



Appeal Decisions

Inquiry held on 13-16, 20-23, 27 & 28 February 2024

Site visits made on 26 February and 7 March 2024

by L Gibbons BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2024

Appeal A Ref: APP/A0665/W/23/3325109

Land At Hooton Road, Hooton, Ellesmere Port, Cheshire, CH66 7NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Horizon Ceremonies against the decision of Cheshire West and Chester Council.
 - The application Ref is 21/03663/FUL.
 - The development proposed is Construction of a crematorium with ceremony hall, memorial areas, garden of remembrance and associated parking and infrastructure.
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Appeal B Ref: APP/A0665/W/23/3330664

Land at School Lane, Hooton, Ellesmere Port, CH66 5PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Hooton Paddocks Ltd against the decision of Cheshire West and Chester Council.
 - The application Ref is 22/00817/FUL.
 - The development proposed is Demolition of existing buildings and construction of a crematorium and ancillary works.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 24 May 2024.

Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. For clarity in my decision, I have named the sites Appeal A as 'Hooton Road' and Appeal B as 'School Lane'.

Background and Main Issues

4. In 2008 there was an inquiry relating to a proposed new crematorium off Waterworks Lane, Hooton¹, the appeal was dismissed. This was for a site in a location closer to Hooton station and different evidence was presented to that inquiry. I have determined these appeals based on the evidence before me.

¹ APP/P0620/A/07/2058519

5. It is common ground amongst the parties that both appeal schemes would not meet any of the exceptions set out in paragraph 154 of the National Planning Policy Framework (the Framework) and that they would constitute inappropriate development in the Green Belt. Notwithstanding the fact that Appeal B (School Lane) contains some built development, I agree with that position. Based on all I have seen and heard, the main issues are:
6. For each of the appeals:
 - i) The extent to which there would be harm to Green Belt (including openness and purposes)
 - ii) Character and appearance (including landscape and visual impact)
 - iii) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

For Appeal B (School Road):

- iv) The effect on highway safety and pedestrian access.

For Appeal A (Hooton Road):

- v) The effect on flooding and drainage.

Reasons

Green Belt – openness and purposes

7. Paragraph 142 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 their openness and their permanence. Openness has a spatial as well as a visual aspect to it. Paragraph 143 of the Framework indicates that the Green Belt serves five purposes. In respect of these appeals purpose (c) to assist in the safeguarding the countryside from encroachment and purpose (b) to prevent neighbouring towns from merging are relevant here.
8. Policy STRAT9 of the Local Plan Part 1 Strategic Policies 2015 (LPP1), amongst other things sets out that in settlements and areas of the countryside that are within the Green Belt, additional restrictions will apply to development in line with the Framework. The policy is consistent with the Framework in this respect.
9. Hooton Road. The Hooton Road site is an open field currently in agricultural use. There is a hedgerow along the southern Hooton Road frontage, but the site is visible from the road during winter months when trees are not in leaf. There are some small pockets of wooded areas along the north and west borders of the site, although the eastern boundary of the site is within the open field.
10. In spatial terms, there are no buildings on the site and the proposal would involve the construction of new building of around 2,700m³ alongside car parking, access road, service yards and other features associated with a crematorium. Whilst the development would comprise around 17% of the total

site area, given the open nature of the site at present I consider there would be a significant loss of openness in this respect.

11. I accept that there is already a significant level of activity close to the site particularly from traffic movements along Hooton Road and the M53, and some activity from the adjoining Oaklands Office Park. However, there will be a substantial increase in activity within the site because of the nature of the proposed crematorium use, with people attending cremations, servicing of the building and site, and staff movements.
12. The proposed crematorium would be located in the southern part of the site, the building itself and associated structures would be visible from the footway on the northern side of Hooton Road where the access would be located. There would be glimpses of the building from other locations such as the rear of houses to the east of the field. This would be the case even with the provision of landscaping around the site and the backdrop of the small blocks of woodland to the west and north of the site.
13. Although the speed of traffic heading on to the M53 from Hooton is not slow, I saw from the westbound slip road that the site can be clearly seen. The proposal would be seen from this location for some time to come before landscaping matures sufficiently to screen the development.
14. The changes in spatial terms and activity, these changes would be permanent and would result in a substantial reduction to openness of the Green Belt. The visual aspect of openness in this location would also be significantly negatively affected in the short to medium term and moderately over a long time period once landscaping matures.
15. In terms of the purposes of the Green Belt, this site does make a contribution towards to safeguarding the countryside from encroachment and as a result of the development on the site there would be conflict with the purposes causing harm to the Green Belt.
16. There would be some consolidation of development in this location along the northern part of Hooton Road in combination with the existing residential development along Dale Hey and the business park adjacent to the site. However, the scheme would not lead to the merging of towns and there would be no harm to that Green Belt purpose in this respect.
17. I conclude that the proposed development would cause harm to the Green Belt with respect to openness and the purpose of safeguarding from encroachment. It would be in conflict with policy STRAT9 of the LPP1. It would be contrary to the Framework in respect of protecting the Green Belt.
18. School Lane. The site lies partway along School Lane. Within the site are a bungalow and stables, these would be replaced as part of the development. Nevertheless, there would be an increase of new built development on the site of around 1,900m³, which would be considerable. There would also be associated car parking, access and other features related to the use as a crematorium as with the Hooton Road proposal.
19. The residential and equestrian uses on the site at present generate only a small amount of activity and movement. The proposed crematorium would see a significant increase in activity on the site and along School Lane between

Hooton Road and the A550 during the hours of operation, in comparison to the existing site uses.

