

14/01575/APP



REFERENCE NO	PARISH/WARD	DATE RECEIVED
<p>14/01575/APP</p> <p>ERECTION OF A CREMATORIUM WITH ACCESS ROAD, BRIDGE, CAR PARKS AND ANCILLARY WORKS AND ASSOCIATED LANDSCAPING (PART-RETROSPECTIVE PLANNING APPLICATION FOLLOWING QUASHING OF ORIGINAL APPLICATION)</p> <p>RIVIERA RESTAURANT</p> <p>CREMATORIUM MANAGEMENT LIMITED</p> <p>STREET ATLAS PAGE NO. 101</p>	<p>WATERMEAD</p> <p>The Local Members for this area are: - Councillor Ashley Bond</p>	<p>30/05/14</p>

1. The Key Issues in determining this application are:-

a) The planning policy position and the approach to be taken in the determination of the application:

The Development Plan;

National Planning Policy Framework.

b) Whether the proposal would constitute a sustainable form of development and consideration of any adverse impacts against the benefits:

- **Building a strong competitive economy;**
 - **Promoting sustainable transport;**
 - **Requiring good design;**
 - **Promoting healthy communities;**
 - **Meeting the challenge of climate change, flooding and coastal change (including whether the development passes the Sequential and Exceptions Tests);**
 - **Conserving and enhancing the natural environment;**
 - **Conserving and enhancing the historic environment**
 - **Impact on the environment and residential amenities.**
- c) Other Relevant Planning Matters**

The recommendation is that the application be DEFERRED and DELEGATED to Officers for approval subject to any subsequent direction from the Secretary of State (SoS) and subject to conditions as considered appropriate by Officers.

1.1 CONCLUSIONS & RECOMMENDATIONS

- 1.2 The application has been evaluated against the extant Development Plan and the report has assessed the application against the core principles of the NPPF and whether the proposals deliver sustainable development.
- 1.3 Officers have considered the different arguments that have been put forward by the applicants and the parish council on the baseline for the consideration of the application. The Parish Council's view is that the site has a nil-use, and the existence of buildings (now demolished) and previous trip generations should not be considered. The applicants disagree and consider that the development should be considered and compared against the previous use. In terms of the officer's approach, it is considered that the baseline for the consideration should be one of a cleared brownfield site. This is on the basis that it would not be appropriate to draw a comparison in the assessment below with the previous building and structures on the site and the use as a restaurant given that planning permission would be required to reconstruct the building and structures. The application will therefore need to be assessed on that basis. For

robustness officers will have regard to the arguments put forward by the applicant on this point in the following assessment. This is dealt with in greater detail later in the report.

- 1.4 The report identifies that the proposal complies with the relevant saved policies in AVDLP and therefore there is no conflict with the development plan. There are no specific policies relating to the crematorium and therefore in the absence of such policies paragraph 14 of the NPPF is engaged and a planning balance should be carried out. The question of whether this should be a tilted balance or not is addressed below.
- 1.5 In considering the benefits, it is considered that there are benefits to the local and wider community, in terms of the re-use of a previously developed brownfield site, reducing overall travel times and distance and the delivery of a second crematorium in Aylesbury Vale to which significant beneficial weight should be given. It is likely that a net enhancement in biodiversity will also be achieved, as a result of the proposals, which will comprise on site measures, to which limited beneficial weight should be assigned. The proposed development gives rise to economic benefits in relation to employment to which limited beneficial weight is given and social benefits for Aylesbury and the wider District to which limited beneficial weight is given.
- 1.6 Overall, it is considered that with the mitigation proposed, the landscape impacts will not be unduly harmful to the character and appearance of the site, the area, or on the landscape character recognising the site's urban fringe location at the edge of Aylesbury. Overall, the landscape impacts are afforded neutral weight in the planning balance.
- 1.7 Compliance with some of the other core planning principles of the NPPF have been demonstrated in terms of promoting healthy communities, highway impact and transport, the design of the development, impact on the heritage . However, these matters do not represent benefits to the wider area but demonstrate an absence of harm to which weight should be attributed neutrally. With regards to residential amenity, overall the impact is considered to be neutral. The extent to which the harm is caused by the development (comprising the crematorium building, including the car parking area, bridge and access) to the surrounding open space including its use is considered to be neutral as the wider site would still be publically accessible, and the route around the lake, including access to the slipway is retained.
- 1.8 With regards to climate change and flooding, the applicant has demonstrated to the reasonable satisfaction of the local planning authority that the Sequential and Exceptions tests are passed and that flood condition betterment can be secured as part of the development works. As

such, the proposed development would result in a positive impact on flood conditions locally, and it is considered that this should be given limited weight in the overall assessment.

