



**Planning Proof Appendix 2 – Appeal Decision (ref: APP/N0410/W/21/3270138)**



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## Appeal Decision

Inquiry held on 6 and 7 July and 16, 17 and 18 November 2021

Site visits made on 28 June and 17 November 2021

**by Katie McDonald MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 16 December 2021**

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**Appeal Ref: APP/N0410/W/21/3270138**

**The Lea, Western Avenue, Denham UB9 4NA**

- 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 Anoopam Mission against the decision of Buckinghamshire Council.
  - The application Ref PL/19/4159/FA, dated 29 November 2019, was refused by notice dated 4 September 2020.
  - The development proposed was originally described as “a crematorium with associated landscape, biodiversity and access enhancements”.
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### Preliminary Matter

1. I have used a different description in the formal Decision from that above. This is because the description of development has been amended by agreement with both parties from that on the application and appeal forms. This is to include the dining hall and widening of the access roads within the description, which is clear from the plans and accompanying details. I am satisfied no party would be prejudiced by the change to the description of development, and the resumed Inquiry notice to interested parties contained the amended description.

### Decision

2. The appeal is allowed and planning permission is granted for the erection of a crematorium, dining hall and widening of access road with associated landscape and biodiversity enhancements at The Lea, Western Avenue, Denham UB9 4NA in accordance with the terms of the application, Ref PL/19/4159/FA, dated 29 November 2019, subject to the conditions set out in the attached Schedule.

### Application for costs

3. An application for costs was made by both main parties against each other. The Council applied for a partial award of costs and the appellants a full or partial award. These applications are the subject of separate Decisions.

### Procedural Matters

4. Prior to opening the Inquiry, I was informed by letter that notification upon 2 landowners had not been served. The requisite notifications were then served on 28 June and 1 July 2021. I opened the Inquiry on 6 July 2021 but raised strong concerns about the procedural fairness of running the Inquiry. I agreed

to hear the Council's and appellant's opening statements and from 2 interested parties. I then adjourned so the appellant could attempt to contact the landowners prior to resuming the following day. No response was received. Consequently, I decided that to continue the Inquiry would not be in accordance with the Frank's Principles as the interested parties may wish to participate. The Inquiry was adjourned until November. The interested parties concerned sent objections in relation to traffic and highway safety. They have since removed their objection, but asked that I consider improvements, such as passing places to Denham Court Drive. This is addressed below.

5. A planning obligation was presented in draft form prior to the Inquiry. This was discussed and a finalised copy was received at the Inquiry. I have considered this accordingly.
6. Following the cross examination of the Council's need witness, the Council's planning witness reconsidered his position in relation to the planning balance. This resulted in the Council concluding that the other considerations now amounted to the very special circumstances required to clearly outweigh the harm. Both parties' planning witnesses and the appellant's need witness were made available to answer questions, but no cross examination of these witnesses took place.
7. Given the Council's position at the end of the Inquiry, this decision focuses upon issues stemming from the development plan and national policy only.

### **Main Issues**

8. The site is in the Green Belt. The proposal would be inappropriate development having regard to the National Planning Policy Framework (the Framework).
9. Therefore, the main issues are:
  - (a) The effect of the proposal on the openness and purposes of the Green Belt; and,
  - (b) Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

### **Reasons**

#### ***Site description and proposal***

10. The Anoopam Mission is a Hindu Temple located to the east of Denham and to the north of the A40. The site comprises around 6.3 hectares and is roughly square in shape, with a thin 'tail' extending along the proposed access road to Denham Court Drive, which is bounded by 2 large fishing lakes on the site of a former gravel workings. The site is generally flat, and the River Misbourne runs adjacent to the eastern boundary. The site contains several mature trees and extensive planting surrounds the site, visually obscuring it from wider views.
11. The site currently contains the recently constructed Temple building (including accommodation and offices), along with a 2 storey brick building and several detached single storey outbuildings. A mixture of stone and tarmac car parking areas surrounds the existing buildings. As a condition of the Temple planning permission, demolition of the main 2 storey building is required upon substantial completion or occupation of the Temple development.

