

Appeal Decision

Hearing (Virtual) held on 8 February 2022

Site visit made on 9 February 2022

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th May 2022

Appeal Ref: APP/M3645/W/21/3270921

Land North of Old Farleigh Road, Farleigh, Surrey, CR6 9PE

- 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 Andy Marshall of Mercia Crematoria Developments Ltd against the decision of Tandridge District Council.
 - The application Ref TA/2020/2007, dated 29 October 2020, was refused by notice dated 4 February 2021.
 - The development proposed is erection of crematorium and memorial gardens together with car parking, landscaping works and associated infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the Hearing the Council confirmed that the Examination of the emerging Tandridge Local Plan 2033 is presently on hold following the Examination Inspector raising significant concerns and indicating that modifications to the proposed policies of the emerging Plan would be required should the Examination proceed. It is unclear when the Examination will actively resume. The main parties therefore agree that only little weight can be afforded to the policies of the emerging Plan in the determination of this appeal and neither main party rely on these emerging policies to support their cases.
3. During the course of this appeal planning permission was granted on appeal for "*crematorium with ceremony hall, memorial areas, garden of remembrance and associated parking and infrastructure*" at land off Oxted Road, Oxted, Surrey RH8 9NG, also within Tandridge district, in September 2021 (APP/M3645/W/21/3272384) (the Oxted decision). In light of this decision, further representations were submitted by the appellant and by Horizon Cremation, the promoters of Oxted, and Impact Planning Services (IPS) on behalf of the Farleigh Crematorium Working Group, both interested parties in this appeal. At the time of the Hearing the Oxted decision was subject to legal challenge but at the time of making my decision that challenge had yet to be heard. The decision therefore remains extant and is a material consideration.
4. The main parties have drawn my attention to other previous appeal decisions in support of their respective cases, as listed in the appendix to this decision. These establish a number of principles of relevance to the appeal before me as set out on pages 23-25 of the appellant's original statement of case. I have therefore had regard to the Oxted and the other appeal decisions so far as they are comparable to this appeal in my determination.

5. I undertook an accompanied visit to the site but then I visited Croydon Crematorium and the site of the approved crematorium at Oxted alone.

Main Issues

6. The appeal site is within the Metropolitan Green Belt. It is common ground that the proposals represent inappropriate development as set out in the National Planning Policy Framework (the Framework).
7. The main issues are therefore:
 - i) the effect of the proposed development on the openness and purposes of the Green Belt;
 - ii) the effect of the proposed development on the character and appearance of the area, with particular regard to the location of the site within an Area of Great Landscape Value; and
 - iii) whether any harm, by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposals.

Reasons

Site and surroundings

8. The appeal site is located within an area of countryside between the village of Farleigh and the southern edge of Croydon. At a County level the appeal site lies within the *Forestdale to Woldingham Chalk Down with Woodland* Character Area, one of the *Chalk Down with Woodland Landscape Types* identified within the Surrey Landscape Assessment (2015). Along Old Farleigh Road to the north of the village are a number of residential and commercial properties but there is a general absence of existing development around the site with only a golf club house some distance to the east.
9. The appeal site itself is considered typical of the County level Landscape Character Area and Type. It comprises the eastern part of an arable field on the east side of Old Farleigh Road sloping gently to the north-east corner. To the north of the site is Selsdon Wood with Puplet Wood and, to the east, Baker Boy Lane, a public bridleway, with Farleigh Court Golf Club beyond. The short southern boundary of the site has a tall hedgerow and a field gate whilst a low gappy hedgerow forms the boundary of the field adjacent to Old Farleigh Road. To the south and west of the site is open agricultural land. Although views to the north are curtailed and to the east partially curtailed by woodland, the appeal site forms part of a sweep of open land between Farleigh and Croydon.
10. The site forms part of a locally designated Area of Great Landscape Value (AGLV). The AGLV is to be retained for its own sake, as a buffer zone to the Surrey Hills Area of Outstanding Natural Beauty (AONB), the current boundary of which lies approximately 4km from the site at its nearest point, and to protect views from and into the AONB. A review of the AGLV designation was undertaken in 2007 and the appeal site assessed to be within Fieldwork Area 9 which is categorised as a 'Red' area, that has "few or no characteristics in comparison to the AONB". However, Red areas are recommended to be the subject of more detailed assessment.

11. A review of the boundary of the AONB is currently underway with proposed Candidate Areas for the expansion of the AONB identified and proposed to Natural England by the Surrey Hills AONB Board. The appeal site is not within a Candidate Area. However, it was confirmed at the Hearing that no conclusions had yet been reached on any amendments to the boundary. Until such time as the review is completed, the AGLV designation is retained.