20. There are mature hedgerows which mainly screen the site and it can only be seen in a few places through field entrances and gaps in hedges. The crematorium building, although set back from where the current buildings are located, would still be visible from School Lane. This would particularly be at the access with its separate entrance and exit, as would the car park which would be located at the west part of the site, close to the road frontage.
21. Whilst there are existing buildings and activity on the site, I consider the changes in spatial terms and activity would be permanent and would therefore cause a high degree of harm to openness. In visual terms, the new building and features would cause a limited degree of harm taking account of landscaping maturing over time.
22. In terms of the purposes of the Green Belt, this site contributes towards to safeguarding the countryside from encroachment. Even with existing small-scale development on the site at present, with the proposed scheme there would be moderate harm to the Green Belt in relation to this purpose as there would be an increase in built development and other features associated with the crematorium.
23. The site is located between Hooton and Childer Thornton. Additional built development on this site would not lead to an increase in perception of or actual coalescence between these two settlements. This is due to its location away from the A550 and A41 which link the two, and the number of remaining open fields in the gap between them. Therefore, there would be no harm to purpose (b) of paragraph 138 of the Framework in this respect.
24. I conclude that the proposed development would cause harm to the Green Belt with respect to openness and the purpose of safeguarding encroachment. It would be in conflict with policy STRAT9 of the LPP1. It would be contrary to the Framework in respect of protecting the Green Belt.

Character and appearance (including landscape and visual impact)

25. In respect of development proposals, Policy ENV2 of the LPP1 sets out that development should take full account of the characteristics of the development site, its relationship with its surroundings and where appropriate views into, over and out of the site and to recognise, retain and incorporate features of landscape quality into the design. Neither of the appeal sites are located within a national or local landscape designation. I note that the Council did not raise concerns in relation to either scheme in respect of character and appearance including landscape and visual impact.
26. Both sites are described in the Cheshire West and Chester Landscape Character Assessment (LCA) (2016) as being within Landscape Character Type LCA6a Willaston which is characterised by small fields enclosed by a strong network of hedgerows, and scattered woodland with some urban influence. The management strategy set out within the Landscape Character Assessment is to conserve the historic field pattern and reducing the influence of urban intrusion by enhancing woodland cover.
27. Hooton Road. The Hooton Road site comprises a larger arable field than that described in the LCA and only the hedgerow along the Hooton Road boundary

is intact. The areas of mature woodland close to the site do reflect the LCA typology and overall, the site makes a positive contribution to the landscape and character of the area.

28. The proposal would result in the existing field being split into two portions with the eastern half remaining in agricultural uses. The remaining field would be more alike in size to those described in the LCA. However, as well as the building and associated crematorium features such as the car park, memorial gardens and areas of woodland and grassland are proposed. Whilst there would be an increase in ecological features and some informal areas as well as separation from Oaklands Office Park, the use would be much more formal than is currently the case. The site is not visible in longer views, but it is highly visible from the busy Hooton Road in particular. It would significantly alter the appearance of the area as well as increasing urban features in the area, particularly in the short to medium term. However, this harm would be to a modest degree over the lifetime of the development once the proposed landscaping has matured sufficiently.
29. The site was described by residents in particular, as being within what residents see as the middle of the village as part of its essential character. Hooton is a village that comprises some larger pockets of development with scattered ribbon development within the wider surroundings. The development would introduce additional built form in that more central location, causing very limited harm to the character of the village.
30. The location of the site between Hooton Road and the M53 results in a volume of noise which is very noticeable when stood within the site. Generally, crematoria are in quiet and tranquil locations. Mature soft landscaping may reduce the impact of noise. I consider that this is unlikely to be sufficiently effective to reduce it to such an extent that it would not negatively affect the experience of mourners and visitors to the memorial gardens.
31. I conclude that the proposed development would cause moderate harm to the character and appearance of the area. It would be contrary to Policy ENV2 of the LPP1 where it seeks new development that should take full account of the characteristics of the development site, its relationship with its surroundings and where appropriate views into, over and out of the site.
32. School Lane. The site has characteristics which are referred to in the LCA, including the field pattern of smaller fields and strong hedgerows. There are existing buildings on this site. The stables are single storey and commonly found in the countryside. Although the bungalow is not very visible in the landscape from School Lane it has some urbanising influence on the landscape and its removal would be of some benefit. The proposal would be mostly seen from the entrance and exit and would introduce urban features into the landscape. However, the appeal site is not highly visible in the locality and with matured landscaping, it would not cause harm to the character and appearance of the area. It would not be contrary to Policy ENV2 of the LPP1. This is a neutral factor in the consideration of the scheme.

Appeal B (School Lane) – Highway safety and pedestrian access

33. Paragraph 115 of the NPPF states that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety. Policy STRAT10 of the LPP1 amongst other things requires new

development to demonstrate that additional traffic can be accommodated safely and satisfactorily within the existing highway network and that satisfactory arrangements can be made to accommodate the additional traffic before the development is brought into use.

34. The proposed crematorium would be accessed from School Lane. This is a rural lane running between the A550 and the B5133. It has a 60mph speed limit, it is an unlit single track with no footway on either side of the road. Roadside verges are limited, and the road is often very close to field hedgerows. There are potential passing places, but these are either entrances to houses or field accesses and there may be times when these are not available.
35. The width of the road varies from 4.8m but with the majority below this at times being less than 4.1m wide. Traffic levels on the road are currently at around 7 to 9 vehicles per hour and with very limited numbers of pedestrians and cyclists recorded.
36. To the north of the appeal site is the junction of School Lane and Hooton Road. The junction has limited visibility for vehicles travelling north along School Road that are exiting on to Hooton Road. Drivers at the junction are not able to see cars coming from the east until they are 40m away. Mature vegetation is close to the edge of the main highway on Hooton Road and there is no opportunity to improve conditions at the junction due to the constraints of the highway and landownership.
37. The highway safety record at this junction does not suggest that accidents have been caused as a result of this situation, with the current level of traffic using School Lane. However, an increase in traffic using School Lane is predicted with the potential for an increase in risks to safety. The appellant indicates that average numbers of vehicles attending funerals would be around 20, although 75 car parking spaces would be provided suggesting that the numbers of vehicles could be much higher than the average. Normal traffic movements will also continue.
38. In acknowledgement of the concerns about the School Lane/Hooton Road junction, it is proposed to design the exit from the crematorium to be left turn only, so that vehicles head towards the junction of School Lane with the A550. This would result in the majority of traffic departing from the crematorium going to that junction.
39. However, it is possible that drivers may still turn round in the road to head north, particularly as the appellant indicates that is the direction most vehicles will have come from. The introduction of measures such as signage and road markings on Hooton Road may result in a reduction in speed along that road but this will not assist with the lack of visibility.
40. In addition, whilst the majority of traffic would come from the north vehicles could still arrive from the south end of School Lane, with the risks of groups of vehicles travelling to the crematorium as well as normal users of School Lane, meeting at narrower points on the southern part of the lane where it would be very difficult for two vehicles to pass or in other parts of the road having to drive on to verges to pass. I accept that recorded traffic speeds are generally low with some higher speeds at the 85th percentile. Nevertheless, given the increase in traffic, this has the potential to lead to conflict for all users.