12. The proposal is for a crematorium on the southern part of the site. The design of the crematorium building, and associated facilities has been specifically tailored and architecturally designed to meet the needs of the Hindu community, and will not compete for general population cremations, although there is the potential for use by non-Hindu users comfortable with faith specific iconography such as the Jain and Sikh faith groups.
13. The proposal would comprise: 2 waiting rooms, 2 private ritual rooms for pre-ceremony rituals, a large ceremony hall with the ability to be internally subdivided to meet requirements of smaller funerals, a crematory hall with furnaces to enable the family to commence and view the charging of the coffin, along with plant and associated back of house and welfare facilities.
14. A separate canteen building including dining seating for up to 100 people with showering facilities is also proposed. This would enable ritual washing and communal eating following the cremation. Car parking to serve the existing and proposed use is detailed and the access would be taken from Denham Court Drive, closing the existing access from the A40. Landscape and ecological enhancements are also proposed along with opening the site up for wider access through the extension of footpaths connecting from the former quarry site to the west and to the southern wooded part of the site.

### ***Effect on openness and the purposes of the Green Belt***

#### *Openness*

15. The proposal would introduce a very large and permanent built form into the Green Belt. The crematorium would have a floor area of around 1,865 square meters and the dining hall would be around 304 square metres, with a total of 2,169 square metres externally. The height of the crematorium would be around 8 metres. There are also considerable areas of hardstanding to provide for access and the parking of up to 156 cars and 6 coaches. The level of activity would also be significant, with the capacity of the crematorium being able to cater for up to 500 attendees.
16. Both parties agree that the strong enclosure and established woodland of the site would limit the visual prominence of the proposed buildings and associated development. I agree, and the visual reduction in openness would be localised.
17. However, the spatial harm from the overall scale and mass of the proposals, and the significant increase in the level of activity arising from the use would cause substantial harm to openness. There would also be the effect of cars and coaches parked on the site which, although transient would still reduce openness.
18. Overall, the proposal would result in a permanent and substantial reduction in the openness of the Green Belt.

#### *Purposes of the Green Belt*

19. Of the 5 purposes set out in Framework paragraph 138, both parties agree the proposal would have no impact on a), d) or e). I agree. The parties agree that it would have minimal effect on purpose b), which is to prevent neighbouring towns merging into one another. As the site sits between Uxbridge and Denham, there would be a slight effect and thus minimal conflict.

20. For purpose c), the proposal would develop on what is currently undeveloped land. However, the overall site is already developed, and there is existing encroachment into the Green Belt resulting from this. The site has limited visibility and whilst the effect would be moderate at most, the proposal would not assist in safeguarding the countryside from encroachment. Therefore, the proposal would conflict with this purpose.

### **Other considerations**

#### *National need*

21. It is recognised by the Government<sup>1</sup> that there are failures in existing crematoria to meet the needs of many non-Christian faith communities, and in particular the Hindu faith community. These include the inadequate size of crematoriums and parking facilities, difficulties in providing a funeral when necessary, and insufficient service times.
22. Furthermore, it is common ground that, for faith and cultural reasons, the Hindu community in this area are disadvantaged by being denied the opportunity to fully observe their cultural and religious beliefs and traditions for funerals and cremations. It is recognised by all parties that this proposal would represent the first purpose built Hindu faith crematorium nationally.

#### *Quantitative need for a crematorium*

23. As detailed within the appellant's evidence, all existing crematoria nearest to the appeal site are, on average, operating significantly over, or close to capacity, indicating a need for at least one new crematorium. This is likely to worsen in the future.
24. Diversion of funerals to this proposal could reduce the number of funerals at other crematoriums to, on average around 83%. Given that 80% practical capacity is recognised as the point at which qualitative standards are compromised<sup>2</sup>, reducing the average would have a beneficial effect upon the quality of cremations at other facilities. It would also enable Breakspear and Slough crematoriums to offer longer service times in comparison to the short service times currently offered.
25. Within 30 minutes cortège speed drive time, which is generally accepted as being an upper limit in which a funeral party would travel in an urban area for a non-faith proposal<sup>3</sup> (and thus one way to assess a catchment area), there is a total general population of 408,383. Within a standard 30 minute drive time around 455,058 people would find the proposal to be their nearest crematorium<sup>4</sup>. Based on approaches from previous Inspectors<sup>5</sup>, this would far exceed the benchmark for establishing a viable need, which is around 120,000.
26. Nonetheless, given it would provide such a unique experience for the Hindu community, the 30 minute cortège speed drive time is not an upper limit in this case. This is because it would be reasonable to assume that this crematorium would be chosen over another crematorium if the departed family member was

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<sup>1</sup> CD B14 and B15

<sup>2</sup> CD G9 and G21

<sup>3</sup> CD G12, G13, G14, G15, G16, G17, G18 and G23

<sup>4</sup> Peter Mitchell Proof of Evidence

<sup>5</sup> CD G11 and G18

of the Hindu faith, or indeed Sikh or Jain faith, even if it meant a longer cortège speed drive time.

