



## Appeal Decision

Inquiry held on 12-15 and 19-21 October 2021 and 30 November 2021

Site visits made on 29 September 2021 and 2 November 2021

**by Caroline Mulloy BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26<sup>th</sup> January 2022**

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**Appeal Ref: APP/F4410/W/21/3277233**

**Land south of Green Lane, Brodsworth, Doncaster**

- 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 Dignity Funerals Limited against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 19/03088/FULM, dated 17 December 2019, was refused by notice dated 21 December 2020.
  - The development proposed is a crematorium including memorial gardens, car parking, a new vehicle access onto Green Lane and ancillary works.
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### DECISION

1. The appeal is dismissed.

### PRELIMINARY MATTERS

#### Background

2. The appeal site is situated north of Doncaster. There is an existing crematorium at Rose Hill to the east of Doncaster and three existing crematoria to the west at Pontefract, Barnsley and Rotherham. The planning application was one of three applications which were each submitted for crematoria in Doncaster, by three different operators in three different locations (Barnby Dun, Brodsworth and Conisbrough).
3. The Council instructed a consultant to establish whether there was an existing unmet need for a new crematorium in the area. The report<sup>1</sup> concluded that there is a compelling quantitative and qualitative need for a new crematorium in Doncaster. It determined that only one of the three crematoria would be required to meet current and future need and that the application for Barnby Dun best meets that need, based on the population living within its constrained 45-minute drive time catchment.
4. All three applications were accompanied by a Landscape and Visual Impact Assessment (LVIA). The Council commissioned consultants to undertake a review<sup>2</sup> of the three LVIA's to inform its consideration of the potential landscape and visual effects of the proposals and, in the case of Brodsworth and Conisbrough, the potential affect on the Green Belt.
5. The Barnby Dun application was subsequently granted planning permission. The promoter of Barnby Dun, Memoria, was a Rule 6 (6) party at the inquiry. An application for a new crematorium at Conisbrough was refused permission by the Council and no appeal has been lodged. The proposal the subject of this appeal was also refused by the Council.

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<sup>1</sup> Crematorium Need Assessment, Peter Mitchell Associates (Nov 2020) (CD C1)

<sup>2</sup> Proposed crematoria within Doncaster Borough LVIA Review LUC 2020 (CD C3)

## **The Appeal Site and the Proposed Development**

6. The appeal site is situated to the south of Green Lane, within the Green Belt, to the north west of Doncaster. It comprises around 6.3 hectares and in the main forms part of a larger arable field. There is a small woodland to the west and southwest of the site known as Stane Hill Plantation and Long Plantation lies to the east and south east. Brodsworth Community Woodland and an adjacent tree belt extend along the northern edge of Green Lane.
7. The proposed development would include a main building which would comprise a chapel, crematorium and administration space and, together with the car park, would be situated on the lower part of the site. The site would be accessed via a new junction off Green Lane and a long drive which would sweep down to the crematorium. Memorial Gardens would be situated to the east of the car park.

## **Procedural Matters**

8. The Inquiry sat for 8 days. I made one unaccompanied visit to the site and surrounding area on 29 September 2021 and an accompanied site visit on 2 November 2021.
9. The appellant, Council and the Rule 6 (6) party, Memoria, submitted three Statements of Common Ground to the Inquiry, with CD A7 addressing landscape and visual matters; CD A8 addressing planning matters; and CD A9 addressing matters of need.
10. The Doncaster Local Plan (LP) was adopted on 23 September 2021 and supersedes the Doncaster Unitary Development Plan (1998) and the Core Strategy (CS) (2012). Policy 1 - Settlement Hierarchy replaces CS Policy 3, the policy upon which the application was refused. Other relevant policies are referred to in my reasoning below and were discussed at the Inquiry, where all parties were able to give their views on the implications of the recently adopted Plan upon the proposed development. The Council confirmed that there are no material changes within the LP which would alter its original decision to refuse the application.
11. Prior to the opening of the Inquiry the Council submitted a document entitled 'New analysis of existing evidence regarding need<sup>3</sup>'. The main parties have had the opportunity to comment on the document and so I have had regard to it and any comments made during my consideration of the appeal.
12. The appellant submitted a hedgerow enhancement plan and details of the title information relating to ownership of the land during the Inquiry. The plan was already included in the appellant's proof of evidence and does not materially alter the application. The details of the landscaping could in any event have been addressed as part of a landscaping condition. The title information simply confirms the ownership of the appeal site. Consequently, I am satisfied that no party would be prejudiced by my consideration of these documents.

## **MAIN ISSUES**

13. It is common ground that the proposal would not meet any of the exceptions identified at paragraphs 149 and 150 of the National Planning Policy Framework (2021) ('the Framework') and would, therefore, be inappropriate development in the Green Belt as set out at paragraph 147 of the Framework. Taking into account all that I have read, heard and seen, I consider that the main issues in this case are:
  - The effect of the proposal on the openness and purposes of the Green Belt;

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<sup>3</sup> New analysis of existing evidence regarding need PMA, 9 October 2021

- Whether or not there is an identified quantitative and/or qualitative need for the development in the proposed location;
- The effect of the proposal on the landscape and visual character of the area; and
- Whether or not 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 development.

