical advisor for appellant
Mr Gerard	Appellant company

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Charnley MSC	Planning Project Manager, Cheshire West and Chester Council
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INTERESTED PERSONS:

Cllr Black	Borough Councillor, Cheshire
Mrs B Moth Dipl Manc CMLI rtd	Local resident
Dip Cons AA	
Cllr Mrs O'Donoghue	Lach Dennis Parish Council
Mr Batters	Local resident
Mr O'Donoghue	Local resident
Cllr Mrs S Batters	Chairman of Lach Dennis Parish Council
Dr Todhunter BSc Hons Phd	Local resident
CGeol FGS	

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Letter from Dr Hans dated 17 April 2018
- 2 Written email statement of Cllr Mark Stocks submitted by the Council
- 3 Update for Appendix 2 of appellant's case submitted by appellant.
- 4 Report of late information for application 18/00978/S73 submitted by the Council
- 5 Ground (f) requirements submitted by the appellant
- 6 Suggested wording for conditions 2 and 11 submitted by the appellant
- 7 Appeal A list of draft planning conditions dated 25 April 2019 submitted by the appellant
- 8 Appeal B list of draft planning conditions dated 25 April 2019 submitted by the appellant
- 9 Species and percentages of existing and proposed landscaping submitted by appellant.
- 10 Landscape and visual issues appeal statement of Mark Flatman submitted by appellant

DOCUMENTS SUBMITTED AFTER THE HEARING

- 1 24 April 2019 letter from La Ronde Wright withdrawing Appeal C reference APP/A0665/W/18/3208634 submitted by the appellant.
- 2 Final signed copy of the Statement of Common Ground including the schedules of the drawings on which the planning application was determined and the 'as built' drawings discussed at the Hearing submitted by the appellant.
- 3 Birches Crematorium Planting Schedule Revision 25 April 2019 submitted by the appellant.
- 4 Comments by Lach Dennis Parish Council on submitted documents.
- 5 Response to Parish Council comments by the appellant.