27. The site is close to a substantial Hindu population, a factor which plays in favour of the proposal and when considering an unconstrained catchment, which takes no account of other existing crematoria in the area, 77,936 Hindus would be within a 30 minute cortège speed drive time and 199,349 Hindus would be within a 45 minute cortège speed drive time. The 45 minute cortège speed drive time catchment would also far exceed the benchmark to establish a viable need for Hindus exclusively. Therefore, there is a significant quantitative need for the proposal, and I attach significant weight to this matter in favour.

*Qualitative need for a crematorium*

28. Existing crematoria in the area does not adequately cater for all Hindu rites and rituals. The evidence given by Ms Taylor at the Inquiry explicitly detailed the concerning issues and significant compromises that arise for Hindus in attempting to carry out a Hindu funeral in the context of a non-Hindu crematorium. This leads to stress, inconvenience and anxiety at a time when people are mourning the loss of a loved one.
29. As detailed above, existing crematoria are on average operating above capacity. However, the qualitative need is further affected when attempting to arrange a funeral in the reasonably short time frame preferred by the Hindu community, which is around 2-3 days after death. Core time slots are unlikely to be available within this short space of time, meaning funerals either take place at inconvenient times or the family must wait for a preferred slot. Coupled with the requirement for longer services to observe rites and rituals and address capacity, the existing capacity of local crematoriums means that it detrimentally affects the quality of services, providing a limited sense of auspiciousness.
30. Furthermore, there are also extensive problems experience by the Hindu community in accessing local crematoria. These include a lack of parking owing to larger attendances, lack of viewing rooms, failure to enable open coffin rituals and a Christian/Anglican setting (except from Chiltern).
31. Moreover, facilities to include pre-ceremony rituals, witnessing the charging of the coffin in a purpose designed environment, ritual washing and communal eating along with the co-location with the Temple would offer significant benefits to this proposal for the Hindu community, in a tranquil setting. No other crematoriums in the area can offer such a quality, auspicious and fitting funeral experience for the Hindu community, such that very significant weight should be attributed to the qualitative need.

*Public Sector Equality Duty*

32. Section 149(1) of the Equality Act 2010 must also be weighed into the other considerations advanced. As detailed previously, the Hindu community are disadvantaged by being denied the opportunity to fully observe their cultural and religious beliefs and traditions in carrying out funerals and cremations.
33. Their Public Sector Equality Duty (PSED) is not being met and having regard to the high concentration of Hindus that could reasonably access the proposal, the PSED need is compelling, and this is afforded significant weight in favour.

### *Alternative sites*

34. The Cremation Act 1902<sup>6</sup> requires crematoriums to be located at least 200 yards away from the nearest dwelling and 50 yards from the public highway. These restrictions imposed by this legislation would make it difficult to find a location outside the Green Belt close to the main concentrations of the Hindu population, given Chilterns and South Buckinghamshire has around 87% of the former administrative areas covered by Green Belt. The Green Belt assessment<sup>7</sup> looked at the 13 other Temples within the population catchment and found none could accommodate the facility.
35. The appeal was submitted with an alternative site assessment<sup>8</sup>, which also concluded there were no other suitable sites and there were no sites suitable on the Council's brownfield register.
36. The Council presented several 'high level' alternative sites within the evidence of Mr Smith. The appellant's investigated these sites and found each one to be unsuitable for a variety of reasons, a common theme being the failure to comply with the Cremation Act and the location being away from the main concentration of Hindu communities.
37. During cross examination, the Council's witness conceded that there were no alternative sites suitable, and that the alternative sites assessment carried out by the appellant was robust. This was accepted by the Council's planning witness later during the Inquiry.
38. Consequently, based upon the evidence before me, there are no suitable or available alternative sites that could accommodate the proposal, particularly with the benefits that arise from the co-location of the crematorium with the Temple. This weighs significantly in favour of the proposal.

### *Support*

39. Letters and petitions, with over 2,000 signatures of support for the proposal have been submitted and an MP and Lord spoke in favour of the proposal. They all outline similar religious need for the proposal, citing crematoriums have to make allowances for Hindu funerals, limiting capacity, ritual and adding cost to families going through bereavement. The compromise is that several venues are used: the home, the funeral parlour, the crematorium and the temple, disjointing the ceremony and detracting from its true intent. Additionally, congregations tend to be large and following the funeral cortège from location to location is less than practical.
40. One response outlines *a genuine need for a venue that can provide loved ones the opportunity to observe 'antim sanskara' (last rights) in a single location. Just as dedicated cemeteries exist for followers of other faiths in this country, deaths in the Hindu community should be afforded this dignity.* Lord Ghadia stated that this was a "a landmark moment for the Hindu community in the UK and especially in the surrounding locality of the Anoopam Mission. We desperately need this facility". Bob Blackman MP outlined that "it is clear to anyone with knowledge of the local area and neighbouring towns that Hindu cultural and faith sensitivities are currently not being catered for within existing