## **REASONS**

### **The effect of the proposal on the openness and purposes of the Green Belt.**

14. There is no definition of openness in the Framework but, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development. Paragraph 137 of the Framework states that the essential characteristics of Green Belts are their openness and their permanence, and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The main parties agree that the Green Belt has both a spatial as well as a visual aspect.
15. The 6.3ha appeal site forms part of an open, arable field and contributes to the wider, open, undeveloped agricultural landscape. The main crematorium building would have a gross internal area of around 743m<sup>2</sup> and a height of approximately 4.5m, with the highest point being approximately 5.35m from the finished floor level. The chimney to the cremator would rise approximately 1.8m above the main roof level and 7.17m in total.
16. A visitor car park with a capacity of 109 spaces would be situated on the eastern side of the building at the southern part of the site. A long access drive would connect a new junction onto Green Lane with the car park. Memorial gardens would be situated to the west of the car park. The access itself would be around 500m in length. There would also be some cut and fill and re-contouring of the land and a retaining wall to the rear of the main building. Given the substantial quantum of development, hard landscaped areas, and the increased level of activity in terms of traffic movements, I consider that there would be a significant loss of Green Belt openness in spatial terms.
17. The appellant's case is that the visual openness of the Green Belt would be preserved by virtue of the location of the building in a low-lying secluded part of the site and due to enclosure provided by intervening landform, existing vegetation and proposed landscaping. I acknowledge that the siting of the development would help to mitigate views of the proposal in the wider landscape to a degree. However, the proposal and, in particular, the access road would be seen from Green Lane and parts of Brodsworth Community Woodlands to the north and north west; Brodsworth Hall and Gardens and parts of Church Lane from the west; from the south from Barnsley Road and from the meditation business within Long Plantation to the east.
18. The removal of a substantial section (180m) of established hedgerow would enable open views of the access, particularly the sections on higher ground to the north, in the short term. Whilst a replacement hedgerow would be planted and an off-site hedgerow enhancement scheme could be secured by means of a Grampian condition, these would take some time to establish. In any event, views would remain of the road at the point of access and immediately beyond.
19. Furthermore, the increased activity associated with the use of the access road amounting to 64 vehicles per hour, taken together with the headlights of the vehicles and lighting of the road, would have a negative effect on Green Belt

openness. Although the visual effects would reduce over time as the proposed landscaping matures glimpsed views of the proposal would, nevertheless, remain. In particular, the access road, lighting and car headlights would still be visible, especially in Winter months. Consequently, the proposal would have a harmful effect on the visual component of Green Belt openness. Moreover, given the scale of the development, the significant loss of spatial openness cannot be fully mitigated through siting, landscaping, and design. Overall, I consider that there would be a significant loss of Green Belt openness.

20. The appellant contends that the experience of the visual openness of the Green Belt would be enhanced by reason of the development. However, it is unlikely that anyone would visit the site unless attending a cremation or visiting the memorial gardens and, in any event, by doing so, their views would be of significant built development.
21. The main parties agree that Green Belt purpose 3 'to assist in safeguarding the countryside from encroachment' is most relevant to the appeal proposal. The Council's Green Belt Review (2016)<sup>4</sup> was undertaken to inform the Local Plan. The appeal site falls within the assessment area known as 'Adwick Le Street 5'. Under purpose 3 the area is assessed as having moderate sensitivity to encroachment.
22. Whilst Adwick Le Street 5 is identified as having a 'semi-urban character', the appeal site is detached from the linear settlement of Little Canada by intervening agricultural land and lies well beyond the woodland, Long Plantation which forms a strong edge to the settlement. The proposal would involve substantial built development of an urban nature within a currently open area of land, which is detached from the settlement of Little Canada. The proposal would, therefore, result in significant encroachment in the countryside and, therefore, conflict with purpose 3.
23. In summary, the proposal would cause a permanent and irreversible loss of Green Belt openness, which would not be fully mitigated through landscape, siting and design. This would cause additional harm to the Green Belt, over and above the harm by reason of inappropriateness. Furthermore, the proposed development would represent an encroachment of urban development into the open countryside. As such it would be contrary to one of the Green Belt's main purposes, of safeguarding the countryside from such encroachment. I attach substantial weight to the totality of Green Belt harm. The proposal would, therefore, be contrary to Policy 1 of the LP which seeks to preserve the openness and permanence of Doncaster's Green Belt. Conflict also arises with paragraphs 137 and 147 of the Framework.

**Whether or not there is an identified quantitative and/or qualitative need for the development in the proposed location.**

24. The appellant's original need assessment<sup>5</sup> was predicated on the potential of the appeal scheme to relieve overtrading at the existing crematorium in Doncaster – Rosehill. As Barnby Dun is consented, the main parties agree that it forms a commitment. The appellant has, therefore, undertaken a revised need assessment<sup>6</sup> which puts greater emphasis on the potential of the scheme to relieve overtrading of the three crematoria to the west of Doncaster – Barnsley, Pontefract and Rotherham; otherwise referred to as the 'Western Arc' crematoria. The Council has also updated its needs evidence to reflect the consented Barnby Dun<sup>7</sup>.

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<sup>4</sup> CD E8

<sup>5</sup> CD B13

<sup>6</sup> JH PoE

<sup>7</sup> Peter Mitchell Proof of Evidence (PoE)