The effect of the proposed development on the openness and purposes of the Green Belt

12. Policies DP10 and DP13 of the Tandridge District Local Plan Part 2: Detailed Policies (2014) set out that proposals involving inappropriate development in the Green Belt will only be permitted where very special circumstances exist to outweigh any harm or the proposal falls within one or more of the specific exceptions set out in Policy DP13. It has not been suggested that the proposals meet any of these exceptions and I turn to the matter of very special circumstances below. The parties agreed at the Hearing that these policies are broadly consistent with the Framework.
13. Paragraph 137 of the Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are therefore their openness and permanence. The importance of openness is reflected in the five purposes of Green Belts as set out in paragraph 138 of the Framework. Of these, given the nature and location of the proposed development, the most relevant to this appeal is to assist in safeguarding the countryside from encroachment.
14. Openness is not defined within the Framework. However, Planning Practice Guidance states that the assessment of impact on openness requires a judgement based on the circumstances of the case taking account of spatial and visual aspects, the duration of the development and the degree of activity likely to be generated.

Spatial effects

15. The appeal site extends in total to approximately 5.2ha. The crematorium building would include a 120-seat chapel and have a footprint of approximately 500m². The proposals also include an access road, parking for 80 visitor cars, additional staff and overspill parking, service yard, memorial gardens and informal landscaping. All above ground operational development has been kept to the minimum necessary so that in total the hard engineering works would cover just over 0.7ha.
16. Built development would therefore only occupy a small proportion of the site as a whole. Nevertheless, the proposed development would still result in a reduction in the extent to which the site is free from development with a consequent spatial loss of the openness of the site. Furthermore, the appeal site clearly forms part of the countryside and the proposed development would result in built form physically encroaching into the currently open gap between Farleigh and Croydon.

Visual effects

17. A combination of existing vegetation cover and localised topography limits long-range views of the site. The main views of the proposed development would therefore be from Old Farleigh Road to the west and south and Baker

Boy Lane to the east. There would be clear views across the open field to the east of Old Farleigh Road towards the facility. Alongside Old Farleigh Road is a wide grass verge that local residents contend is used to gain access to Selsdon Wood and provide a circular walk with a path through the wood that connects to Baker Boy Lane. I walked this circular route as part of my site visit and found it to be very pleasant.

18. Baker Boy Lane forms part of the Tandridge Border Path, Vanguard Way Recreational Route and the London Loop and is therefore likely to be a popular route. There are clear views of the site from this bridleway through the trees that line the route and glimpsed views from the southern section of public footpath CF591 which links to Baker Boy Lane and loops through Puplet Wood. There are also glimpsed views of the site from the footpath in Selsdon Wood which was contended at the Hearing to be popular with walkers. Whilst I acknowledge that my site visit was undertaken when the leaves were off the trees, even when in full leaf, there would be views of the site from Old Farleigh Road and these routes.
19. The proposed development would be permanent but has been specifically designed to minimise its visibility, being intended to sit low in the landscape at 6.5m high with a flat roof and located on the lower part of the site, although it would not be entirely concealed within the topography. The building would be set back approximately 300m into the site so from the south and west it would be seen at distance and against a backdrop of woodland. The proposals include new landscaping as shown on the submitted Landscape Framework Plan including a hedge along the western boundary of the site and a woodland buffer along the northern and eastern boundaries, which could be secured by condition.
20. The appellant has submitted photomontages which demonstrate that after 15 years views of the proposed buildings from the south and west would be largely obscured by maturing planting, thus limiting the visual impact of the main facility. However, the photomontage from viewpoint 5 does not include the proposed access, which would be a prominent feature in this view. No photomontages are provided from the public rights of way to the north and east, from which there would be closer views of the proposed facility. The proposed development would therefore have a significant visual impact immediately following construction reducing to a limited impact as the proposed planting matures.

Activity and other effects

21. The appellant's Statement of Case refers to an average of 5 funeral services a day Monday-Friday and the Transport Assessment (Paul Mew Associates October 2020) indicates an average of 2 additional services on a Saturday morning. The appellant estimates an average of 15-20 vehicles arriving / departing per funeral, although a survey of 3 existing crematoria in the Transport Assessment suggested an average of 23 vehicles.
22. Even the higher figure would represent a relatively small increase in vehicular activity in the context of the existing vehicular usage of Old Farleigh Road, contended in the Transport Assessment to be an average weekday flow of approximately 9,000 vehicles, notwithstanding the concerns of local residents. Moreover, it is likely that mourners would need to travel through the Green Belt to access existing crematoria. Consequently, the proposed development

would not lead to an unacceptable level of vehicular activity within the Green Belt.

23. Activity on the site would be limited and crematoria are inherently quiet places. The only likely noise associated with the facility would therefore be from vehicles. Whilst this would be likely to be heard from the path through Selsdon Wood to the north and Baker Boy Lane, such noise would mostly be immediately before and after funerals and would not be constant through the day. Lighting of the proposed facility could be controlled by condition to ensure compliance with Policy DP22 of the Local Plan. Consequently, the contribution of activity, noise and light to the perception of development in an otherwise largely open area would be limited with the same level of harm to openness.