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<sup>6</sup> CD B5

<sup>7</sup> CD C25

<sup>8</sup> Appendix 3 of Statement of Case



*crematoria and the size of the proposed crematorium is necessary to adequately accommodate the larger number of funeral attendees a Hindu funeral does attract". In my view, the support for the scheme is of significant weight in the context of this proposal.*

#### *Quality of place and design*

41. The Temple setting with the proposed crematorium is a holistic design approach that offers co-location benefits to the users. Furthermore, the proposal is a well-conceived scheme that would provide a high quality, beautiful and sustainable building in an auspicious setting. Coupled with the high quality landscaping scheme, water features and enhancement of the woodland, this is a benefit that, in my view, attracts significant weight.

#### *Biodiversity*

42. There would be an average of at least 10% net gain in biodiversity on the overall site, which includes the enhancement of the woodland to the south. This is of a moderate benefit. The proposal includes a comprehensive landscaping scheme that would be detailed within a landscape strategy plan (LSP) and a landscape and ecological mitigation, compensation and management plan (LEMCMP). Both the LSP and LEMCMP would be necessary conditions to ensure the biodiversity net gain is brought forward and the effect upon habitats and ecology is acceptable. Additionally, a construction environmental management plan would also ensure there is no detrimental effect upon habitats during construction and demolition.

#### *Footpath enhancements*

43. The proposal includes the introduction of 2 footpaths to the north and south of the site, that would connect to other permissive footpaths around the fishing lakes. These will increase accessibility to the wider Colne Valley regional park and weigh moderately in favour of the proposal. These footpaths would be secured by the planning obligation and a planning condition would ensure the footpaths were laid out prior to the development being brought into use.

#### *Economic benefits*

44. The development would create construction jobs, which have acknowledged economic benefits, future supply chain jobs and contracts. The Government is committed to securing economic growth in order to create jobs and confirms that significant weight should be placed on the need to support economic growth through the planning system. Given the majority of economic benefits would take place during construction, I afford this moderate weight in favour.

#### *Access and safety of highway users*

45. The proposal would cease use of the access from Western Avenue (the A40), which would be of benefit given the highway safety issues associated with its use, and the ability to only exit the site to the left. This would be the subject of a condition to require the permanent closure and is of limited weight in favour.
46. Furthermore, despite the landowners' objections relating to the use of the proposed access owing to private legal rights, details would be required to be submitted prior to commencement. This would be a Grampian condition that would preclude the operation of the crematorium until the access was fully



implemented. Therefore, even if the access rights were not in favour of the appellant, the proposal could not become operative.

47. The Council's Highways Authority and Highways England raise no objections to the proposal and find the effect upon the highway network to be acceptable, with no adverse effect upon the safety of highway users.
48. The increase in traffic from the site to Denham Court Drive would be considerable and could interrupt the tranquillity of leisure fishing from passing cars. However, I do not consider that this would result in tangible harm given it would only be noise from cars passing through; and the benefits of ceasing use of the existing access would far outweigh any disruption to the users of the lakes.
49. Lastly, whilst it has been suggested by interested parties that passing places are considered, the access road would provide for 2 way traffic and Denham Court Drive already provides for 2 way traffic. Thus, this would be unnecessary.

#### *Flood risk*

50. The site is located within flood risk zone 2, as identified by the Environment Agency and the Strategic Flood Risk Assessment. Given the findings above regarding there being no alternative sites, it follows that there are no sequentially preferable sites in lower risk flood zones. Moreover, the proposal would reduce the amount of surface water runoff affecting watercourses in the area, and provide a betterment. This is of limited weight in favour.
51. Furthermore, as the crematorium and associated dining hall are 'less vulnerable' development, when applying Table 3 in the Planning Practice Guidance, development would be appropriate. A condition for a detailed surface water drainage scheme, timetable and management and maintenance plan would be necessary to ensure the proposal reduces the amount of surface water runoff.

#### *Building sustainability*

52. The proposal would be built to comply with Policy CP12 of the South Bucks Local Development Framework Core Strategy (February 2011) and would deliver at least 10% of the energy requirements from decentralised and renewable or low carbon sources. The agreed initial energy model suggests that around 35% of the energy use (non-crematorium activities) could be from a low or zero carbon technology. This is a benefit of limited weight given it would be more than the policy requirement. It would also be necessary to apply a condition to ensure at least 10% of the energy supply for the development is secured from renewable or low-carbon energy sources in order to ensure policy compliance.