- 1.9 Members will be aware that the tilted balance in paragraph 14 is the presumption in favour of granting permission for sustainable development, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted. Footnote 9 sets out examples including those policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion.
- 1.10 The benefits and adverse impacts are carefully weighed in the planning balance and it is considered that overall the benefits outweigh adverse impacts and the proposal would constitute sustainable development. Officers consider that whilst the site is in a location at risk of flooding as referred to in footnote 9, the conclusion in the report on flood risk, climate change, sustainable drainage and flood compensation is that there are limited positive benefits and an absence of harm on this matter. Officers have considered the question of whether the site meets the policies in the NPPF concerning flooding on a neutral basis (ie not a tilted balance). Officers are satisfied that those policies are met on a non-tilted balance. In those circumstances the remainder of the application may be considered in accordance with the tilted balance. This means that if the tilted balance is that permission may be granted unless any adverse impacts of doing so would "significantly and demonstrably" (*our emphasis*) outweigh the benefits, it could be re-applied. Officers do not consider that any impacts of this development would significantly and demonstrably outweigh the benefits. The parish council have argued during the judicial review that the tilted balance in paragraph 14 should not be applied irrespective of the consideration of the impact. Officers considered that even if the tilted balance is not applied it is considered that the proposal would still constitute sustainable development as the benefits would still outweigh the harm and the proposal is both sustainable and acceptable and would accord with the AVDLP policies and the NPPF. Therefore even if the tilted balance is not applied officers recommend that planning permission should be granted.

1.11 The National Casework Unit have advised that they have received a request for the Secretary of State to call the application in and whilst a direction has not been issued the NCU have requested that the council does not determine the application, if the Strategic Development Management Committee is minded to approve the application, until it has time to consider the request for a call in.

1.12 It is therefore recommended that the application be deferred and delegated to officers for **APPROVAL** subject to confirmation that the Secretary of State will not call in the application for his determination and subject to the following planning conditions:

1. The completed crematorium building including its associated bridges, access road and car parking area shall be maintained in accordance with the following approved plans:

80424-P(0)003.A, 80424-P(0)00280424-P(0)006.D, 80424-P(0)008.A, 80424-P(0)009.E, 80424-P(0)010.A, 80424-P(0)011.A, 80424-P(0)015.A, 80424-P(0)016.A, 80424-P(0)017.A, 80424-P(0)018.A, 80424-P(0)020.A, 80424-P(0)021.A, 80424-P(0)025.C, 80424-P(0)030.H, 80424-AP (00) 50 A, NPA/10731/300/P01, NPA/10731/200/P01, NPA/10846/500/P01, NPA/10846/550/P01, OW12700-E01.D, OW12700-E02.D, NPA/10846/503/P01, 80242-AL(0)007.K, WE03847/C/020.K, WE03847/C/021.L, Material Samples, WE03847-Aylesbury Crematorium, WE03847_010B and WE03847_011B

REASON: In the interests of the visual amenities of the locality and to accord with Aylesbury Vale District Local Plan policies GP35, GP38, GP39 and GP40 and advice in the National Planning Policy Framework.

2. The completed hard and soft landscaping works associated with the development hereby approved, shall be managed and maintained in accordance with the approved plans; [NPA/10846/300/P01, NPA/10846/200/P01, NPA/10846/500/P01, NPA/10846/550/P01, NPA/10846/503/P01, 80242-AL (0)007.K, 80242-AL(0) 009 E, WE03847/C/020.K, WE03847/C/021.L and 80424_STL_Brunel]. Any remaining hard and soft landscaping works (which are outstanding at the date of permission) as shown in the approved plans (including the footways on the mound) shall be carried out, in accordance with the approved plans, within the first planting season following the first use of the development hereby permitted or the completion of the development whichever is the sooner.

REASON: In the interests of the visual amenities of the locality and to accord with Aylesbury Vale District Local Plan policies GP35, GP38, GP39 and GP40 and advice in the National Planning Policy Framework.

3. Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the Local Planning Authority.