25. The Competition and Markets Authority Report, December 2020 (the CMA report)<sup>8</sup> describes quantitative need as the number of people who will be closer to the new crematorium compared with any other. Recent appeal decisions<sup>9</sup> have defined an area to have quantitative need where there will be between 136,000-171,000 people for whom the new crematorium will be their closest facility. Assessing practical core capacity is agreed by the main parties as another way of determining quantitative need for crematoria.
26. In terms of qualitative need the CMA report at paragraph 4.65 described this as typically the number of people who will now have less than a 30-minute cortege drive time to the crematorium. Recent appeal decisions<sup>10</sup> have considered a qualitative need exists where there will be between 59,000-95,000 people who will, for the first time have a crematorium within a 30-minute cortege drive time. Other qualitative factors can include the availability of slots, waiting times, congestion at crematoria and the quality of facilities. There are other factors which may also affect choice, such as previous family funerals and proximity to other family members. Relieving quantitative need at a crematorium which is over-trading enables qualitative improvements to be made.
27. The starting point for the quantitative assessment is the identification of drive times to establish a catchment area. The main parties agree that a 30-minute catchment drive time (CDT) at 60% of normal traffic speeds is a useful rule of thumb; however, travel times up to 45 minutes may also be appropriate, particularly in rural areas.
28. The natural catchment area or minimum distance catchment ("MDC") is an unconstrained catchment area for a crematorium that assumes people will always go to the closest crematorium and is the basis of the calculations of need by all parties. Whilst the broad use of MDCs is agreed; the main parties have used different mapping software and drive times which has produced different results.
29. The appellant identifies that Rosehill and Barnsley crematoria are within the 30-minute CDT with Pontefract and Rotherham beyond. However, the appellant has not clearly set out the drive times which underpinned its GIS catchments, relying instead on platforms provided by the AA and similar which are only realistic for a journey at the time it is being assessed. The lack of transparency in terms of the appellant's evidence reduces the weight which I can attach to it in this regard.
30. In contrast, Memoria's drive times are clearly set out at Appendix 1 of their needs evidence<sup>11</sup> and are, therefore, more robust. Memoria's evidence shows that the appeal scheme only sits within the 30-minute cortege drive-time of Rose Hill. Barnsley sits just beyond the 30-minute drive time and Pontefract and Rotherham within the 45-min drive time.
31. Based on these drive times, Memoria calculate a catchment population of 120,670<sup>12</sup> in contrast to the Council's assessment of 133,768 and the appellant's at 142,840. Based on the more robust evidence, the appeal scheme would sit below the parameters defined in previous appeal decisions (136,000-171,000) above which a quantitative need has been determined to exist. In reaching that conclusion, I am mindful that this is just one of a range of factors which need to be considered.

### *Capacity analysis*

32. Assessing practical core capacity is agreed as one way of determining the need for crematoria. The method for establishing practical capacity in a peak month is set

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<sup>8</sup> Paragraph 4.65/146 of the CMA report 'Funerals Market Investigation CD E2

<sup>9</sup> Paragraph 3.5 of JH PoE

<sup>10</sup> Paragraph 3.5 of JH PoE

<sup>11</sup> Appendix 1 MDC and cortege drive-time analysis

<sup>12</sup> Paragraph 3.7/3.8 JH PoE



out in submitted evidence and so I do not repeat it here. It is agreed by the Council and the appellant that operating above 80% practical core capacity in the peak month makes it more difficult to deliver a qualitatively acceptable service. The 80% figure was endorsed by the Inspector and the Secretary of State in the Wergs and Essington appeal decisions<sup>13</sup>.

33. Each existing crematorium uses 40-minute cremation slots, other than Rotherham which has 45-minute slots. It is agreed that 1-hour slots are ideal; however, the ICCM Charter for the Bereaved advocates a 40-45 minute minimum. Core slots are agreed as being between 9.30/10.00am and 3.30/4.00pm.
34. Whilst the broad approach to assessing practical capacity in a peak month is agreed by the main parties, there are several differences which make comparison of the parties' evidence difficult. In addition to the different approach to drive times/catchments, different base dates have been used. Moreover, there are points of disagreement in relation to future cremation rates and the level of direct cremations resulting in different outcomes. This demonstrates that the calculation of need is far from an exact science.
35. Whilst there is agreement that the cremation rate in 2019 is 80%; there is disagreement as to the future cremation rate. The Council and Memoria have used an 80% cremation rate in future projections, reflecting religious factors and the increasing interest in green burials. The appellant utilises the approach of applying an average increase per annum of 0.35% based on previous rates to reach a cremation rate of 85% by 2034. However, whilst the appellant acknowledges that a 100% cremation rate would never be reached, no allowance is made for the slowing of this rate as the maximum is approached. Reflecting a slowing in the cremation rate as the maximum is approached, I consider that the rate is likely to be at some point between 80-85% on the limited evidence before me. The appellant's use of the higher cremation rate of 85% would lead to an overestimate of need.
36. Direct cremation is a simple, low-cost funeral option whereby the deceased is brought to a crematorium and cremated without any ceremony. All parties agree that direct cremations should be discounted from practical capacity calculations as they do not require a service and are usually not undertaken in core times. Hybrid cremations are defined as direct cremations that have not used a funeral director but have used a core slot at a crematorium. Growth in direct cremations would increase the availability of preferred core times and reduce the crematorium's level of capacity working.
37. There is limited cogent evidence before me in relation to future levels of direct cremations. On the one hand, the Council's and Memoria's projected figure of 20% direct cremations may reflect previous rates in 2020 and 2021 which would have been affected by the pandemic due to attendance restrictions. This is likely to lead to an underestimate of need. On the other hand, there is no explanation in Mr Lathbury's evidence for the appellant's future projected rate of 14% and I find no justification for a deduction of that figure by 20% to reflect hybrid cremations. The appellant's approach is likely to have led to an overestimate of need.
38. Turning to the issue of rebalancing, the main parties agree that those who need to use the services of a crematorium will usually use the one nearest to them, being the most convenient. However, the appellant argues that where there is significant overtrading, other issues will come into play such as the availability of slots, waiting times and other qualitative issues. The appellant attempts to forecast based on these other factors by undertaking a 'rebalancing exercise' using a similar

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<sup>13</sup> H11 and H11A

approach to that in the Essington<sup>14</sup> appeal. At Essington, the appellant proposed that the new crematorium would take 100% of cremations within the catchment plus 50% of the cremations within the 'fringe catchment outside the MDC'. However, the Inspector described the approach at that appeal as '*little more than an educated guess*'.