Conclusion on openness and purposes

24. For the reasons given above, I conclude that the proposed development would result in the loss of openness, primarily both spatially and visually. Given this, there would be harm to the Green Belt which, given the extent of the proposed facility, I find would be moderate. The development would conflict with the purpose of Green Belts to assist in safeguarding the countryside from encroachment. Accordingly, in this respect, the proposed development would conflict with Policies DP10 and DP13 of the Local Plan unless very special circumstances have been shown to exist, a matter to which I return below.

Character and appearance

25. Given the visual dimension to the consideration of openness, there is a significant overlap between my assessment of the effects of openness above and this issue. Nevertheless, my consideration of the effects of the proposed development on character and appearance is a different exercise. The Council's second reason for refusal concerns the effect on the wider landscape character of the area and conflict with policies of the development plan relating to the protection of landscape and character.
26. The proposals would inevitably result in a noticeable change in the appearance of the current open agricultural site. Notwithstanding the clubhouse at Farleigh Court Golf Club to the east of the site, the proposed development is not characteristic of the area in its form or extent of parking. The glimpses from Selsdon Wood and the views from Baker Boy Lane across the currently open field are part of their character and contribute to the enjoyment of using these routes.
27. The Landscape Strategy for the Chalk Down with Woodland Landscape Type is to "*conserve the mosaic of fields and woodland whilst resisting urbanisation through further ribbon development...*". Landscape Guidelines include "*to protect existing green gaps between settlements*". The proposed development with its built form and parking for 80 visitor cars with additional staff and overflow spaces would, to a modest extent, urbanise the site and represent an encroachment into the open gap between Farleigh and Croydon.
28. The existing signage and white lines on Old Farleigh Road and the wide access to Farleigh Court Golf Club are urbanising influences but the road retains a countryside feel. The proposed entrance and access, even with 5-bar agricultural-style gates, signage, bus stops and footways would be further urbanising features which would detract from that countryside character.

29. As regards appearance, the proposed development would be of an intrinsically high standard of design with a sedum roof, living walls and natural timber elevations. This design would be appropriate for a rural area and the proposed landscaping would help integrate the facility into the landscape. However, I have found above that the proposed development would have a visual impact, particularly the proposed entrance and access. These engineered features would be harmful to the appearance of Old Farleigh Road. I note that the Planning Officer's Report indicates that the Countryside Access Officer for East Surrey had no comment on the proposals, but in my view reinforcing the planting along the boundaries with Selsdon Wood and Baker Boy Lane would make these routes more enclosed, detracting from the enjoyment of their use.
30. Paragraph 174 a) of the Framework sets out that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes, although that term is not defined. At the Hearing there was disagreement between the main parties as to whether the appeal site is within such a landscape although it was common ground that such landscapes were not restricted to national designations of AONBs and National Parks.
31. The original designation of the AGLV was based on an assessment of the landscape in the district. Whilst this assessment may not have been based on current characterisation techniques, from the evidence before me it was nevertheless undertaken with a significant degree of rigour to a set methodology. It is not for me in the context of this appeal to revisit that designation and it seems to me that the AGLV recognises intrinsic qualities in the landscape that elevates it above 'ordinary' open countryside.
32. Moreover, the site is within a landscape that provides important separation between the village of Farleigh and the urban area of Croydon. It is clear from the representations made by local residents that this area of landscape is much appreciated by local people for the openness of the site, the wider area's representation of historic landscape character, the biodiversity interest of the woodland and the recreational opportunities afforded by publicly accessible routes in the area. Taking the AGLV designation and these considerations in combination, I find that the appeal site forms part of a valued landscape.
33. For the reasons given above I conclude that the proposed development would be harmful to the character and appearance of the area. This harm would be localised but appreciable from the public realm around the site and would therefore be moderate. Accordingly, in this respect, the proposals would conflict with Policies CSP 18, CSP 20 and CSP 21 of the Tandridge District Core Strategy (2008) (the Core Strategy) and Policy DP7 of the Local Plan.
34. Policies CSP 18 and DP7 require a high standard of design that reflects and respects the character of the area and are broadly consistent with the Framework's policies on design and character. Policy CSP 20 sets out principles for the conservation and enhancement of the Surrey Hills and High Weald Areas of Outstanding Natural Beauty (AONBs) and applies the same principles to the AGLV. Policy CSP 21 seeks to protect the character and distinctiveness of the District's landscapes and countryside with new development required to conserve and enhance landscape character.
35. The Framework does not require landscapes and countryside to be protected for their own sake as set out in Policies CSP 20 and CSP 21, nor to protect

views into and out of an AONB as set out in Policy CSP 20. However, paragraph 174 a) and b) of the Framework do set out that planning decisions should protect and enhance valued landscapes and recognise the intrinsic character and beauty of the countryside. Unlike the Oxted appeal, views into or out of the AONB or the AGLV do not form part of the Council's case in this appeal. I therefore find that the principles of Policy CSP 20, insofar as relevant to the proposals, and Policy CSP 21 are broadly consistent with the Framework's policies on landscape and character.