REASON: In the interests of visual amenities of the locality and to accord with Aylesbury Vale District Local Plan policies GP38, GP39 and GP40 and advice in the National Planning Policy Framework.

4. There shall be no scattering or interring of ashes within or adjacent to the site other than within the defined area within the site as shown on the approved plan P(0) 031.

REASON: In order to protect the local wildlife in accordance with .the National Planning Policy Framework (NPPF) paragraph 109 and paragraph 118.

5. The crematorium hereby permitted shall not be used for funeral services before 10.30am or after 16.30pm on Monday to Friday, before 10.30am or after 14.00pm on Saturdays, and shall not be used for funeral services on Sundays, or on bank or public holidays. The crematorium shall not be used within or outside of the specified hours for any other purpose other than as a crematorium.

REASON: To safeguard the amenity of the area and to accord with Aylesbury Vale District Local Plan policies GP8 and GP95 and advice in the National Planning Policy Framework.

6. The site shall not become operational until the foul and surface water drainage hereby approved as set out in the Drainage Strategy WE03847-Aylesbury Crematorium and approved drawings WE03847_010B and WE03847_0101B has been fully implemented in accordance with the approved details .

REASON: In order to ensure that the development is adequately drained and to accord with advice in the National Planning Policy Framework.

7. No floodlighting or other form of external lighting shall be installed within the site unless it is in accordance with details set out in the external lighting scheme associated with the

development hereby approved which comprises Ref: Lighting Report Rev-2 and drawings OW12700-E01.D and OW12700-E02.D. Any lighting which is so installed shall not thereafter be altered other than for routine maintenance which does not change its details.

REASON: In the interest of visual and residential amenity and to accord with Aylesbury Vale District Local Plan policies GP8, GP35 and GP95, and advice in the National Planning Policy Framework.

8. The flood management and mitigation scheme associated with the development hereby approved shall be permanently maintained in accordance with the Flood Risk Assessment by Clive Onions Ltd dated 30 May 2014 and the following documents (Flood Management Plan (23/06/2017) Version 3, Flood Risk Management Assessment and Drainage Strategy (23/06/2017) Version 6), Compensatory flood plain storage as shown in the updated summary of flood storage volume by Clarkebond dated December 2017 and the updated flood compensation locations by Clarkebond dated December 2015 as shown in Flood Mitigation Scheme Drawing. No. 80424/P(O)030 rev H. The Finished flood levels are set no lower than 74.5 metres above Ordnance Datum.

REASON: To reduce the risk of flooding to the proposed development and future occupants in accordance with paragraph 103 of the National Planning Policy Framework (NPPF) and to ensure that the property is suitably protected from flooding up the 1% Annual Exceedance Probability with an appropriate allowance for climate change flood event and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

9. The management and maintenance of the grounds and building, associated with the development shall be carried out in accordance with the approved Environmental Management Plan (EMP) (Ref: Environmental Management Plan 2017-2021 (26/06/3027) Issue 2 and Management Plan 2015-2019 Issue 5) which includes details of long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas within the site

REASON: To ensure the protection of wildlife and supporting habitat and to secure opportunities for the enhancement of the nature conservation value of the site in accordance with guidance set out in the National Planning Policy Framework, and in accordance with the Natural Environment and Rural Communities Act and article 10 of the Habitats Directive. .

10. The scheme for parking, garaging and manoeuvring and the loading and unloading of vehicles shown on the plans hereby approved, shall be laid out prior to the first operation of the development hereby permitted and that area shall not thereafter be used for any other purpose.

REASON: To enable vehicles to draw off, park, load/unload and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway and to accord with Aylesbury Vale District Local Plan policy GP24 and advice in the National Planning Policy Framework.

11. Prior to first operation, details of the additional temporary car park shall be submitted to and approved in writing by the Local Planning Authority in consultation with the County Council as Highway Authority and no part of the development shall be brought into use until the temporary car park has been laid out in accordance with the approved details. The applicant will formally notify the Local Planning Authority and Highways Authority of the dates when the alternative car parking scheme is in operation, by way of placing a public notice to be displayed in a prominent location close to the site and/or by way of written correspondence to the Local Planning Authority/Highways Authority, in such an event.

REASON: To minimise the potential for danger, obstruction and inconvenience to users of the adjoining highway and to accord with Aylesbury Vale District Local Plan policy GP24 and advice in the National Planning Policy Framework.