39. In its evidence, the appellant assumes that 100% of the catchment area will go to the appeal proposal and then adds 30% to that figure from outside the catchment. The appellant takes 30% of the total 1,465 cremations and readjusts the figures to reflect a higher trade draw from the west and a lower trade draw from the east. However, firstly a crematorium is unlikely to take 100% of cremations within its catchment.
40. Secondly, the origin of the 30% is from research that in over 30% of cases, the chosen crematorium was not the closest to the house of the deceased. However, there is no clarity on the robustness of this research and so it cannot be relied upon in my decision. Indeed, it is the same research that was submitted to the CMA and was assessed as tending to over-state the position. The Westerleigh Research, also scorned by the CMA, suggested 20-30%. When choosing which figure to take for the rebalancing, the appellant has taken the upper figure with no justification for doing so.
41. Re-balancing is not a requirement as suggested by the appellant; it has no basis in policy, guidance or appeal decisions. I acknowledge that there may be some rebalancing because of a new crematorium opening; however, I agree with the findings of the CMA that irrespective of the age of the facility, flows across MDC boundaries go both ways. Furthermore, on the appellant's own submissions, it is impossible to assess with any accuracy these flows using anything other than convenience. Certainly, there is no cogent evidence before me which can be relied upon to reach a sound judgment on the matter - the analysis in scenario 3 'further re-balancing' is pure conjecture. Consequently, in the absence of sound evidence to undertake rebalancing in the circumstances of this case; I have taken the appellant's calculations of capacity prior to rebalancing.
42. Overall, due to the approach to drive-times and catchment populations; cremation rates; level of direct cremations; and rebalancing, I find that the appellant's methodology generally results in an over-estimate of need. Due to the approach to cremation rates and direct cremations the Council's and Memoria's evidence may result in an under-estimate of need.

#### *Existing and Future Need*

43. It is common ground between the main parties that Rosehill is currently overtrading<sup>15</sup> and that there is a need for another crematorium in the Doncaster area to alleviate this overtrading. Whilst the figures differ, the main parties also agree that all the crematoria in the Western Arc are currently operating well above the 80% practical core capacity in a peak month referenced at the Essington Appeal<sup>16</sup> (ranging between 116.2%-123.7% in 2019<sup>17</sup> based on the Council's figures).
44. The Council has not projected need beyond 2034 other than for Rose Hill in its late evidence<sup>18</sup>; and the appellant and Memoria have calculated future need in 2034 and 2033 respectively.

<sup>14</sup> Appeal reference: APP/C3430/W/15/3039163 Land off Broad Lane, Essington, South Staffordshire

<sup>15</sup> 138.7% of practical (core capacity) in peak month, PMA PoE Figure 1, page 22

<sup>16</sup> Appeal reference: APP/C3430/W/15/3039163 Land off Broad Lane, Essington, South Staffordshire

<sup>17</sup> PMA PoE Figure 1, page 22

<sup>18</sup> New analysis of existing evidence regarding need PMA, 9 October 2021

45. The extent to which the two new crematoria at Barnby Moor and Babworth at Retford would affect Rose Hill crematorium is contested following the Council's late evidence. The Council's Need PoE suggests a diversion of 460 cremations from Rosehill to the Retford crematoria. However, in its late evidence the Council notes that there has been a drop of 162 cremations at Rose Hill in 2019 compared with the average for the three previous years despite only 2 fewer deaths and attributes this to the early effects of the Retford Crematoria. The Council considers that the full effects of those crematoria are not reflected as it will take time for them to establish.
46. The appellant's original ME Needs Assessment<sup>19</sup> predicted a trade diversion of 726 from Rosehill to the new crematoria; however, its rebuttal of the Council's new evidence suggests a diversion of 64 cremations from Rosehill. Although the former figure is presented as a worst-case scenario, and the appellant has distanced itself from the original figure, it nevertheless represents a significant change in position. The Council suggests that the diversion figure would be likely to be between 460 and 726 cremations.
47. Barnby Moor is likely to be drawing trade from the Haworth and Bawtry areas to the north on the border of the Rose Hill and Barnby Moor catchments. It is not unreasonable that this impact may increase as Barnby Moor becomes more established; although, the opening of Barnby Dun may temper this effect in due course. There is anecdotal evidence that Babworth is drawing trade from Rose Hill; however, due to its location to the south of Retford this influence is likely to be considerably less.
48. Given the significant divergence in figures, it is difficult to reach conclusions on a definitive trade diversion figure from Rose Hill to the Retford crematoria. However, based on the evidence of all the main parties overtrading at Rose Hill would, nevertheless, be relieved to a greater or lesser extent by Barnby Dun (ranging from the Council's revised position of 68.1% practical core capacity in a peak month<sup>20</sup>; the appellants position at 72.2% in 2034<sup>21</sup>; and Memoria at 76% in 2033<sup>22</sup>).
49. Both the Council<sup>23</sup> and Memoria<sup>24</sup> predict that Barnby Dun would be operating comfortably in 2019 and in 2033 respectively. In contrast, the appellant anticipates that it would be overtrading in 2034<sup>25</sup> and so is the outlier in this respect. However, I consider that the appellant has generally overestimated need and the appellant draws a wider catchment area for Barnby Dun to the east. Nevertheless, even taking an average of all three figures, the practical core capacity in a peak month would be around 82% in 2034. Consequently, I consider that any residual need in Doncaster in 2034 would be substantially met by Barnby Dun. Even if there was a slight residual need this would not be sufficient to warrant an additional new crematorium in Doncaster itself.
50. It is common ground that all the crematoria in the 'Western Arc' would be substantially overtrading in 2034. The main parties agree that Barnby Dun would do little to alleviate this need and that there is a further need for one or even two crematoria to meet the need in the Western Arc. Based on the evidence before me, I have no reason to reach a different conclusion.