### **Other Matters**

#### *Protected species*

53. A detailed ecology survey was undertaken when the planning application was submitted, and a Bat Emergence and re-entry surveys<sup>9</sup> was undertaken in June 2020. Neither the Council nor its ecology advisor have any objections to the proposal in relation to ecology subject to suitable conditions. Of these, to

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<sup>9</sup> CD C29

- ensure wildlife, including protected species, are protected during the development; pre-commencement surveys (and mitigation if necessary) would be required.
54. *Bats* - Surveys have confirmed a day roost of 2 common pipistrelles and one soprano pipistrelle in the south-west corner of Building 1. As this building is set to be demolished, without the mitigation proposed, there would be adverse impacts upon bats. This is a material consideration as the species is protected by law and a species mitigation license from Natural England (NE) would be required.
55. NE can only issue a licence if the following tests have been met:
- i) the development is necessary for preserving public health or public safety or other imperative reasons of overriding public interest;
  - ii) there is no satisfactory alternative; and
  - iii) the action will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.
56. Circular 06/2005 requires that when effects on protected species are being considered in appeals, decision-makers should 'have regard' to the 3 tests that are used when licences are being determined. Therefore, as the competent authority, I must have regard to the tests.
57. The proposal would meet a significant qualitative and very significant quantitative need, the PSED need is equally compelling. Therefore, there are imperative reasons of overriding public interest. There are no alternative sites for the proposal, and thus there is no satisfactory alternative.
58. The evidence details that the population of the species would be maintained at a favourable conservation status with the mitigation proposed. This would need to be secured by the condition for the LEMCMP, that would secure the on-going management and maintenance of the area. Consequently, it is likely that NE would grant a species mitigation license and the effect upon bats would be acceptable. Furthermore, a condition would be necessary to ensure the species mitigation license has been granted prior to any works on site. With the imposition of conditions and mitigation outlined above, I am satisfied that the proposal would have an acceptable effect upon protected species.

### **Green Belt balancing exercise**

59. As directed by the Framework, 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 proposal being inappropriate development, the impact upon openness and the purposes of the Green Belt.
60. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
61. Having considered all matters raised in support of the proposal, they would collectively clearly outweigh the totality of Green Belt harm so as to amount to the very special circumstances required to justify the proposal. Therefore, very special circumstances exist and the proposal is compliant with the Framework.

62. The proposal however would not comply with Policy GB1 of the South Bucks District Local Plan (March 1999). Nevertheless, this policy is inconsistent with the Framework and provides no option to consider very special circumstances, and simply seeks to prevent all development in the Green Belt other than the exceptions set out, none of which the proposal would meet. Given this glaring inconsistency, the policy is afforded no weight in this decision. Consequently, the material considerations indicate a decision other than in accordance with the development plan.

### **Planning obligation**

63. The obligation commits to providing £150,000 towards the Colne Valley Regional Park and a Public Rights of Way scheme. The monetary sum would be paid to the Council who would then transfer it to the Colne Valley Trust, who are not signatory to the obligation. The monies would be used towards the Colne Valley Green Infrastructure Strategy within a one mile radius of the site and could include the funding of staff. The Public Rights of Way scheme would comprise 2 multi-user public rights of way to the north and south of the site, attached to existing permissive rights of way.

64. Whilst the Council find no harm to the character and appearance of the area, the Council state that the Colne Valley Regional Park contribution is interrelated with the case for very special circumstances as part of a package of measures, such that it would be necessary to make the development acceptable. The appellant has no objection to the contribution setting out that it was the appellant's desire to be as inclusive as possible. However, they are unsure if it would meet the test of necessity.

65. My judgement is that the other considerations above would clearly outweigh the totality of harm to the green belt, such that the proposal would be acceptable. The proposal would have little impact upon the Colne Valley Regional Park, and the proposal would have a neutral effect on the Colne Valley Regional Park setting. Furthermore, I am concerned about the enforceability of the agreement since the Colne Valley Trust are not party to it. Thus, the contribution would not be necessary to make the development acceptable. I attach it no weight, and it does not meet Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL Regs).

66. However, the Public Rights of Way scheme would be necessary, given that there would be an increase in visitors to the development site from a wide catchment area, and the increased public access around the site itself has been advanced as a benefit of the scheme by the appellants. It is directly related to the proposal, and fairly and reasonably related in scale and kind to the development, compliant with the CIL Regs.