36. Given the inherent quality of the design of the proposed building, I give moderate weight to the conflict with Policy CSP 18 of the Core Strategy and Policy DP7 of the Local Plan. I give significant weight to the conflict with Policies CSP 20 and CSP 21 of the Core Strategy.

Other considerations

37. The main parties agree that the need for a new crematorium facility, together with a lack of suitable alternative locations outside the Green Belt, can in principle constitute very special circumstances. However, all factors in support of a grant of planning permission for inappropriate development in the Green Belt are capable of contributing towards very special circumstances.

Need

38. Both quantitative and qualitative factors can be relevant considerations in determining the need for crematorium provision and are interrelated. Quantitative indicators of need include the current catchment population, future demographics, the practical capacity of existing crematoria and the continued future viability of existing crematoria. Qualitative indicators include the population within a 30 minute drivetime of a crematorium for the first time, delays from time of death to cremation and the age / nature of existing crematoria, including the potential for expansion.
39. The application was accompanied by a Crematorium Need Assessment (Peter Mitchell Associates, October 2020). An updated Assessment dated February 2021 and an Addendum (ACNA) dated December 2021 were submitted with or during the course of the appeal, with the latter reflecting the Oxted decision. It was agreed at the Hearing that a 30-minute drive time based on cortege speeds (generally accepted to be about 60% of the speed of normal traffic), described as an 'industry standard', was appropriate for calculating the catchment population for the proposed facility.
40. The appeal site is in the very north of Tandridge district and the proposed crematorium could serve a population beyond the district, including residents in parts of the London Boroughs of Croydon and Bromley and in Reigate and Banstead borough. With this wider catchment area, the updated Need Assessment indicates the catchment population for whom the appeal site would be their nearest crematorium to be approximately 132,000 at 2019 levels, even taking into account Oxted and other approved but not yet operational crematoria at Bluebell and Oak Tree Farm (Sevenoaks) and Turners Hill.
41. This figure exceeds the 120,000 population considered by the Federation of Burial and Cremation Authorities (FBCA) to render a new crematorium viable. The Council does not dispute the appellant's contention that the existing crematoria would continue to be viable if the proposed facility was to be

- approved. The appellant suggests that this is evidence of the demand for crematoria services but the FBCA do not suggest that 120,000 is the maximum number of people for which a crematorium should cater.
42. Nationally, around 80% of deaths result in cremations rather than burials, having risen by 5% over the past 10 years. It is disputed whether this rate will continue to rise given the proportion of the total population that favour burial to cremation in accordance with religious or environmental beliefs. Furthermore, there is evidence of a rise in direct cremations which do not include a funeral service at a crematorium.
 43. The 30-minute drive time catchment area overlaps with the catchment areas for Oxted, Croydon and Beckenham as shown on Figures 7 and 11 of the ACNA. Figure 15 of the ACNA indicates that only approximately 3,300 people would be newly served by the proposed development, an increase in those served by the existing and consented crematoria of less than 0.2%. Figures 16 and 17 of the ACNA show this would result in an estimated additional 46 deaths, equating to just 37 cremations a year, based on 2019 rates.
 44. The ACNA sets out that the ONS 2018-based subnational population projections for the local authorities forming the catchments of Oxted and the proposed facility project a 15% increase in the number of deaths between 2020 and 2035. Although the effects of the Covid-19 pandemic on future death rates may not yet be fully understood, the pandemic is likely to cause only a temporary hiatus in this increase. However, even with the ONS estimate and the appellant's suggested 85% cremation rate, Figure 26 of the ACNA indicates that with the proposed facility cremation capacity within a 30 minute drive time would increase by only 44 cremations a year in 2035.
 45. It is accepted in other appeal decisions that in order to still be able to provide a good choice of service slots a crematorium should not operate above its practical capacity, agreed to be 80% of its core hour capacity. The Inspector in the *Swanwick* appeal considered capacity during the peak winter months whilst the Inspector in the *Wergs* appeal preferred the alternative approach of applying practical capacity to an average month.
 46. Based on the approach in *Swanwick*, Figure 1 of the ACNA shows that for the four years 2016-2019 (i.e. prior to the Covid-19 pandemic), on average, of the five crematoria currently serving the wider area, Beckenham, Randall's Park (Leatherhead) and Surrey and Sussex (Crawley) were operating significantly beyond 80% during the peak winter months. Even taking the *Wergs* approach of an average over the year as a whole, these three crematoria were operating above 80%, although of them, only Randall's Park is significantly above capacity. Moreover, the main chapel at the Kent and Sussex (Tunbridge Wells) crematorium was also operating beyond 80% in both the peak and average months as shown in Figure 2 of the ACNA. Only the Croydon Crematorium had any spare capacity.
 47. The new facilities at Oak Tree Farm and Bluebell crematory could compensate for the overcapacity position at Beckenham. Turners Hill would draw from Surrey and Sussex. Horizon Cremation contends that with a 40-45 minute funeral slot length and the development of Oak Tree Farm, Oxted would operate at less than 80% initially and provide relief for Randall's Park and Sussex and Surrey. However, both Oxted and Beckenham are likely to require some relief in the future.