41. Informal passing places which are field entrances and access to homes are found along School Lane. However, these may not always be available, not all are properly surfaced and in some cases are only sufficient to accommodate one car. There are some flat areas of verge, but this is not the case along the entire length of the road, and they are not an appropriate alternative to formal passing places or sufficient road width.
42. In response to this, the appellant has proposed a method of overcoming potential conflict at two of the narrowest points in the road by introducing road markings for a 'shuttle' system, which would indicate that one direction of traffic has to give way to another. However, I consider it has not been robustly demonstrated that it could operate safely in the context of people arriving and departing for funerals in groups.
43. Paragraph 114 of the NPPF sets out that development should provide appropriate opportunities to promote sustainable transport, given the type of development and its location and that safe and suitable access can be achieved for all road users. Policy T5 of the Local Plan Part 2 Land Allocations and Detailed Policies 2019 (LPP2) seeks to support development which amongst other things makes safe provision for access to and from the site for all users of development.
44. From the few surveys provided by the appellant for School Lane on how people travel to crematorium, these suggest that travel by car does seem to be preferred over walking or public transport. It is not known whether these crematoria have a travel plan in place, which would be the case if this scheme were to be developed although I do note that one is located close to public transport. I accept that location of the site is rural, and I agree with the appellant it cannot be considered in the same context as a housing development.
45. Nevertheless, any travel plan required for the scheme whilst encouraging car-sharing as a principal method of sustainable transport would also seek to pursue opportunities for staff and visitors to arrive on foot, cycle and public transport. To my mind then, the scheme would need to ensure safety for all users at whatever the numbers of people arriving at the site on foot may be, even it was very low. This would also apply to pedestrians already using the lane. As a result of the increase in traffic, with an average of 20 arrivals and departures per service I do not agree that this would not be a material change for pedestrians because traffic is more likely to be arriving and departing in groups of vehicles rather than single vehicles which is the case at the moment.
46. The site can be accessed by foot from the station and bus stops along Hooton Road. Pedestrians would need to cross Hooton Road from the north side on the to the junction with School Lane. The speed limit along Hooton Road is 40mph and it is a busy road, which I experienced on my site visit. There are no crossing facilities, and nothing is proposed to be provided in this respect.
47. Whilst there are no recorded accidents involving pedestrians either here or along School Lane, my experience was that Hooton Road does not feel particularly safe to cross. Once on School Lane, pedestrians have to walk in the road and that may be a choice for some people. Although the northern portion of the lane from the appeal site is widest here, particularly with larger or faster moving vehicles it is still necessary to step on to the verge, which at the time of year during my site visits was wet and very muddy and not entirely safe.

Walking on some of the southern parts of the road involves staying in the road where the road is narrow, at bends and very often with no verges and in some cases poor visibility to see on-coming vehicles.

48. According to the appellants' average trip generation the number of vehicles on the road will double. Therefore, pedestrians are likely to encounter corteges and groups of cars, possibly in both directions given the timing of cremations and arrival and departures.
49. It has also been proposed that where possible, there should be markings on the road and signage denoting a pedestrian priority system for vehicles to avoid where possible and to allow pedestrians to walk safely along the length of the lane. The appellant has referred to 4 examples where this has been used in other locations. These are within 30mph speed limits, where actual speeds are likely to be lower than those on School Lane. The Kettlewell scheme is provided for pedestrians to access the school which is located slightly away from the main settlement but still within the 30mph zone. It is mainly a straight road with a few gentle curves and is not as narrow as on the southern part of School Lane.
50. The proposals for School Lane were assessed through a Road Safety Audit² and no concerns were raised except to provide additional signage. However, this type of system alongside pedestrian markings does not appear to have been used in this context before. I consider it is not adequately demonstrated that it would work safely and if the 'shuttle system' area was also in place in these locations, or whether the system could work with corteges meeting that contain a number of cars. Some widening of the road in places is also proposed, with some very limited benefit to existing users. This would be in three short stretches, but the rest of the road would stay unlit and narrow.
51. In respect of the Flintshire appeal decision³, in order for that scheme to be acceptable carriageway from the B5126 to the entrance on Oakenholt Lane, a condition was required for the road to be widened to 4.8m and a path from the junction with the B5126 was to be provided to enable safe pedestrian access. The road widening appears to have been implemented. However, that there does not seem to be a footway in place, does not equate to the School Lane scheme being acceptable in that regard.
52. The visibility splays at the site access to the proposed crematorium have been agreed with the Council. To the north of the site, the visibility splay has been designed to be in line with the guidance for the Design Manual for Road and Bridges and to the south, the Manual for Streets. I note this is an unusual position to adopt. Nevertheless, were other matters acceptable, I am satisfied that it would in any event be possible to achieve a 2.4mx51m visibility splay via a suitable condition.
53. The proposal would provide sufficient parking and cycle spaces to accommodate the proposed development, electric vehicle charging points would also be provided. The Council does not raise any concerns about the proposal on the wider highway network and based on the evidence before me I see no reason to disagree. However, this matter and that relating to visibility splays are not sufficient reasons to overcome the harm I have found.