<sup>19</sup> (CD A10)

<sup>20</sup> Figure 1, New analysis of existing evidence regarding need PMA

<sup>21</sup> Table 10.4 Ap4

<sup>22</sup> JH PoE page 17

<sup>23</sup> 58.2% practical core capacity in peak month (2019), Figure 1 New analysis of existing evidence regarding need PMA, 9 October 2021

<sup>24</sup> 69.2% JH PoE para 5.12 pge 17

<sup>25</sup> 118.4%, Table 10.4 AP4



*Relief afforded by the appeal scheme*

51. The appellant<sup>26</sup> points to the number of diverted cremations set out in the Council's PoE<sup>27</sup> and the degree to which this would impact on the extent of over-trading (i.e., the difference between the 80% figure and the actual number of cremations at each crematorium in 2019 as set out in Table 1 of the SoCG). At Barnsley the appeal scheme would represent a reduction in the 'overtrading' element of some 20.3% and the equivalent percentages for Rotherham are 32.8% and 70% for Pontefract. However, whilst the figures are not disputed; I consider that they need to be looked at in the broader context of need and in particular the effect of the appeal scheme on the practical core capacity of the crematoria.
52. The main parties agree that the effect of introducing the appeal proposal on Rose Hill would be to reduce practical core capacity to well below the 80% benchmark of practical core capacity in the peak month. Whilst there is agreement between the Council and the appellant that the appeal proposal would not make Rose Hill unviable there would clearly be a significant impact in terms of the total loss of cremations considering the cumulative effect of Barnby Dun.
53. The main parties agree that Barnby Dun would not be rendered unviable by the appeal proposal based on a 45-min CDT. The Council and Memoria agree that Barnby Dun would operate at a comfortable level (Council in 2019<sup>28</sup>; Memoria in 2034<sup>29</sup>), well below the 80% benchmark. The appellant purports that Brodsworth would alleviate overtrading at Barnby Dun<sup>30</sup>; however, for the reasons set out above I consider that the appellant's assessment of practical capacity in a peak month at Barnby Dun is likely to be an over-estimate. In any event, taking an average of the three figures, I consider that Barnby Dun would operate at a comfortable level.
54. With the introduction of the appeal scheme the appellant accepts at paragraph 10.44 of its PoE on Need that Barnsley, Pontefract and Rotherham would still trade at high levels. The appellant's figures<sup>31</sup> indicate that Barnsley would be at 119.28%; Pontefract at 130.14%; and Rotherham 134.17% in a peak month. Figures in the mean month range from 96.19% to 108%. Consequently, based on the appellant's figures none of the Western Arc crematoria would be able to reduce to the 80% capacity point at which it becomes feasible to make qualitative improvements. Even on the most optimistic assessment, on the basis of the appellants rebalancing exercise<sup>32</sup>, the crematoria in the Western Arc would still be significantly overtrading (ranging from 115.28%-130.17%).

*Qualitative factors*

55. Anecdotal evidence from funeral directors set out at Appendix C of Mr Lathbury's evidence for the appellant indicates that an acceptable qualitative standard is not being met at crematoria in the area. The evidence points to existing facilities being dated, with limited slots and significant waiting times for families. This evidence is from funeral directors who are part of Dignity which limits the weight to which I can attach to it in my decision. Nevertheless, I acknowledge that the extent of overtrading at present is likely to be resulting in a less than acceptable service and that facilities in the Western Arc are somewhat outdated.
56. Barnby Dun will substantially meet the quantitative need in Doncaster, increasing competition and choice through the introduction of state-of-the-art facilities.

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<sup>26</sup> Paragraph 43-45 Appellant's closing submissions

<sup>27</sup> PMA PoE figure 22.

<sup>28</sup> 58.2% Figure 1 New analysis of existing evidence regarding need PMA

<sup>29</sup> 60.5% para 5.19 JH Poe

<sup>30</sup> 93.78% Table 10.13 'Scenario 2' AP4

<sup>31</sup> Table 10.13, Comparison of the results of scenarios 1,2, and 3 'scenario 2' AP4

<sup>32</sup> Table 10.13, Comparison of the results of scenarios 1, 2 and 3 'scenario 3' AP4

Furthermore, it would relieve over-trading at Rose Hill enabling qualitative improvements there. I acknowledge that there would be some reduction in over-trading in the Western Arc; however, based on the appellant's figures, even after 're-balancing', the Western Arc crematoria would continue to trade at well above the 80% threshold above which the Council and the appellant agree it becomes difficult to make qualitative improvements. On this basis, the appeal proposal clearly fails.

57. Furthermore, based on Memoria's figures, which were not challenged by the appellant, 22,611 people at 2033 figures<sup>33</sup> will, for the first time, have a crematorium within a 30-minute cortege drive time because of the appeal proposal in comparison to appeal decisions whereby a need was considered to exist at between 59,000-95,000 people. It is also significantly lower than the 67,901 people in the Oxted appeal decision<sup>34</sup> at which the Inspector considered that the proposal would increase consumer choice and competition. The Council conclude that the appeal proposal would only bring 2,148 people within a 30-minute drive-time of a crematorium<sup>35</sup> (in the Doncaster area). 84.4% of Doncaster residents currently live within a 30-minute drive time of a crematorium. Barnby Dun would increase this to 94.9%. Brodsworth would bring this to 95.2%, an increase of only 0.3%.
58. Consequently, all the evidence indicates that the appeal proposal would not provide sufficient quantitative relief to enable meaningful qualitative improvements to be made in the Western Arc Crematoria.