48. IPS contend that the sub-region is currently operating below the 80% standard whether or not the approved schemes are taken into account. However, even if the proportion of cremations remains around 80%, I find that the increasing death rate, Covid-19 apart, will give rise to an increased demand for crematoria capacity in the area that would be served by the proposed facility.
49. Thus, even if the new facilities were to be built, there would still be a need for additional crematorium capacity to serve the six authority areas on the southern edge of the London conurbation (Tandridge, Reigate and Banstead, Sevenoaks, Croydon, Sutton and Bromley). The Inspector that determined the Oxted appeal found that, notwithstanding the approved facilities, there was a need for more than one crematorium, rising to at least four by 2041.
50. The Need Assessment also found that the average wait for a funeral was 25 days. Whilst this would be an unsatisfactory delay, it is based on a limited sample of obituary notices and confirmed by one independent funeral director. IPS suggest that the delay is more a consequence of the restricted availability of funeral directors, registrars and celebrants rather than crematoria capacity. It is therefore not certain that the proposed facility would actually reduce this waiting time to a significant extent. I therefore give this little weight in favour of the proposals.
51. The majority of the existing crematoria are ageing and the three crematoria with twin chapels sometimes experience congestion in the car park and access/egress routes. However, this is not to say that they are no longer fit for purpose, having been refurbished over the years. Although the fact that the Croydon Crematorium is operating at under capacity may indicate that it is not favoured by local residents, I found it to be reasonably accessible and pleasant.
52. Peter Mitchell Associates undertook a survey of 12 independent family funeral directors on the potential benefits of a new crematorium in Tandridge district, to which only 50% responded. Those that did were supportive of a new crematorium in the district. However, this was undertaken before the appeal at Oxted was allowed, which would satisfy that desire for a new facility in the district. Furthermore, no representations with express support for the proposed development in response to the application or the appeal from the public, funeral directors, the clergy or celebrants have been provided to me, suggesting that existing facilities are not considered to be unacceptable.
53. Nevertheless, I acknowledge that the proposed development would provide a modern facility able to accommodate increasing coffin sizes. It would also relieve some of the pressure on the existing crematoria, potentially allowing a better quality of service at these facilities and could offer 60 minute slots. These would be modest benefits of the proposals.
54. For the reasons given above, I find that there is a need for additional crematoria capacity in the wider catchment area. However, a substantial proportion of the need within the catchment area of the proposed facility would be met by the Oxted crematorium, with the additional facility allowing only a very small increase in cremation capacity within a 30 minute drive time. I therefore give little weight to the potential contribution of the proposed development to meeting this need.

Location

55. It is common ground that the appeal site lies outside the built-up areas of any of the settlements defined in the Core Strategy and is therefore within the countryside for planning policy purposes. As such, the proposals conflict with Policy CSP 1 of the Core Strategy, which sets out the spatial strategy for Tandridge, focusing development within the existing built up areas of the district.
56. However, paragraph 85 of the Framework sets out that planning decisions should recognise that sites to meet community needs in rural areas may have to be found beyond existing settlements. Furthermore, this was not a reason for refusal of the proposals and does not form part of the Council's case. I therefore give the conflict with Policy CSP1 little weight in my determination.
57. The Cremation Act 1902 requires that crematorium buildings, memorial gardens and ancillary functions be located at least 200 yards from a dwelling (except with the consent of the owners/occupiers). Furthermore, the guidance in "*the Siting and Planning of Crematoria*" (DoE 1978) is that sites should be at least 2-4ha in size or larger and have a tranquil, wooded backdrop that is distant from unsightly, noisy or odorous industrial activities.
58. Therefore, although there is no specific legislative requirement for crematoria to be within the countryside and such facilities are found in urban areas, a countryside location is often favoured. Tandridge is predominantly rural with approximately 94% of the district, including almost all of the land beyond settlement boundaries, within the Metropolitan Green Belt. A Green Belt location for a crematorium is therefore difficult to avoid.
59. A Locational Assessment Statement (Mercia, February 2021) was submitted with the appeal which demonstrates that there are no potentially available sites of sufficient size outside of the Green Belt or proposed to be released from the Green Belt. A facility in the proposed location would serve the northern part of the district where the population density is higher.
60. However, the Council and interested parties contend that the appeal site is not the most appropriate location for a new crematorium for various reasons, including that a location elsewhere would better meet the current pattern of unmet need. The Oxted appeal found that the unmet need in the wider area is centred around the crematoria at Surrey and Sussex, North East Surrey and Randall's Park. The need at Surrey and Sussex would be met by Oxted and Turners Hill but the appeal site would not meet need at the other crematoria.
61. The Council's consultant, CDS, considers that the appeal facility has significant overlap with the drive-time catchments of the crematoria at Beckenham and Croydon in addition to that for Oxted, and that a preferable alternative location would be further from existing crematoria drive-time catchments. Horizon Cremation contends that the appeal site would not provide sufficient relief to Beckenham and that a location to the west of the Oxted catchment would provide greater relief to Oxted and Randall's Park in the future.
62. At the Hearing it was suggested that it would be preferable to identify the need for a crematorium and an appropriate site through the local plan process, with inter-authority co-operation. However, the Council has not undertaken an assessment of the adequacy of crematorium provision to serve the district as