² Appendix 20 SL7.4

³ CD6.12

54. For the reasons given above I conclude that the proposed development would cause harm to highway safety and would fail to provide suitable pedestrian access. It would conflict with policy STRAT10 of the Cheshire West and Chester Local Plan Part 1, and policy T5 of the Cheshire West and Chester Local Plan Part 2. It would be contrary to the NPPF where it relates to highway safety and providing safe and suitable access to all users. I give this significant weight against the proposal.

Appeal A (Hooton Road) – Flood risk and drainage

55. Policy ENV1 of the LPP1 seeks to reduce flood risk, promote water efficiency measures, and protect and enhance water quality and developers will be required to demonstrate, where necessary, through an appropriate Flood Risk Assessment (FRA) at the planning application stage, that development proposals will not increase flood risk on site or elsewhere, and should seek to reduce the risk of flooding.
56. Dibbinsdale Brook lies to the west of the site and flows north to south. The site is mainly within Flood Zone 1, but the site does contain a small amount of land near to the Brook within Flood Zone 2/3, which is at higher risk of flooding. The built form of the scheme would be within Flood Zone 1. The site-specific Flood Risk Assessment (HR1.20) includes measures to ensure that the building would have flood resilience measures incorporated into it.
57. Policy ENV1 of the LPP1 also requires that the drainage of new development shall be designed to reduce surface water run-off rates to include the implementation of Sustainable Drainage Systems (SUDS) unless it can be demonstrated that it is not technically feasible or viable. Sustainable drainage measures are proposed.
58. There is a risk of surface water flooding between the site frontage and the Brook. Some of the car park and access drive would be in this area. A drainage strategy submitted as part of the application⁴ proposed attenuation measures on site and discharge into the Brook, which will require a permit. The owners of the Oaklands Office Park have raised concerns about landownership and access to the Brook and this has potential implications for delivery. In the Statement of Common Ground on Drainage and Flood Risk⁵ between the two appellants possible solutions to this are proposed, which have been discussed with the relevant statutory undertakers.
59. There are known surface water flooding problems along Hooton Road which have resulted difficult driving conditions with the road being flooded. There are surface water drainage proposals which seek to resolve this, although in respect of offsite flow passing through the site the details of flow velocity and resulting hazard on site, details have not yet been fully tested.
60. Whilst this may result in improvements in the surface water condition of the road it is a requirement of Policy ENV1 of the LPP1 for new development to include or contribute to flood mitigation, compensation and/or protection measures, where necessary, to manage flood risk associated with or caused by the development.

⁴ HR1.19

⁵ ID14

61. Based on the evidence before me and having regard to the potential solutions outlined in the Drainage and Flood Risk Statement of Common Ground, I consider that the matters relating to the discharge to the Brook and surface water are capable of resolution. These could have suitable conditions attached were other matters acceptable. There is little evidence to indicate that this would have a significant effect on the ability of the scheme to bring forward including for the memorial garden and informal areas related to the crematorium.
62. Paragraph 168 of the Framework sets out that the aim of the sequential test is to steer new development to areas at the lowest risk of flooding from any source and development should not be permitted if there are reasonably available sites appropriate for the development in areas at lower risk of flooding. Policy ENV1 of the LPP1 similarly requires the sequential approach to be followed. I note that the Council does not hold a register of available sites for crematorium, and I have had regard to alternative sites that have been suggested by interested parties. Alternative site searches were undertaken by the appellant and given my findings on School Lane with regard to highway safety and pedestrian access I am satisfied that this is not reasonably available for this type of development at this point in time.
63. For the reasons given above, I conclude that the proposal would not cause harm in respect of flood risk and drainage. It would not conflict with Policy ENV1 of the LPP1, and it would not be contrary to the Framework where it relates to planning and flood risk. I find this a neutral factor to which I attach no weight.

Other considerations

The need for a crematorium

64. The existing crematorium that serves the west of Cheshire West and Chester Council's area and all of Wirral Metropolitan Borough are at Blacon and Birkenhead Landican. I have also referred to Flintshire crematorium in my decision. I note that it is agreed between the appellants that Flintshire crematorium predominantly served the population in Flintshire as set out in the Statement of Common Ground. There is also anecdotal evidence to suggest it is used by local Hooton residents albeit in a limited way. Nevertheless, Mr Mitchell's evidence for Horizon Ceremonies includes data relating to Flintshire, and there is some overlap between the isochrones of unconstrained drivetime between Flintshire and Blacon.
65. There is no formal methodology for assessing crematorium capacity or need, although some principles have become established through several planning appeals.

Quantitative need

66. The quantitative need for a crematorium focuses on the capacity of existing crematoria where relevant. The technical capacity of a crematorium is defined by the parties as the total number of slots available for funeral services each year. The core capacity of a crematorium can be defined as the total number of slots available at preferred core times for funeral services each year although there are alternative definitions. Practical capacity is 80% of its core capacity where a crematorium can be over capacity if it exceeds practical capacity in the

peak month. Another approach relates to practical capacity in an average month, the evidence from the appellants presents both scenarios.