12. Prior to the first operation of the development hereby permitted a Travel Information Plan shall be submitted to the Local Planning Authority for approval in writing, the approved plan shall thereafter be implemented and (ie: before any funeral services are carried out) and, subject to its approval, shall be made publically available for all users of the site within three months of first occupation. The Travel Information Plan shall provide information on all forms of travel to the site including but not limited to: walking routes to the site; cycle routes; and links to passenger transport timetables.

REASON: In order to influence modal choice and to reduce single occupancy private car journeys to the site in line with NPPF and Local Transport Policy 4.

13. A scheme that identifies a clearly demarked safe pedestrian route between the car park and the crematorium shall be submitted to and approved in writing by the Local Planning Authority prior to first operation of the development (ie: before any funeral services are carried out). The

proposed pedestrian route shall be provided on-site in accordance with approved details within one month following approval and shall be maintained permanently thereafter in association with the use.

REASON: In order to minimise danger, obstruction and inconvenience to pedestrian users of the development in accordance with the NPPF.

14. Prior to first operation, details of a scheme for cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the no. of cycle spaces and the design including any supporting structure and shall be clearly identified on a plan. The cycle storage/facilities shall be laid out in accordance with the approved plans within three months following approval and the facilities shall be permanently maintained for this purpose thereafter.

REASON: In order to influence modal choice and to reduce single occupancy private car journeys to the site in line with National Planning Policy Framework and Local Transport Policy 4.

15. The use of the site hereby permitted shall cease within 90 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

(i) Within 1 months of the date of this decision, a scheme for the provision and management of the 8 metre wide ecological buffer zone alongside the River Thame shall have been submitted for the written approval of the Local Planning Authority and the scheme shall include a timetable for its implementation and a scheme for protection during any remaining construction works, formal landscaping and formal management (with the exception of the small length of non-native hedge already agreed, and the parking spaces along the left bank, upstream of the road crossing). The scheme shall include but not be limited to:

- Plans showing the extent and layout of the buffer zone including details of any fencing which will protect the buffer from footfall and vehicular encroachment;
- Details of any proposed planting scheme in the River Thame and within the 8 metre ecological buffer (for example, native species only)
- Details demonstrating how the river and buffer zone will be managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.

(ii) If within 11 months of the date of this decision the Local Planning Authority refuses to approve the scheme or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

(iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

REASON: In order to protect the local wildlife in accordance with .the National Planning Policy Framework (NPPF) paragraph 109 and paragraph 118.

16. The use of the site hereby permitted shall cease within 90 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

(i) Within 1 month of the date of this decision, a whole life (Sustainable Urban Drainage Strategy (SUDS)) maintenance plan for the site shall have been submitted for the written approval of the Local Planning Authority. The plan should set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component) following construction with details of who is to be responsible for carrying out the maintenance.

(ii) If within 11 months of the date of this decision the Local Planning Authority refuses to approve the scheme or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

(iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable and shall remain operational for the whole life of the use as a crematorium.

REASON: To ensure that maintenance arrangements have been arranged and agreed in accordance with Paragraph 103 of the National Planning Policy Framework to ensure that there is a satisfactory solution to managing flood risk.

17. The use of the site hereby permitted shall cease within 90 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

- (i) Within 1 month of the date of this decision, a surface water runoff scheme shall have been submitted to and approved in writing by the local planning authority which will demonstrate that the surface water runoff generated by the proposed development shall not discharge at a rate greater than the existing brownfield runoff rates for development site.
- (ii) If within 11 months of the date of this decision the Local Planning Authority refuses to approve the scheme or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- (iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable and shall remain operational for the whole life of the use as a crematorium.

REASON: To ensure that there is a satisfactory solution to managing flood risk in accordance with Paragraph 103 of the National Planning Policy Framework.

18. The entrance gateway adjacent to the junction with Watermead shall be inward-opening and openable within the site only, and shall be maintained permanently thereafter. The gate shall not be opened or extend into the public highway at any time.

REASON: To avoid queuing vehicles on the public highway, and to ensure safe access/egress to the site in order to minimise danger, obstruction and inconvenience to pedestrian users of the development in accordance with the NPPF.

19. Notwithstanding the provisions of Part 2 of the Second Schedule to the Town and Country Planning General Permitted Development Order 1995 (or any Order revoking or re-enacting that Order) no gates, fences, walls or other means of enclosure other than those shown on the approved plan shall be erected along the site frontage within 6 metres of the edge of the carriageway.