part of its evidence base for the emerging Local Plan. No potential alternative sites have been put forward by the Council either through the emerging Local Plan or in evidence for this appeal and I have no evidence that any inter-authority discussions on the matter are taking place. I am therefore satisfied that there is a lack of suitable alternative locations for the proposed crematorium outside the Green Belt.

63. There is no explicit policy test requiring the proposed development to be within the optimum location. However, national planning policy is clear that the fundamental aim of Green Belt policy is to keep land permanently open. It is therefore reasonable to seek to locate new development to meet community needs, including crematoria, in locations where they would provide the greatest benefit to keep the number of such facilities to a minimum. The proposed facility would provide little additional benefit over that of the approved facility at Oxted.
64. Taking all these factors into account I conclude that a location outside the Green Belt to meet the needs of the population within the wider catchment area would be difficult to find. However, a crematorium in the location proposed would be of limited benefit given its overlap in terms of the facilities provided and catchment population with a crematorium at Oxted. This factor therefore attracts limited weight in my decision.

Biodiversity

65. The appeal site is not designated for any special biodiversity interest but both Selsdon Wood and Puplet Wood are classified as ancient woodland and designated as a Site of Metropolitan Importance for Nature Conservation / Local Nature Reserve and Site of Nature Conservation Importance respectively. The appellant's Ecological Appraisal (FPCR October 2020) notes that the site predominantly comprises poor semi-improved grassland with the two hedgerows bounding the site considered to be of moderate and high to very high value. The hedgerows are to be retained with the exception of approximately 20m to be removed for vehicular access.
66. The Appraisal concludes that with native tree planting, including a 15m buffer to the ancient woodland, new species rich meadow grassland and two attenuation features, the proposed development would have a long-term beneficial effect on the conservation value at a site level. The Biodiversity Net Gain calculation indicates that the proposals would result in an overall net gain in biodiversity of 4.51 units for habitats and 2.71 units for hedgerows.
67. Nevertheless, the Farleigh Crematorium Working Group (FCWG), the National Trust (the owners of Selsdon Wood), the London Wildlife Trust and local residents have objected to the proposed development on biodiversity grounds, amongst others. The FCWG has submitted its own Preliminary Ecological Appraisal (Ecology and Land Management December 2020) which recommends that further surveys be undertaken.
68. However, the Council's ecological advisor, the Surrey Wildlife Trust (SWT), do not find any specific biodiversity, nature conservation or ecological issues that would constrain the future use of the site for a crematorium of the proposed specifications. The SWT agrees that, subject to conditions, the proposed biodiversity enhancements would result in a significant uplift in the biodiversity interest of the area. Whilst I acknowledge the difference in opinions between

the ecological experts, no persuasive evidence has been provided to dispute the conclusions of the appellant's Ecological Appraisal.

69. With appropriate measures that could be secured by condition I am therefore satisfied that the proposed development would result in a net gain in biodiversity. This would be a modest benefit of the proposed development. Accordingly, the proposals would not conflict with the biodiversity policies of the development plan to which interested parties refer, which protect sites of biological importance and protected species and are broadly consistent with the policies of the Framework on habitats and biodiversity.