67. Time period covered by the evidence. The data on capacity provided by Mr Mitchell covers the period between 2016 and 2022. 2020 and 2021 also represent Covid pandemic years with excess deaths recorded and as such are unlikely to be completely representative although I note that death rates are increasing. I agree with the Council that the figures from these years should therefore be treated with caution as they may not necessarily represent current operating conditions. Mr Evan's figures included in his Proof of Evidence focus mainly on 2022.
68. Core times. The level of demand for certain slots in the single busiest or peak month for each year is a component of assessing the capacity of a crematorium. The definition of core times would inevitably influence the outcomes of assessment of the capacity at existing crematoria. Core funeral times Monday to Friday are more preferred by bereaved people than later slots and weekends. This is to avoid rush hour traffic and to allow people to travel from further distances for example.
69. Mr Evans considers that the period between 10.30am to 3.30pm should be used and that he referred to two surveys at West Berkshire and Fenland in support of this. I accept that Mr Mitchell's personal preference is also for a shorter period and has advanced this concept at other inquiries. I note that some appeal decisions have been determined on the shorter core slot time period. However, many inspectors have also not referred to which core times are acceptable.
70. Nevertheless, Mr Mitchell's evidence to this Inquiry uses core funeral times of between 10am to 4pm for robustness. There are also crematorium operators that use this time. Even though Mr Evans questioned the reasoning behind Dignity which is an operator using 10am-4pm as the core slot definition, this is what they do use. Additionally, even if a 30-minute drive time was to be the 'starting point', a 10am start time for core slots would be sufficient in most cases to allow mourners to avoid rush hour traffic in this area. I consider that the 10am-4pm is therefore an appropriate period to use for the assessment of capacity, based on the evidence before me.
71. Landican capacity. Having regard to the 2022 figures produced by Mr Evans⁶ this indicates that Landican was operating at over 100% of capacity in an average month and peak month although this figure will rely on his use of the shorter core slots. Mr Mitchell's figures for the five-year period indicate both a level of practical capacity in an average month and in a peak month is also over well over 100%. Excluding pandemic years, the limited number years either side of this do demonstrate it being over the 80% figure. There was no effect when Flintshire opened as Landican is some distance away from it.
72. The level of practical capacity on both measures of average and peak month therefore show it is operating over its capacity. This is unsurprising considering Landican is one of the busiest crematoria in the UK having been in the top three in recent years.

⁶ SL7.3

73. Blacon capacity. In respect of Blacon, Mr Evans figures for 2022 indicate that Blacon is at practical capacity in the average month of over 80% and during the peak month over 100%. Excluding the pandemic years, Mr Mitchell's data also indicates that Blacon is operating well above 80% of practical capacity in peak and average months.
74. Flintshire capacity. In 2018 Flintshire opened part way through, and its trading pattern was not fully established in 2019. Mr Mitchell's evidence in relation to Flintshire indicates that the level of practical capacity in the peak month exceeded the 80% threshold between 2020 and 2022 at 83.9%, 85.6% and 92.4%. 2020 and 2021 are pandemic years and whilst the figure for 2022 is above the 80% given the lack of data over a period of years, this to my mind does not represent conclusive evidence that Flintshire is operating significantly above capacity consistently.
75. Future need. There will be an increase in the number of deaths particularly as the numbers of the UK population aged over 65+ will increase. This is also true for this area. Cremation rates remain high in comparison to burials, and an increase in death rates would have an impact on capacity. It is not possible to predict whether any future pandemics will affect this figure. Even having regard to the Timmins judgement⁷ and taking pandemic planning into account this is so uncertain that it is not possible to say what capacity is required and consequently to what extent a new crematorium would provide relief.
76. Direct cremations. Direct cremations include a number of different arrangements for the cremation of the deceased, most often without the attendance of the bereaved at the ceremony. The picture at the national level in the Sunlife Cost of Dying Report 2023⁸ suggests that just under 20% of cremations taking place are direct and to my mind there does appear to be a market for this even outside of the pandemic and having regard to the fact that growth may be levelling off. Locally, at Blacon and Landican these only account for a very small percentage of slots taken up although the proportion is much larger at Flintshire as this is a service offered by the operator there.
77. Whilst direct cremations may not take place to any scale at Blacon and Landican, it may be that direct cremations do start to have more of an impact on the number of funeral services there. There is limited data at present on what contribution this service will make to the area in future years. Nevertheless, it does widen choice and despite Mr Evans suggesting that this trend has come to a halt, this does not appear to be the case at present based on the evidence before me. Direct cremations may therefore have a slight positive impact on the capacity at Blacon and Landican even if they don't offer this to any great extent directly.

Qualitative need

78. Qualitative factors can include the availability of preferred slots, journey times, congestion at crematoria and cremator capacity for larger coffins. Other quality issues relate to costs, value and personalisation. There are some links between crematoria which are operating at overcapacity and the qualitative experience

⁷ CD7.5

⁸ CD8.5

they can offer. National research such as the 'Trajectory Report'⁹ indicates how people's experiences can be compromised by qualitative issues.

79. Preferred slots. Delays between death and the funeral can lead to poor qualitative experiences for the bereaved. I accept that people would want a cremation within two weeks as described by Mr Evans, with some requiring a period of 1 or 2 days due to their religion. Longer time periods will be unacceptable and in some appeal decisions a delay of two to three weeks has been cited as being so, and as a factor that has contributed the Inspectors conclusions on a need existing.
80. In terms of whether there is a clear link between delays for funerals and capacity concerns, the appellants' evidence relating to obituary notices show that at Blacon and Landican there were delays of around 2 to 4 weeks and 3 to 4 weeks respectively including during the peak months, there is also some limited local survey evidence to support these time delays, including from a small number of local funeral operators and celebrants. This will clearly cause distress for mourners.
81. However, there are other factors that can lead to delays, such as obtaining death certificates, availability of funeral directors and getting family together. At Flintshire, which was operating well within capacity in 2019, there were average periods of 16 days in July between death and cremation, whilst this is less than the longest period at Blacon and Landican, it does indicate that these other factors can also have an effect on delays. I note that in some other appeal decisions the link between delays and capacity have been accepted. However, I consider the evidence before me on delays in death to funerals does not robustly demonstrate a clear link with high capacity that is sufficient to contribute to the need.
82. Congestion at crematoria. Landican with its South and Central chapels offer twelve 60 minute and four 30-minute service intervals starting at 09:00 and with the final one at 15:30. Landican was constructed in 1934 as a cemetery and its layout represents a period when burials were the most common form of funeral and car ownership was very significantly below that today.
83. On the day I visited Landican unaccompanied there were arrivals and departures of corteges. I accept that the services are intended to be organised so that those attending funerals should not encounter each other. However, as the chapels are very close, I saw that it was inevitable that they would. There is very little by the way of covered entrances or space to gather separately for each chapel. I note that there are plans to improve the situation and invest in the physical infrastructure of the site. However, there does not appear to be a timetable for this.
84. Cars use the same main entrance to arrive and depart, although this is not uncommon in my experience. There is no formal car park with mourners and visitors parking on the internal roads. There is sufficient parking within the cemetery for the use of all three chapels, albeit it is not entirely clear where to park for each chapel despite some limited signage and this may add to the confusion about where to park. I consider that mourners are most likely out of the three crematoria to see other mourners for more prolonged periods of time, which could have a negative effect on their overall experience of the service.