### **Conditions**

67. In addition to the conditions referred to above, the plans are listed for certainty. Conditions 3-10 are pre-commencement conditions. They are pre-commencement conditions as it is fundamental to have these details submitted prior to the commencement of the development. The pre-commencement conditions have been agreed to in writing by the appellant as required by the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

68. A construction traffic management plan would be necessary to ensure safe conditions for all highway users on and off site during construction. An archaeological scheme of investigation would be necessary as the site lies within a wider landscape of known archaeological and palaeoenvironmental potential and there is a high likelihood for multi-phase archaeological deposits to be present. This would secure investigation and any recording of potential archaeological findings.
69. Existing and proposed ground levels would be necessary to ensure appropriate building heights. A schedule of external materials and sample panel would be necessary to ensure an appropriate and high quality appearance. For the same reason, detailed specification of the proposed roofs would be necessary.
70. A Travel Plan Framework would be necessary to encourage sustainable modes of travel. Demolition of the existing older buildings on site, excluding the existing Temple and accommodation building, would be necessary to maintain the openness of the Green Belt. The parking and manoeuvring areas are required to be laid out prior to the use becoming operative so that suitable provision is available to the users. Replacement planting of species dying within 5 years of completion of the development would be necessary to ensure the longevity of the landscaping proposals. A condition for the treatment of unexpected contamination is necessary to ensure that risks from land contamination to future users of the land and neighbouring land are minimised.
71. The cremators are required to be electric, to prevent unacceptable air pollution and to protect the openness of the Green Belt by the stack height remaining low. Conditions to control the funeral services to between 0915 and 1630 and to limit the proposal to no more than 6 services per day are necessary to protect the amenities of the area and to ensure that peak traffic hours are avoided. For clarity, this would not preclude access to the site beforehand.
72. Following discussions, I have removed the suggested limits on the number of attendees. This would be limited in some part by the availability of parking spaces on site, and it would be equally difficult to enforce the number of attendees.

### **Conclusion**

73. For the reasons set out above, I conclude that the appeal should be allowed.

*Katie McDonald*

INSPECTOR

**APPEARANCES**

<b>For the local planning authority:</b>		
Guy Williams of Counsel		Instructed by Katherine Stubbs, Buckinghamshire Council
He called		
	Richard Regan BA(Hons) MSc MRTPI	Principal Planning Officer, Buckinghamshire Council
	Justin Smith (Dist) CertFDE BASIS AICCM	Director, The CDS Group
	Katherine Stubbs	Solicitor, Buckinghamshire Council
<b>For the appellant:</b>		
Peter Goatley QC assisted by Sioned Davies, of Counsel		Instructed by Gerald Sweeney of CarneySweeney
He called		
	Gerald Sweeney BSC(Hons) DipTP MRICS MRTPI	Planning Director, CarneySweeney
	Peter Mitchell FICCM(Dip)	Independent consultant, Peter Mitchell Associates
	Bhavisha Tailor BSc MSc MSt	Witness giving evidence in relation Hindu religious beliefs and practices
<b>Interested parties:</b>		
Bob Blackman		MP for Harrow East
Lord Gadhia		House of Lords

## **INQUIRY DOCUMENTS**

- ID1 Appellant opening submissions
- ID2 Council opening submission
- ID3 Letter on behalf of G.K.N. Group Services Limited dated 9 July 2021
- ID4 Letter from Environment Agency dated 15 July 2021 (and email from Council)
- ID5 Email and dispersion model from appellant dated 28 September 2021
- ID6 Appellant response to G.K.N. Group Services dated 1 October 2021
- ID7 Appellant response to sequential assessment dated 5 October 2021
- ID8 Council response to stack heights dated 5 October 2021
- ID9 Council email regarding the planning obligation dated 5 October 2021
- ID10 Council response regarding the flood risk sequential test dates 8 October 2021
- ID11 APP/M3645/W/21/3272384
- ID12 Letter from Hindu Academy
- ID13 Email on behalf of G.K.N. Group Services Limited dated 10 November 2021
- ID14 Appellant's review of Council alternative sites
- ID15 Summary note in respect of flood risk and sequential test
- ID16 Colne & Crane Valleys Green Infrastructure Strategy (September 2019)
- ID17 Council Closing statement
- ID18 Appellant closing submissions
- ID19 Completed planning obligation

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details:
  - 19007 (08) 01
  - 19007 (08) 03
  - 19007 (08) 04
  - 19007 (08) 05
  - 19007 (08) 10
  - 19007 (08) 11
  - 19007 (08) 15
  - 19007 (08) 16
  - 19007 (08) 20
  - 19007 (08) 21
  - 19007 (08) 25
  - 19007 (08) 26
  - 1138 002 Rev F
  - T628\_03B