REASON: To enable vehicles to draw off clear of the highway for the safety and convenience of highway users and to accord with guidance set out in the National Planning Policy Framework.

INFORMATIVES

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant and has focused on seeking solutions to the issues arising from the development proposal. In this case, the applicant/agent was provided with pre-application advice which was taken into account in the application submitted. Amendments to the proposals and additional information have been sought and submitted. The application has been found acceptable on the basis of these amendments, and permission has been granted.
2. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required if protected habitats or species are affected by development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0118 958 1222.
3. There is a probability that birds will nest on this site. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. This makes it an offence to kill, injure or take a wild bird, or to take damage or destroy the nest of any wild bird while that nest is in use or being built. The most effective way of avoiding breaches of this legislation is to conduct activities that might disturb nesting birds outside the nesting period. The bird nesting season usually covers the period from mid-February to the end of August. However it is very dependent on the weather and certain species of birds may nest well outside this period. Under section 16 of the Wildlife and Countryside Act 1981, licences can be issued, which permit otherwise illegal activities to be carried out for a variety of purposes. Further information on licences is available from Natural England. For further information or to obtain approval contact Natural England on 0118 958 1222. Details can be found at www.naturalengland.org.uk
4. If any unexpected contamination is encountered during any phase of the works, the District Council's Environment Services Division must be informed immediately and works should cease on site until a remedial strategy has been written and agreed in writing by the District Council. For further information contact Miss Deborah Ferady, Contaminated Land Officer, Tel. 01296 585621.

5. The cremation of human remains is a regulated activity under the Environmental Permitting Regulations 2010. Accordingly, the activity will require an Environmental Permit issued and enforced by Aylesbury Vale District Council, and based on the Department for Environment, Food and Rural Affairs Statutory Guidance for Crematoria; Process Guidance Note 5/2 (12).
6. Under the terms of the Water Resources Act 1991, and the Thames Land Drainage Byelaws 1981, the prior consent of the Environment Agency is required for any proposed works or structures in, under, over or within 8 metres of the top of the bank of the River Thame, designated a 'Main River'. The Environment Agency advises that the applicant contacts westthamesconsents@environment-agency.gov.uk for further information relating to flood defence consents. Please note that this consent is independent of the need for planning permission and the granting of planning permission does not necessarily imply that Environment Agency consent will be granted.
7. It is contrary to the Highways Act 1980 for surface water from private development to drain onto the highway or discharge into the highway drainage system. The development shall therefore be so designed and constructed that surface water from the development shall not be permitted to drain onto the highway or into the highway drainage system.
8. It is an offence under Section 151 of the Highways Act 1980 for vehicles leaving the development site to carry mud onto the public highway. Facilities should therefore be provided and used on the development site for cleaning the wheels of vehicles before they leave the site.
9. No vehicles associated with the building operations on the development site shall be parked on the public highway so as to cause an obstruction. Any such wilful obstruction is an offence under Section 137 of the Highways Act 1980.
10. The applicant is advised that a license must be obtained from the Highway Authority before any works are carried out on any footway, carriageway, verge, or any other land forming part of the Highway. A period of 28 days must be allowed for the issuing of this license. Please contact:

Transport for Buckinghamshire
Aylesbury Vale Area Office
Corrib Industrial Park

Griffin Lane
Aylesbury
Bucks. HP19 8BP
Tel: 0845 230 2882

2.0 INTRODUCTION

- 2.1 This application was considered by the Strategic Development Management Committee on 10 December 2014 when it was resolved that the application be delegated to officers for approval following the receipt of satisfactory amended information to resolve the issues raised by the EA. Subsequently the Secretary of State served a holding directive to enable him to consider if the application should be referred to him for determination. The holding directive was subsequently withdrawn on 19 March 2015, the EA concerns were overcome and planning permission was granted on 18 June 2015.
- 2.2 Following the District Council's decision to grant planning permission for the Crematorium at the Watermead Site, a legal challenge was made by Watermead Parish Council which applied to the High Court for a judicial review of the planning permission. The High Court dismissed that challenge on 4th March 2016. The Applicant continued to submit material and information in order to discharge planning conditions imposed on the permission. Construction then commenced on the site. The crematorium building is now completed and fully fitted-out. The ground works are similarly complete together with the car parking and traffic circulation and other infrastructure. The planting and landscaping works have commenced and it is planned to complete the works in the next planting season.
- 2.3 Leave to appeal the High Court's decision was refused on 16th August 2016 and Watermead Parish Council subsequently appealed against the High Court's decision. The Court of Appeal (Case No: CI/2016/1235), held that the permission should be quashed on 17th March 2017. The judges held that the Case Officer's favourable advice provided to the District Council's Committee erred in law with regard to the application of the "sequential test" and national planning policy as expressed within the National Planning Policy Framework (NPPF). The Judges ruled that the District Council had therefore erred in law, in that the report to committee had reasoned that the proposal relates to an already developed site and therefore a sequential test was unnecessary and this "was not a true reflection of government policy in areas at risk of flooding in paragraphs 99-104 of the NPPF. In other words, a sequential test was applicable and a good reason had not been provided for a departure from the NPPF policy". This was