⁹ CD8.15

However, there is no detailed survey evidence directly relating to Landican that demonstrates this is happening.

85. Landican does have three chapels and at present the North chapel is not as well used for cremation services with the South and Central chapels being the main focus. Over the years of 2021 and 2022 there were relatively few cremations as a proportion of the total cremations held there. The use of the North chapel may help increase capacity but with the current layout of the buildings without proper separation of groups of people, the feeling of being 'processed' is likely to remain.
86. Blacon has 40-minute service intervals starting at 09:20 and the final one is at 15:20. In respect of how the service intervals compares to other crematoria, I note that the proportion of crematorium offering only 60-minute service intervals has increased and this may continue to increase based on current trends. However, a significant proportion of crematorium still offer 40 minute or 45-minute slots. Indeed, the Institute of Cemetery and Crematorium Management have a Charter for the Bereaved¹⁰ which sets a charter target of 40 minutes for service intervals.
87. The appellants consider the Charter to be out of date. I accept there is a move towards longer services as a growing trend and Blacon is not part of this trend. Nevertheless, there has been no revision to the charter target and no other formal target was provided. The slots offered at Blacon are within this target.
88. The crematorium at Blacon is relatively new and offers a modern facility. There is sufficient parking provided outside of the building and also along the exit to the crematorium. Whilst some mourners have to walk a little distance to the chapel and can meet other mourners there is no evidence to indicate that this leads to negative experiences. There is a single entrance and a separate exit and an area where people can gather after a service, which is screened from the main car park and entrance.
89. At the time of my unaccompanied visit to Blacon, I saw that people were able to gather at the front of the building on arrival and then wait outside in this separate space once the funeral had been completed, with the two groups of people not walking directly into other large groups.
90. The services are shorter in comparison to those at Landican and Flintshire, and I note that fines can be given to those who overrun. However, taking account of the above factors relating to the chapel's physical arrangements which do not appear to lead to parties meeting in the way it was suggested to me it would. I consider the shorter time slots to be reasonable and does not represent a significant element of qualitative need for a new crematorium despite Blacon operating at high capacity. I accept that the size of the cremator at Blacon may result in having to use Flintshire as an alternative but there was no evidence to link this with a negative qualitative experience.
91. Flintshire is also a modern facility, offering mainly 60-minute slots. Even with ample parking and people arriving and departing for funerals I saw that they will be aware of each other, but they are not in close proximity as there were separate entrances and exists. Seeing people arrive and depart who are not at the same funeral may therefore even be commonplace with longer services.

¹⁰ CD8.14

92. The layout of the buildings at Blacon and Flintshire are not particularly at odds with the proposed layouts of the Hooton Road and School Lane schemes as they are newer facilities, and it is appeared to me that it is unlikely that the experience of mourners is negative in the way that it may be at Landican.
93. Journey times. A natural catchment of a new crematoria at Hooton is agreed by the appellants in the Statement of Common Ground on Need as being approximately between 120,000 and 137,000 residents within the two areas. The wider catchment would be over 500,000. In relation to journey times to existing crematorium, Mr Mitchell's evidence on drivetime isochrones for the crematorium at Blacon, Landican and Flintshire indicates that around 2,500 people would be first served by either of the appeal schemes.
94. In the Oxted appeal¹¹ around 70,000 people would have been first served by that appeal scheme, other appeals include figures that are significantly more than that. In the Brodsworth appeal¹² the Inspector concluded that just over 2,000 people being first served within the 30-minute drive time was not sufficient to demonstrate need.
95. The situation before me is similar to Brodsworth with a very small number of the population being first served. I accept that people are likely to use a crematorium closest to where the deceased live and that journey times may be reduced for some residents if a crematorium was to be built at Hooton. However, given the extremely small number of people first served, this is not sufficient to demonstrate a qualitative need for a new crematorium in this respect.
96. Other qualitative matters. The architecture at Landican is very representative of the time in which it was built. The three chapels have some external Christian iconography, and internally the chapels have an older style and design. I understand that should it be necessary the team at Landican can cover or remove internal iconography should this be necessary, but the external appearance cannot be altered. This means that the experience here may not be positive for people of a non-Christian or of no faith. Internally, the chapels are not unpleasant but do not necessarily represent modern standards which some people expect.
97. The Council have suggested that the length of service intervals could be changed at the crematoria to increase capacity, and various alternatives were tested through Mr Mitchell's evidence. Whilst I do not consider that Flintshire is demonstrated to be operating over capacity consistently, I note that it does offer different service lengths. It is unlikely that Blacon would change service times at present. In terms of Landican, it may be possible to alter times but for reasons given above I do not consider that this would necessarily improve the qualitative experience of mourners unless accompanied by infrastructure improvements. In any event, based on Mr Mitchell's evidence on capacity which assesses the potential for shorter slots at Landican, the levels of practical capacity still exceed the 80%.