#### *Alternative sites*

59. Whilst there is nothing in the Framework or the Local Plan that requires an alternative site assessment (ASA) for development management purposes, paragraph 141 of the Framework sets out that at a strategic policy level all other reasonable options for meeting identified need for development should be explored as opposed to simply taking land out of the Green Belt.
60. The appellant's planning witness accepted that as part of the very special circumstances case, it is appropriate to consider whether there are alternative (preferable sites) available to accommodate the development within the catchment area it will serve. However, the site search area commissioned by the appellant only covers the north of Doncaster<sup>36</sup>. It was conceded in cross-examination that the site search did not cover the Western Arc catchment area. Consequently, I cannot be certain whether or not there may be an alternative site/s that better meet the needs of the Western Arc.
61. I acknowledge that land to the west of Doncaster is designated Green Belt; however, there may be sites within or on the edge of urban areas which lie outside the Green Belt which may be suitable. There may also be Green Belt sites which are better situated to have a more significant impact on relieving over-trading in the Western Arc and where the Green Belt harm may be less.
62. The appeal scheme does not provide significant relief to the Western Arc Crematoria as although they are within the 45-minute CDT, they lie outside the 30-minute CDT. The site is situated on the edge of Doncaster and is significantly further away from the centres of population currently served by the crematoria at Barnsley, Pontefract and Rotherham. Indeed, the centres of population lie to the west of the crematoria which would result in people driving past the existing crematoria to go to the appeal scheme. On the basis of any reasonable

<sup>33</sup> JH PoE pge 12

<sup>34</sup> Appeal decision APP/M3645/W/21/3272384

<sup>35</sup> PMA PoE para 11.2, page 53

<sup>36</sup> CD B8

assessment the appeal scheme is not well placed to relieve the Western Arc Crematoria.

*Conclusion on need*

63. Bringing this all together, I conclude that the appellant generally over-estimates the quantitative and qualitative benefits of the appeal scheme. Barnby Dun will alleviate over-trading at Rose Hill, enabling qualitative improvements to be made and substantially meeting residual need in the Doncaster area.
64. The main parties agree that there is a clear need for one or even two crematoria in the Western Arc. The appeal scheme would meet some of this need; however, due to its location, it would fail to provide sufficient quantitative relief to enable meaningful qualitative improvements to be made to those crematoria. Furthermore, I cannot be certain that there is not an alternative site which would better meet the needs of the Western Arc. Therefore, I can only attach moderate weight to the benefits of the appeal proposal in this regard.

**The effect of the proposed development on the landscape and visual character of the area.**

65. The appeal site falls within the Southern Magnesian Limestone National Character Area (NCA) 30<sup>37</sup> which is identified as having a smoothly rolling landform; fertile intensively farmed arable land, with large fields bounded by hawthorn hedges creating a large-scale open landscape; a number of parklands, woodlands and plantations and historic estates. The rolling agricultural and wooded landscape of the appeal site and its tranquillity are characteristic of this NCA.
66. At a local level, the Doncaster Landscape Character and Capacity Study (2007)<sup>38</sup> identifies the appeal site within the C2 "Cadeby to Adwick Limestone Plateau". The key characteristics are gently rolling landform, large-scale arable farmland and hedgerows. The general landscape capacity for development (including housing that was specifically considered) was low. The appellant's Landscape and Visual Impact Appraisal<sup>39</sup> subdivides C2 into five Local Landscape Character Areas (LLCA) - the appeal site falls within LLCA1 which is described as 'generally good'. The appeal site is representative of LCA2.
67. A large proportion of the appeal site also lies within Area EMP 5.1 of the Landscape Character and Capacity Study (2010)<sup>40</sup> which considered the capacity of the area to accommodate housing and employment development. EMP 5.1 was assessed as having medium landscape character and visual sensitivity; high landscape value and low capacity to accommodate employment development. The main parties agree that the site does not constitute a 'Valued Landscape' within the context of paragraph 174 of the Framework.
68. The Council commissioned consultants (Land Use Consultants [LUC]) to carry out a high-level review<sup>41</sup> of the three LVIA's submitted in support of the planning applications which broadly agreed with the appellant's LVIA. LUC were subsequently commissioned by the Council to prepare evidence for the Inquiry. The appellant draws attention to the Council's apparent change of position on such matters; however, the Council's evidence to the Inquiry was based on a more detailed assessment than undertaken for the previous high-level review. Moreover, the appellant also alters<sup>42</sup> its position from its original LVIA<sup>43</sup>. In any event, I must

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<sup>37</sup> CT PoE Appx3

<sup>38</sup> CD F9

<sup>39</sup> CD B2

<sup>40</sup> CD F10

<sup>41</sup> CD C3

<sup>42</sup> SK Landscape and Visual PoE

<sup>43</sup> (CD B2)

reach my own judgment based on the evidence before me and my observations on site.

69. In terms of landscape character, the appellant's LVIA describes LLCA1 as having low susceptibility to development<sup>44</sup> due to the influence of the A1 corridor, network of powerlines and level of visual enclosure provided by vegetation and landform. However, I agree with the Council's LVIA that the appellant overplays the level of visual enclosure, particularly as the upper elevated parts of the site are more exposed and underplays the importance and susceptibility of the open agricultural landscape. Consequently, I consider that LLCA1 has medium susceptibility to development.
70. The appellant's LVIA concludes that the development would result in slight landscape effects at years 1 and 10 at the scale of LLCA1. However, the proposed development would see the introduction of built development in the open countryside. It would involve the loss of agricultural land and fragment an otherwise large-scale arable field. In addition, it would involve the loss of 180m of hedgerow along Green Lane to enable highway access. Whilst a new hedgerow would be planted this would take years to mature. There would be significant earthworks and retaining walls, the long access road, a pond, network of footpaths and some non-native planting. Furthermore, there would be a significant loss of tranquillity due to the increased activity arising from frequent vehicular movements and associated lighting. The proposal would result in a loss of key features identified in the landscape character assessments outlined above. It would cause permanent and irreversible change to the site and result in the urbanisation of the open countryside.
71. The appellant's LVIA fails to recognise the effects of the proposal on the intrinsic character and scenic qualities of LCA C2 and does not properly assess the effects of the road and associated activity or the effects at construction. The LVIA, therefore, underplays the landscape effects of the proposal. Consequently, I agree with the Council's LVIA that there would be a medium level of change and a moderate adverse effect in construction and year 1, reducing to slight after year 10 at the LLCA1 scale.
72. Although the appeal site lies to the east of the A1M, the industrial heritage has shifted into a new phase of regeneration at Brodsworth Community Woodland. Whilst section 6.6 of CD F10 suggests that should development take place in EMP 5.1, it should be on the eastern side of the A1; paragraph 6.7 nevertheless goes on to say that large scale development of the site would be highly visible and out of character with surrounding land uses and is not, therefore, recommended. Consequently, the introduction of large and uncharacteristic development into an otherwise rural setting would result in a moderate adverse effect decreasing to slight adverse after year 10 at the EMP 5.1 level.
73. At the NCA level the proposal would only represent a small change. Nevertheless, the loss of characteristic features and the introduction of an urbanised landscape and associated activity in contrast to the surrounding simple farmed landscape, would result in a low adverse effect.
74. The appellant's LVIA does not assess the site level effects; however, there would be a prominent, large scale change which would involve the loss of key landscape characteristics and features and the introduction of urban fringe development in the open countryside. I, therefore, agree with the Council's LVIA which concludes that the landscape effects at the site itself would be major adverse at construction; moderate adverse at year 1 and remaining moderate adverse at year 10, despite landscape mitigation.