Other alleged benefits

70. The appellant draws my attention to Policy CSP 13 of the Core Strategy and Policy DP18 of the Local Plan. In combination, these policies set out that new or improved facilities to meet the needs of all sections of the community will be encouraged where sustainably located and suitable to meet the needs of the local community, subject to other relevant policies of the development plan. These policies are broadly consistent with paragraphs 85 and 93 of the Framework.
71. Old Farleigh Road is a bus route and the proposals include the provision of new bus stops and footways connecting the stops and the proposed facility. Whilst the evidence of local residents is that the bus service is limited, given the nature of the facility walking, cycling or the use of public transport is unlikely to account for a significant proportion of trips in any event. Moreover, paragraphs 85 and 105 of the Framework set out that sites to meet community needs in rural areas may have to be found in locations that are not well served by public transport and that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
72. Taking all these factors into account, I am satisfied that the site is reasonably accessible by public transport for the development proposed. Neither the highway authority nor the Council have raised any concerns about the accessibility of the proposed development, subject to conditions. In principle, therefore, Policies CSP 13 and DP18 provide a measure of general support for the proposals. However, this represents an absence of harm rather than a benefit of the proposals and so carries neutral weight in my decision.
73. On the basis that residents will generally choose to attend their nearest crematorium a new facility would lead to a reduction in the need to travel to facilities further away. However, given the degree of overlap with the Oxted catchment population, this benefit would be limited.
74. The economic benefits from the construction of the facility would be temporary, although it is estimated that its operation would give rise to 6 full time equivalent jobs. Support for local businesses from wakes would be likely to be limited as I was advised at the Hearing that a local hotel had closed down and there were few other facilities in the locality. Overall, therefore, the economic benefits of the proposal would be modest and attract commensurate weight in my decision.
75. The Competition and Markets Authority (CMA) reported on the crematorium and funerals market in December 2020 and concluded that crematoria services are not functioning well with competition between crematorium operators

generally very muted. The proposed facility would offer a choice of venue for customers, potentially resulting in reduced costs or a better service to the bereaved through increased competition. The Oxted Inspector considered these to be significant benefits of the Oxted proposal.

76. However, at the Hearing, IPS questioned whether this would be the case. The CMA found that price was not a main consideration for the bereaved and only limited evidence of funeral directors improving levels of quality in response to competition. Based on the evidence before me in this appeal I do not share the same conclusions on this matter as the Oxted Inspector and give this alleged benefit modest weight in my decision.

Public Sector Equality Duty

77. The proposed development would advance equality of opportunity by providing choice between religious and secular or non-denominational facilities in accordance with the Public Sector Equality Duty (PSED) under s.149 of The Equality Act 2010. Advancing equality of choice between people who share a protected characteristic and people who do not is one of the three aims of the PSED. The other aims are to eliminate unlawful discrimination and to foster good relations between people who share a protected characteristic and those who do not. The duty does not compel a particular outcome however and 'due regard' is the regard which is appropriate in consideration of the circumstances of the particular case.
78. Religion or belief, including a lack of belief, is a protected characteristic. Thus providing a secular facility would advance equality of choice. However, the appellant did not dispute Horizon Cremation's contention that all sectors of the population are being provided for. The Oxted facility would provide increased choice. Therefore, the potential benefit of granting permission for the appeal proposal to equality would be slight.

Other Matters

Other appeal decisions

79. My attention has been drawn by the parties to a number of appeal decisions other than Oxted. However, these decisions are for different sites in other administrative areas and subject to different development plans. They are therefore relevant to the appeal before me only in general terms. Whilst I have had regard to them I have not found it necessary to make specific comments on any of their conclusions other than as I have done in this decision. Each of those decisions turned on the evidence before the Inspectors, the specific characteristics of each of the sites and the merits of their proposals. My decision is based on the same considerations.

Heritage assets

80. In determining this appeal I must pay special regard to the desirability of preserving or enhancing the setting of listed buildings. Furthermore, the Framework recognises that the significance of heritage assets can be affected by development within their setting. Reference has been made in the submitted evidence to two Grade II listed buildings in proximity to the site and the Grade I listed St Mary's Church at Farleigh Manor. However, none of these listed buildings would be visible in views of the proposed development.

81. The appeal site lies outside the Great Farleigh Green Conservation Area (GFGCA) and is very largely screened from views from within the GFGCA by intervening vegetation. Moreover, these views do not contribute significantly to the character or appearance of the GFGCA or its appreciation. Other potential effects on the special interest and significance of these heritage assets from noise, lighting or emissions would not be harmful given the nature of the proposed use, the distance from the assets and control by conditions were planning permission to be granted.
82. Therefore, the effect on the setting of the listed buildings would be neutral thus preserving that setting. The character and appearance of the GFGCA would not be adversely affected by the proposed development within its setting. Thus there would be no conflict with the heritage policies of the development plan.

Green Belt Balance

83. Cremation facilities meet an essential societal need and the evidence is that this need is not currently being fully met, with demand forecast to rise. However, the societal benefits of the scheme are significantly tempered by the approval of a crematorium at Oxted. If the legal challenge is unsuccessful I have no evidence that this facility would not be constructed.
84. I therefore give little weight to the contribution of the proposed development in the location proposed to meeting this need and to the benefits of the proposal in increasing crematorium capacity and reducing waiting time for funerals. Increased competition between facilities attracts modest weight. The economic and biodiversity benefits of the scheme are also modest. I give little weight to the slight benefit of the advancement of equality of opportunity for the reasons given above. However, taken in combination, these benefits attract significant weight in favour of the proposals.
85. On the other hand, I have found that in addition to being inappropriate development in the Green Belt, the proposed development would result in a moderate overall degree of harm to the openness of the Green Belt and would conflict with the purpose of preventing encroachment. Paragraph 148 of the Framework requires me to give substantial weight to any harm to the Green Belt. Added to this is a moderate degree of other harm to the character and appearance of the area and to the AGLV of which it forms part.
86. The other considerations do not clearly outweigh the harm to the Green Belt and character and appearance that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposals would therefore conflict with Policies DP10 and DP13 of the Local Plan and national policy as set out in the Framework.