Conclusions on need for a new crematorium

98. As with many other assessments of needs, the methodology for the need for a crematorium is not an exact science and the data can be subject to some

¹¹ CD6.14

¹² CD6.15

errors. Nevertheless, I consider there is a need to particularly provide relief for Landican, which is operating at very high capacity. There is also a limited qualitative need in relation to Landican based on the facilities it offers at present, particularly given the absence of evidence on when these are likely to be improved.

99. With Blacon, even with the five-year period of data presented being treated with caution, there is also some evidence that it is operating at high capacity. However, qualitatively there is little evidence before me to suggest that the high capacity is specifically leading to issues in how mourners experience services there.
100. The Council and the appellants agree that either appeal scheme would contribute to a choice of crematorium and increase the availability of core slots in general. The Inspector in the Rubery appeal decision¹³ in cross referring to another decision acknowledges the capacity basis on which a 'compelling need' was established. However, whilst the Council and the appellants use this term consistently, 'compelling need' is not a test referred to in the Framework, in Local Plan policy or in any other guidance and in very few appeal decisions relating to the need for a crematorium. A new crematorium in this area would provide additional core slots, which would provide capacity relief to Landican and an additional qualitative improvement for some mourners in respect of Landican and also in relation to capacity constraints at Blacon.
101. Neither appellant have directly made the case that if need for a crematorium was demonstrated then both sites would be required, although even if both schemes were acceptable, there is not sufficient evidence to justify a need for two crematoria in a very similar location in any event. I conclude that there alongside social benefits which would follow, there is also a demonstrated need for a new crematorium in the area to which I attach significant weight.

Alternative sites

102. The 1902 Cremation Act¹⁴ requires crematoria to be located at least 200 yards away from the nearest dwelling and 50 yards from the public highway. I accept that in this area, it makes it difficult to find locations outside of the Green Belt. Alternative site assessments¹⁵ have been undertaken by both appellants. Alternative locations have been suggested by HADRA and these were considered by the appellants but not taken forward as realistic options due to site circumstances. I am satisfied that the appellants undertook robust site assessments, and at this particular point in time there are no suitable or available sites which would be alternatives to the two schemes before me. I give this limited weight in favour of the appeal schemes.

Employment

103. Each of the appeal schemes would provide construction jobs and a very small number of permanent jobs with some additional supply chain and indirect economic benefits to those involved in funeral services. Paragraph 85 of the NPPF states that significant weight should be given to the need to support economic growth and productivity, taking account local business needs and wider opportunities for development. Taking account of the temporary nature

¹³ CD6.7

¹⁴ CD8.1

¹⁵ CDHR1.14 Hooton Road and CDSL1.28 School Lane

of the construction jobs and the small-scale nature of permanent jobs in both schemes I give this benefit moderate weight in favour of the separate schemes.

Health and wellbeing of residents (Hooton Road)

104. In respect of the effect on the health and wellbeing of residents, local residents have raised concerns about the presence of a crematorium close to homes and in particular potential impacts on mental health. This is particularly the case for the Hooton Road scheme which is much closer to a number of residents than the School Lane site.
105. I accept that residents will be aware of the development at Hooton Road, particularly for people living on Vernon Avenue and Hooton Way, where the scheme may be visible from a few first-floor windows. Funeral corteges passing along Hooton Road would also be noticeable and for some people the closeness of their home to a crematorium would cause some harm to mental health. Policy SOC5 of the LPP1 states that development that gives rise to significant adverse impacts on health and quality of life, including residential amenity, will not be allowed and I conclude the proposal would conflict with this policy. However, given the small number of people likely to be directly affected I give this harm very limited weight.

Best and most versatile agricultural land (Hooton Road)

106. Policy STRAT1 of the LP P1 amongst other things seeks development that minimises the loss of greenfield land and high-grade agricultural land. The site includes grade 2 quality agricultural land which is of high quality. There would be loss of agricultural land due to the proposal and there would be harm in this respect. However, the rest of the field would be retained in agricultural use and taking account of the supply of agricultural land in the area I give limited weight to this harm.

Biodiversity

107. The requirement for proposals to deliver a 10% increase in biodiversity net gain is only applicable to applications submitted after 12th February 2024. Policy ENV4 of the LPP1 and Policy DM44 of the LPP2, which amongst other things seek biodiversity net gains from development.
108. Hooton Road. I accept there were 'trading errors' in the appellants Biodiversity Metric Calculator relating to a loss of one particular type of habitat. However as clarified at the Inquiry, additional habitat will be included within the scheme, and I am satisfied this can be accommodated within the landscaping masterplan subject to a suitable condition. The proposal would protect and enhance biodiversity and would be in accordance with ENV4 of the LPP1 and Policy DM44 of the LPP2. This has moderate weight in favour of the appeal taking account of the Local Plan policy requirements to seek a net gain.
109. School Lane. The proposal would provide a considerable net gain in biodiversity, and it would contribute to an Environmental Restoration Area. The scheme would be in accordance with ENV4 of the LPP1 and Policy DM44 of the LPP2. This has moderate weight in favour of the appeal taking account of the Local Plan policy requirements to seek a net gain.

Oaklands Office Park (Hooton Road)

110. To the west of the Hooton Road site is Oaklands Office Park. The owners of Oaklands raise concerns about the impact of the proposed crematorium on the viability of the office park. However, there was no detailed evidence to suggest that a crematorium would have a negative effect on its viability. Whilst some occupiers of the buildings at the office park may be able to see the crematorium because their office windows face east, there would be sufficient separation between the two sites by the Brook and landscaped areas of the crematorium that the site would not be overly prominent.
111. In terms of whether individual businesses would choose to leave the site, again there was no direct evidence from tenants that this would be the case. I conclude that the presence of a crematorium would have no demonstrable negative impact on Oaklands Office Park based on the evidence before me. This is a neutral factor in the consideration of the scheme.