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<sup>44</sup> Paragraph 8.2.1 SK Landscape and Visual PoE

75. In visual terms, the appellant's Landscape PoE states that the overall magnitude of change in views from Green Lane would be low both at year 1 and year 10 on the basis that the changes would largely be restricted to transient views along the section of land adjacent to the site entrance area, which would be viewed obliquely. However, the proposal would require the removal of a substantial section (180m) of established hedgerow on Green Lane to allow for a bell mouth for the access, the construction of a two-lane width road around 510m long, running in a sweeping curve from higher ground where it would be widely visible, to lower lying slopes adjacent to Stane Plantation, where it would be screened in some views.
76. It was clear from my site visit that users of Green Lane would have filtered views of the site, with direct views opening up at the new entrance. The removal of a substantial section of hedgerow would increase views of the proposal during the construction phase and in the early years of the development. Views of the internal access road would be limited to the section immediately beyond the access due to the road sweeping to the west and stretches of the road on higher land until the proposed landscaping along the access road matures.
77. The location of the development on a lower section of land and the intervening landform would help to screen views of the building, car parking and memorial gardens to a degree, although glimpsed views may be available from the access to the site. Nevertheless, due to the substantial section of hedgerow to be removed, I consider that the proposed development and its entranceway would result in an urbanising effect to the existing rural character of Green Lane, particularly during the construction phase and until landscaping matures. As such there would be a moderate adverse effect for users of Green Lane up until year 1. The effects would diminish overtime to slight adverse at year 10 as the replacement hedgerow matures, including off-site hedgerow enhancement, which accords with the appellant's and Council's assessment at year 10.
78. The appellant's Landscape PoE adjusts the assessment of the effect of the proposal in views from Brodsworth Community Woodland from a 'very low magnitude of visual change' in its original LVIA to negligible at both years 1 and 10 as it is considered that visibility would be limited to a very small part of the proposal due to enclosure by woodland and the hedgerow along the upper section of the western site boundary. Whilst intervening vegetation and woodland would minimise views towards the site to a degree, it was clear from the site visit that glimpsed views would be available from informal paths in Winter months to the immediate north of Green Lane and east of the public car park. I, therefore, agree with the findings of the Council's LVIA that there would be a moderate adverse effect at construction and year 1 to users of the woodland reducing to slight adverse at year 1 and very low at year 10 as the proposed landscaping matures.
79. The main parties agree that generally views from the south are constrained by woodland coverage at Ducker Holt and Long Plantation. There would be very glimpsed views of the proposal through gaps in the hedgerow along Barnsley Road. I noted on my site visit that the proposal would also be highly visible from fields to the north of Barnsley Road, behind the layby. Views would be partly filtered by Stane Plantation, although clearer views would be available when standing to the west. As public access is not available to these fields and as the hedgerow adjacent to the layby filters views, I agree with the Council's LVIA that the proposal would have a moderate adverse effect at construction, reducing to slight adverse at years 1 and 10 taking account of mitigation.
80. Enclosure is provided in views from the east by Long Plantation which prevents views from residential properties in Little Canada. There is an outdoor meditation business operating within Long Plantation which I note has informal footpaths and seating on the edge of the wood. Short range views of the proposal would be



available from the edge of the woodland looking down to the site. I consider that there would be a moderate adverse visual effect from this location, reducing to slight adverse at year 10 as proposed landscaping around the site matures.

81. The appellant has reduced the assessment of visual impact from Brodsworth Hall and gardens to the west from slight adverse at year 1 and year 10 to a negligible change. However, it was clear on my site visit that there would be filtered views of the proposed access road and associated vehicular movements from the parkland and rooms on the eastern side of both the upper and ground floors of the Hall. Whilst viewed at a distance, the proposal would, nevertheless, alter the predominately rural view from Brodsworth Hall. The proposed landscaping along the western boundary of the site would mitigate the visual impact to a degree, although the road lighting and lights from vehicles would be visible in Winter months. Therefore, I agree with the Council's LVIA that the visual effects would be slight adverse during operation.
82. I noted on my site visit that filtered views would also be available from Church Lane, connecting Marr and Pickburn. Consequently, in visual terms, the proposal would have a moderate adverse effect reducing to slight adverse in year 10 taking account of mitigation.
83. Although due to the existing level of enclosure and proposed landscaping the visual effects of the proposed development would reduce overtime to low adverse the urbanisation of the landscape, the effects of increased level of activity and vehicular movements and proposed lighting would remain particularly on the upper part of the site which is more exposed.
84. Overall, I consider that the appellant's LVIA and Landscape PoE underestimate the visual effects of the proposal particularly at construction and in the early years of the development before the proposed landscaping matures. Nor do they take account of the access road and other aspects of the scheme such as traffic movements and their effect on the landscape. Furthermore, there is no justification for the reduction in the visual effects of the proposal to negligible from certain viewpoints. Moreover, the landscape effects of the proposal are not sufficiently addressed. This reduces the weight which I can attach to it in my decision.
85. For the reasons stated, the proposal would result in slight adverse landscape and visual harm at year 10, considering mitigation measures. Whilst this harm would be limited, the proposal would, nevertheless, be contrary to Policy 33 of the Doncaster Local Plan which seeks to ensure that development conserves, enhances and where possible, restores the landscape character and local distinctiveness of the area. Conflict also arises with paragraphs 174 of the Framework which seeks to recognise the intrinsic character and beauty of the countryside.