Planning Balance and Conclusion

87. The appellant contends that the Council cannot demonstrate a 5-year housing land supply. This is not disputed by the Council. In such circumstances the policies of the development plan are deemed to be out-of-date for applications involving the provision of housing in accordance with footnote 8 of the Framework. However, this appeal does not involve the provision of housing.
88. Nonetheless, if I were to find that the most important policies of the development plan for determining this application were out of date due to their age, paragraph 11 d) of the Framework would be engaged. However, as I have

found that very special circumstances do not exist, the application of Green Belt policy provides a clear reason for refusing the development proposed having regard to paragraph 11 d) i) in accordance with footnote 7 of the Framework. As such, the proposals would not be the sustainable development for which paragraph 11 of the Framework indicates a presumption in favour.

89. Although I have found a measure of support for the proposals from Policy CSP 13 of the Core Strategy and Policy DP18 of the Local Plan, I have found conflict with other policies of the development plan, The conflicts are such that the proposals would not accord with the development plan when read as a whole.
90. Material considerations, including the Framework, do not indicate that a decision should be taken other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Martin Small

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Andy Marshall	Mercia Crematoria Developments Limited
Matthew Parry	Mercia Crematoria Developments Limited
Peter Mitchell	Peter Mitchell Associates
Leo Phillips	FPCR Environment and Design Ltd

FOR THE LOCAL PLANNING AUTHORITY

Stephen Whale QC

Clifford Thurlow	Interim Chief Planning Officer, Tandridge District Council
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INTERESTED PARTIES

Robert Gillespie	Impact Planning Services on behalf of Farleigh Crematorium Working Group
Stephen Bucknell	Impact Planning Services on behalf of Farleigh Crematorium Working Group
Peter Goatley QC	on behalf of Horizon Cremation

Anthony Bateman	Pegasus Planning Group on behalf of Horizon Cremation
Stephen Byfield	Director, Horizon Cremation
Cllr Jeremy Pursehouse	District Councillor Warlingham East, Chelsham and Farleigh; Warlingham Parish Council; Chelsham and Farleigh Parish Council
Cllr Neil Chambers	Chelsham and Farleigh Parish Council
Anna De Vito	Local resident

Appendix 1: Previous appeal decisions

APP/P3040/W/19/3229908 - Land to the East of Main Road, Cotgrave, Rushcliffe

APP/G2245/A/14/2217055 - Land North of Oak Tree Farm, Halstead, Kent

APP/N4720/W/19/3233784 - Land at Garforth Golf Range, Long Lane, Garforth, Leeds

APP/P1805/W/18/3211026 - Land adjacent to New Inns Lane, Rubery, Bromsgrove

APP/C3430/W/15/3039163 - Land off Broad Lane, Essington, South Staffs

APP/A0665/A/12/2186911 - Land south-west of Birches Lane, Lach Dennis, Cheshire

APP/A6835/A/15/3005992 - Kelsterton Lane, Connah's Quay

APP/F2415/A/14/2211858 - Land at London Road, Great Glen, Leicestershire

APP/M1005/A/12/2188880 - Land East of Derby Road, Swanwick, Derbyshire

APP/D0840/A/09/2098108 - Land at Race Farm, Puggis Hill, Treswithan, Camborne

APP/N3020/A/13/2208636 - Land at Orchard Farm, Catfoot Lane, Lambley, Nottinghamshire

APP/R2520/W/19/3236497 - Land to the West of Haddington Lane, Thurlby, Lincoln

APP/M3645/W/19/3224258 - Extension to Memorial Park, Greenlawn Memorial Park, Chelsham

APP/N0410/W/21/3270138 - The Lea, Western Avenue, Denham UB9 4NA

APP/D3830/W/21/3266563 - Land north of Turners Hill Road, Turners Hill, West Sussex

APP/W/20/4000394 - 10-acre Field North of Grevatts, Yapton, West Sussex

APP/L3245/W/19/3236638 - Land off Holyhead Road, Nesscliffe, Oswestry

APP/F2605/W/20/3265479 - Land at Brandon Road, Weeting, Norfolk IP27 0PT

APP/M0933/W/15/3003034 - Fishwicks Ltd, Beetham Hall, Milnthorpe, LA7 7BQ

APP/R6830/A/14/2218954 - Land West of St Asaph Business Park, on South Side of Glascoed Road, At Asaph, Denbighshire

APP/C3420/W/15/3039163 - Land adjacent to Holyhead Road, Wergs, Codsall, South Staffordshire