Other matters

112. Hooton Road. The proposed development would be accessed by vehicles via a priority junction from Hooton Road. There are no objections from the Highways authority and based on the evidence before me, I see no reason to disagree. The site is in a location with good access to bus and train services. It would be in accordance with policy STRAT10 of the LPP1 and is a neutral factor in my consideration of the scheme.
113. School Lane. In respect of drainage and flood risk, the site is in Flood Zone 1 and even taking account of the utilities on the site, I am satisfied that a suitable drainage scheme could be provided by means of an appropriate condition were other matters acceptable. It would not be in conflict with Policy ENV1 of the LPP1 and is a neutral factor in my consideration of the scheme.

Green Belt balance

114. As set out in the NPPF inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight is given to the harm to the Green Belt by reason of the proposals being inappropriate development, the impact on openness and purpose to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.

Appeal A: Hooton Road

115. I have found that a need does exist for a new crematorium, and it would provide social benefits to which I have collectively given significant weight. I have concluded that employment and biodiversity benefits would have moderate weight in favour of the scheme. The lack of alternative sites also weighs in favour of the scheme.
116. For the reasons set out above the proposal at Hooton Road would result in a loss of openness and it would represent an encroachment into the countryside contrary to the Green Belt purpose set out in paragraph 143 of the Framework. I give this harm substantial weight. Alongside this harm, I have concluded that there would be harm to character and appearance of the area, to the health

and wellbeing of residents and harm from the loss Best and Most Versatile Agricultural Land.

117. The other considerations do not clearly outweigh the harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Appeal B: School Lane

118. I have found that a need does exist for a new crematorium, and it would provide social benefits to which I have collectively given significant weight. I have concluded that employment and biodiversity benefits and social benefits for a crematorium would have moderate weight in favour of the scheme. The lack of alternative sites also weighs in favour of the scheme.
119. For the reasons set out above the proposal at School Lane would result in a loss of openness and it would represent an encroachment into the countryside contrary to the Green Belt purpose set out in paragraph 143 of the Framework. I give this harm substantial weight. Alongside this harm, I have concluded that there would be harm to highway safety, and it would fail to provide suitable pedestrian access.
120. The other considerations do not clearly outweigh the harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Overall balance and conclusions

Appeal A: Hooton Road

121. The proposal would be contrary to the development plan when taken as a whole, and there are no material considerations which would indicate a decision other than in accordance with the development plan.
122. For the reasons given above, I conclude that the appeal should be dismissed.

Appeal B: School Lane

123. The proposal would be contrary to the development plan when taken as a whole, and there are no material considerations which would indicate a decision other than in accordance with the development plan.
124. For the reasons given above, I conclude that the appeal should be dismissed.

L Gibbons

INSPECTOR

APPEARANCES

FOR THE APPELLANT (APPEAL A – Hooton Road):

P Goatley KC and S Davies, Counsel, instructed by E Williams, Addleshaw Goddard

P Mitchell	Peter Mitchell Associates
N Shaw	Integra Consulting
T Robinson	Robinson Landscape Design
A Devenny	Systra Ltd
R Barton	AshtonHale Ltd

FOR THE APPELLANT (APPEAL B – School Lane):

A Tabachnick KC instructed by J Naylor of Emery Planning

J Naylor	Emery Planning
R Evans	Hooton Paddocks Ltd
P Leaver	David Wilson Partnership Ltd (for LHC Design)
D Roberts	SCP
R Nicholas	Betts Hydro

FOR THE LOCAL PLANNING AUTHORITY:

I Ponter, Counsel instructed by L Wheeler, Cheshire West and Cheshire Council

A Nicholls	
Jeremy Douch	AECOM Ltd

FOR HOOTON AND DISTRICT RESIDENTS' ASSOCIATION:

Dr S Oliver
S Roberts
R Burgess

INTERESTED PARTIES:

N Casselden	on behalf of Etonbrook Ltd
Cllr M Hogg	Ward Councillor
M Richards	Local resident

INQUIRY DOCUMENTS

- ID.1: Updated Statement of Common Ground – Need between Appellants for Appeal A and Appeal B and the Council
- ID.2: Errata to Proof of Evidence of Tom Robinson
- ID.3: Errata to Proof of Evidence of Richard Barton
- ID.4: Response by Lisa Parkes, Cemeteries and Crematorium Senior Manager to Rebuttal Proof of Evidence of Peter Mitchell
- ID.5: Opening Statement Appeal A Hooton Road
- ID.6: Opening Statement Appeal B School Lane
- ID.7: Opening Statement Council
- ID.8: Opening Statement HADRA
- ID.9: Statement on behalf of Etonbrook Limited
- ID.10: Notes on Appeal Decisions re Core Slots – Mr Alyn Nichols
- ID.11: Biodiversity Net Gain Assessment - Land at Hooton Road (February 2024) Rev J
- ID.12: Table of Comparative Existing and Proposed amounts of Development for Appeal Sites
- ID.13: Biodiversity Net Gain Headline Figures extract – Land at Hooton Rd
- ID.14: Statement of Common Ground – Drainage and Flood Risk between Appellants
- ID.15: Errata to Proof of Evidence of Peter Mitchell
- ID.16: Biodiversity Net Gain Assessment – Land at Hooton Road (February 2024) Rev K
- ID.17: Biodiversity Net Gain Headline Figures extract – Land at Hooton Rd (Rev K)
- ID.18: Biodiversity Net Gain response from Verity Webster
- ID.19: Cover letter re Biodiversity Net Gain – Hooton Rd Appeal
- ID.20: Decision Notice (09/11/12) School Lane 12/03080/FUL
- ID.21: Closing Submissions - Council
- ID.22: Closing Submissions - HADRA
- ID.23: Closing Submissions – Appeal B (School Lane)
- ID.24: Closing Submissions – Appeal A (Hooton Road)

DOCUMENTS FOLLOWING THE CLOSE OF THE INQUIRY

- 1 Updated list of conditions dated 8/3/24 – Appeal A
- 2 Updated list of conditions dated 8/3/24 – Appeal B