'Flood Mitigation Measures' and 'Conclusions and Recommendations' as set out in the Flood Risk Assessment 100299/WO/NOV-19/01 Arbtech AMS Anoopam Mission dated 28 November 2019
- 3) No development (including site clearance) shall take place until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall accord with the principles set out in the 'Landscape Strategy Plan' 1138 002 F and illustrative details including: interventions along the stream (1138 901,902, 903 & 904), typical car park swale (1138 401), typical woodland footpath 1138 501, and the 'Technical Note: Updated Biodiversity Metric for Anoopam Mission at Denham'; to ensure at least 10% net gain in biodiversity overall compared to the existing on-site baseline. The scheme should include details such as:
  - i) Improvements to the habitats, hedgerows and watercourse as outlined in the Landscape Strategy prepared by DSA Environment & Design (drawing reference; 1138 002 Rev F);
  - ii) The species, sizes, locations, numbers and means of protection for proposed trees, shrubs and herbaceous plants;
  - iii) Mixtures and sowing rates for grass and wildflower areas;
  - iv) Proposals for hard landscaping of the car parking and internal paths including ground surfaces, kerbs edging and swales;
  - v) Details of the proposed stream interventions and including position and type of structures and cross-sectional drawings; and,
  - vi) Details of the proposed waterbodies.

The scheme and mitigation measures shall be fully implemented prior to the development being brought into use and in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.



- 4) No development (including site clearance) shall take place until a Landscape and Ecological Mitigation, Compensation and Management Plan (LEMCOMP) covering a period of 20 years (with longer-term objectives for the woodland areas) has been submitted to and approved in writing by the local planning authority. The LEMCOMP will include the following:
- i) Full details and specifications of new landscape planting of known benefit to wildlife, including native species of local provenance where practicable;
  - ii) Details of habitat creation and management of on and off-site mitigation measures including mechanisms to ensure management for a minimum of 20 years;
  - iii) Monitoring, reporting and management mechanisms for the retained and created on and off-site habitats for a minimum of 20 years, including necessary remedial action identified by monitoring to achieve stated condition;
  - iv) Results of an updated biodiversity impact calculation should the landscape plans deviate from those approved;
  - v) Details of site clearance protocols and habitat manipulation measures to protect reptiles and amphibians;
  - vi) Details of protection measures for retained flora;
  - vii) Provision of a lighting design strategy to ensure minimum disturbance to light-sensitive wildlife on and adjacent to the site;
  - viii) Locations and specifications of all additional ecological enhancements, including bat and bird boxes and other features of value to wildlife, such as insect hotels, Hedgehog domes and habitat piles;
  - ix) Details on the establishment and maintenance of the proposed trees, shrubs and hedgerows including any watering, weeding, protection measures and formative pruning;
  - x) Details of monitoring and reporting to determine success of management; and
  - xi) Details of proposed management of the established woodland areas within the site including objectives, specifications, and timings.

The scheme and mitigation measures shall be fully implemented prior to the development being brought into use and in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

- 5) No development (including site clearance) shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include:
- i) Risk assessment of potentially damaging construction activities;
  - ii) Identification of "biodiversity protection zones" including off-site receptors;
  - iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);

- iv) Consideration of air quality considerations including in relation to dust emission mitigation measures;
- v) The location and timing of sensitive works to avoid harm to biodiversity features;
- vi) The times during construction when specialist ecologists need to be present on site to oversee works;
- vii) Responsible persons and lines of communication;
- viii) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person; and,
- ix) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 6) No development (including site clearance) shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority, in conjunction with the highway authority. The CTMP shall include details of:
- i) the routing of construction vehicles
  - ii) the parking of vehicles of site operatives and visitors
  - iii) loading and unloading of plant and materials
  - iv) storage of plant and materials used in constructing the development
  - v) operating hours
  - vi) wheel washing facilities

The approved CTMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 7) No development shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions, and:
- i) the programme and methodology of site investigation and recording;
  - ii) the programme for post investigation assessment;
  - iii) the provision to be made for analysis of the site investigation and recording;
  - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
  - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 8) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 7.
- 9) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles set out in Flood Risk Assessment (ref. 100299/WO/NOV-19/01, November 2019, DICE) has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in

accordance with the approved details before the development is completed. The scheme shall include:

- i) Details of how the drainage system will function in a fluvial event with supporting calculations for a submerged outfall;
  - ii) Existing and proposed discharge rates and volumes;
  - iii) Ground investigations including:
    - Infiltration in accordance with BRE365
    - Groundwater level monitoring over the winter periods;
  - iv) Subject to infiltration being inviable, the applicant shall demonstrate that an alternative means of surface water disposal is practicable subject to the drainage hierarchy;
  - v) SuDS components as indicated in Appendix E;
  - vi) Full construction details of all SuDS and drainage components;
  - vii) Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components;
  - viii) Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site;
  - ix) Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites;
  - x) Details of the warning system for surface water pumps;
  - xi) A timetable for its implementation; and,
  - xii) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 10) No development shall take place until detailed plans, including cross sections as appropriate, showing the existing ground levels, the proposed slab and finished floor levels of the building and the proposed levels for all land within the site have been submitted to and approved in writing by the local planning authority. Information shall be sufficiently detailed as to include any retaining walls proposed and the materials. Such levels shall be shown in relation to a fixed datum point normally located outside the application site. The development shall be carried out in accordance with the approved levels.
- 11) A schedule of external materials shall be submitted to the local planning authority. A sample panel of these materials shall also be constructed on site. The schedule of materials and sample panel shall be approved in writing by the local planning authority prior to the commencement of any above ground works, and the development shall be carried out in accordance with the approved details.

The following details shall be specified in respect of the crematorium building:

- i) Facing brick, colour and texture

- ii) Timber fins
- iii) Contrasting facing brick, colour and texture
- iv) Corten steel
- v) Timber doors
- vi) Aluminium framed glazing

The following details shall be specified in respect of the dining hall building:

- vii) Facing brick, colour and texture
  - viii) Contrasting facing brick, colour and texture
  - ix) Timber doors
  - x) Timber fins
  - xi) Aluminium framed glazing, colour TBC
- 12) Prior to the commencement of any above ground works, detailed specification of the proposed roofs (including the interaction between the walls and sedum roof) to the crematorium and dining hall buildings as indicated on roof plans 19007 (08) 11 and 19007 (08) 21, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 13) Prior to the commencement of any above ground works, a Travel Plan Framework (TPF) shall be submitted to and approved in writing by the local planning authority. The TPF shall set out measures to reduce single occupancy journeys by private car and indicate how such measures will be implemented and controlled. The TPF shall include a full analysis of the modal split at the existing site and indicate targets for modal shift in the forthcoming year. The TFP shall be implemented when the site is brought into use and will be subject to annual review thereafter for 5 years.
- 14) Prior to commencement of development, details and measures to ensure at least 10% of the energy supply for the development is secured from renewable or low-carbon energy sources shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the development being brought into use and shall thereafter be maintained to remain operational for the lifetime of the development.
- 15) Prior to commencement of development, access construction details shall be submitted to and approved in writing by the local planning authority, in consultation with the highway authority. For the avoidance of doubt, this includes the access between the eastern vehicular highway boundary along Denham Court Drive and the crematorium car park edge. The approved details shall be implemented prior to the development being brought into use and shall thereafter be retained in perpetuity.
- 16) The development shall be undertaken in accordance with the recommendations provided within the Bat Emergence and Re-entry Surveys Report produced by Arbtech (June 2020). No works of site clearance, demolition or construction shall take place until a European Protected Species Mitigation Licence has been granted by Natural England. A copy of the licence is to be provided to the local planning authority prior to commencement of development.

- 17) The development shall not be brought into use until the proposed footpath routes have been laid out and constructed in accordance with the full details, which shall first have been submitted to and approved in writing with the local planning authority. The footpath route details shall be broadly in accordance with the 'Landscape Strategy Plan' 1138 002 F and shall be retained in perpetuity.
- 18) The development shall not be brought into use until the existing buildings and structures within the site as shown on drawing number 19007 (08) 02 (excluding the new mission comprising temple, accommodation building, dining hall and offices consented under 13/01166/FUL or subsequent variations) have been demolished in their entirety and all materials resulting from the removal/demolition of these buildings removed from the site.
- 19) The development shall not be brought into use until the vehicular access from the A40 to the site has been permanently closed for general vehicular traffic, in accordance with a scheme that shall first have been submitted to and approved in writing by the local planning authority.
- 20) The scheme for parking and manoeuvring areas indicated on the drawing No (08) 05 shall be laid out prior to the development being brought into use and shall thereafter be used for no other purpose.
- 21) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 22) Any contamination that is found during construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 23) The crematorium facility hereby approved shall only utilise electric cremators.
- 24) Services held at the crematorium shall not commence before 0915 and will cease by 1630 each day.
- 25) No more than 6 services shall be held per day.

**\*\*\*END OF CONDITIONS\*\*\***