## **OTHER CONSIDERATIONS**

### **Economic considerations**

86. There would be economic benefits during construction and the operation of the crematorium, including the future employment of those that will work at the crematorium. Indirect benefits would arise from the increased use of local services and facilities. I attach moderate weight to these benefits.

### **Social Considerations**

87. The proposal would provide a benefit to the community in terms of the provision of an essential community need. However, for the reasons stated, I consider that the community of the Western Arc would be better served by a facility which would reduce the degree of over-trading in the Western Arc to a level which would

achieve more meaningful qualitative improvements. Hence, I only attach moderate weight to these benefits.

## **Biodiversity**

88. The main parties agree that the proposal would result in net biodiversity gain of over 16% and would enhance the ecological value of the site which attracts significant weight in my decision. The proposal would comply with Policies 29 and 30 of the Local Plan in so far as they seek to protect and enhance the Borough's ecological network and ensure a net gain in biodiversity in new developments.

***Whether or not 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 development.***

89. For the reasons set out above, the proposed development would be inappropriate and would cause a loss of Green Belt openness. Furthermore, it would represent an encroachment into the countryside, contrary to Green Belt purpose 3. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposal, therefore, conflicts with Policy 1 of the Local Plan. Paragraph 148 of the Framework requires that substantial weight be given to any harm to the Green Belt.
90. Moreover, it is not possible to ascertain that an alternative non-Green Belt site or alternative Green Belt site which would be better placed to meet the need and/or have less impact on Green Belt openness is not available.
91. There would also be landscape character and visual harm, which, albeit limited, nevertheless weighs against the proposal. In this respect the proposal would also be contrary to Policy 33 of the Local Plan and the Framework.
92. In this case, I have determined that Barnby Dun would substantially meet the need for crematoria facilities in the Doncaster area. Whilst there is an identified need in the 'Western Arc' group of crematoria; I have found that the proposal would not provide sufficient relief to enable meaningful qualitative improvements to be made due to the location of the appeal site. Consequently, I only attach moderate weight to this need.
93. There would be social and economic benefits arising from a new crematorium in terms of its operation and employment of staff to which I give moderate weight. The proposed landscaping would, when mature, result in a net gain in the biodiversity value of the site to which I give significant weight.
94. Therefore, whilst the proposed development would have some benefits, these would not individually or collectively clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
95. The proposal would, therefore, be contrary to the development plan as a whole and the Framework. There are no material considerations which would indicate a decision other than in accordance with the development plan.
96. For the reasons stated above and taking all other considerations into account, the appeal should be dismissed.

*Caroline Mulloy*

Inspector

## **APPEARANCES**

### ***For the Local Planning Authority***

Mr Philip Robson of Counsel	Instructed by Doncaster Borough Council
<i>He called:</i>	
Andrea Suddes MA MRTPI.	Principal Planning Officer, Doncaster Borough Council
Sam Oxley BSc MA MLA	Director of Landscape Planning and Management for Land Use Consultants
Peter Mitchell FICCM(Dip)	Principal Consultant of Peter Mitchell Associates
Stacy Cutler LLB (Hons) Degree DipLP	Planning Solicitor, Doncaster Borough Council

### ***For the Appellant***

Mr Peter Village of Counsel	Instructed by Dignity Funerals Limited
<i>He called:</i>	
John Williams BA (Hons) MRTPI	Director, PlanIt Planning and Development
Stephen Kirkpatrick BSc BLD CMLI	Director at Scarp Landscape Architecture Limited
Jonathan Best BSc (Hons) Dip TP, MRTPI.	Partner at Montagu Evans
Alan Lathbury	Business Development Director at Dignity Funerals Limited
Ian Ginbey LLP	Partner at Clyde & Co (appellant's solicitor)

### ***Interested Persons***

Rhonda Job	Chair Joint Rural Parishes
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## **INQUIRY DOCUMENTS**

### ***Joint (main parties)***

JT1	Agreed amended conditions 30/11/21
JT2	Updated Core Document list

### ***Documents submitted on behalf of the Council***

CO1	New Analysis of Existing evidence regarding need, PMA 9 October 2021
CO2	Opening submissions on behalf of the Council
CO3	AS Errata Sheet
CO4	Doncaster Local Plan adoption notice (23/09/2021)
CO5	Council's position statement on adopted Doncaster Local Plan
CO6	Closing submissions on behalf of the Council

### ***Documents submitted on behalf of the Appellant***

AP1	Opening submissions on behalf of the appellant
AP2	Appellant's Response to the Council's Late Evidence
AP3	JB Need Errata Sheet
AP4	Johnathon Best Proof of Evidence Section 10 Tables amended to exclude direct cremations at 11% 21 October 2021 (final)
AP5	Johnathon Best Proof of Evidence Rebuttal Tables updated to accord with amended section 10 tables 21 October 2021(final)
AP6	Crematorium Green Lane off-site hedgerow enhancement plan 24/11/21

- AP7 Title information and Savills Letter
- AP8 Closing submissions on behalf of the appellant

***Documents submitted by Memoria (Rule 6 Party)***

- ME1 Opening submissions on behalf of Memoria
- ME2 Closing submissions on behalf of Memoria

***Documents submitted by Interested Persons***

- JRP1 Joint Rural Parishes Group Statement/Presentation to Public Inquiry