substantial and also not inconsequential, and the decision to approve the application was therefore quashed. In coming to a decision, Lords Justice Patten and Lindblom concluded;

I have concluded that the district council's committee was misdirected on the meaning and effect of NPPF policy for the sequential test, an important element of national planning policies for development in "areas at risk of flooding". The importance of those policies is plain both in the section of the NPPF where they are set out and in paragraph 14, which establishes their connection to and implications for, the "presumption in favour of sustainable development".

- 2.4 The application has been returned to the council for redetermination.
- 2.5 The current building and associated works do not have the benefit of planning permission. Notwithstanding this, the development has taken place and is substantially completed, save for the completion of the landscaping scheme which will follow in the next planting season, if permission is to be granted. The proposal must be considered in the normal way on the basis of the policies set out in the Overview Report and policies in this report.

a. The application needs to be re-considered by committee as the Parish Council has raised material planning objections and confirms that it will speak at the Committee meeting.

b. The original report and corrigenda are attached together with the post committee officer's delegated report as Appendix 1 for member's information. Members should however bear in mind that the advice in the original report to committee has been found to be unlawful in respect of the application of the sequential test.

As the planning permission has been quashed this is a fresh determination of the application for planning permission. Members must take account of all the circumstances as they exist at the current time.

3 SITE LOCATION AND DESCRIPTION

- 3.1 The application site comprises privately owned land made up of the former ski-slope, associated landscaped area and also land which accommodated the former Riviera restaurant (now demolished) and public car park located at the base of the former ski slope mound in an open area to the west of the lake and to the east of the A413. The site is irregularly-shaped with the main open area comprising the former ski-slope mound, with the River Thame flowing through the eastern and south-eastern sections of the site.

- 3.2 The application site extends to approx. 5.72 ha, and is bounded to the east by Watermead Lake. To the west is open land extending to the A413. To the west of the A413 is Weedon Hill (Buckingham Park). To the north is open countryside, and to the south is the Watermead access road with the Holiday Inn Hotel and a sports club beyond.
- 3.3 The former restaurant building, was set close to the base of the mound, was of a 2-storey height with the upper storey being partly contained within the roof. The area around the building was hard surfaced and provided parking and servicing to the restaurant and the ski-slope when it was in operation. Part of the site was formerly laid out for seating with a number of gazebos installed. The artificial ski surface on the southern slope has been removed but the remaining sides are covered with semi-mature trees and areas of grass. Prior to the construction of the Crematorium and associated works, this part of the site used to be accessed by way of three bridges over the River Thame, two vehicular and one pedestrian.
- 3.4 The river ran between the former building and the lake. A footpath runs along the edge of the lake with a small number of jetties providing access to the lake, which has been retained during and after construction of the Crematorium. To the southeast is an area of public open space from which the lake and footpaths can be accessed.
- 3.5 The Crematorium (and former Riviera Restaurant) was located on open land lying between the residential development at Watermead and that at Weedon Hill. The residential area of Watermead is set to the east of the lake, the nearer edge of the housing area some 300m from the existing building. The nearer edge of the residential area at Weedon Hill, to the west of Buckingham Road, is some 275m from the building. Access to the site is from Watermead, the road, the main access into the residential development of the same name.

4.0 PROPOSAL

- 4.1 The proposals are for the retention and use of the as-built crematorium, access roads, new road bridge and associated car parking and landscape works on a site extending to approx. 5.72 hectares. The proposed development comprises a crematorium building, including a ceremony room/chapel, a 'porte cochere' entrance, a floral tribute area, a set down and pick up area, and office and administration; a landscaped garden area including gardens of remembrance and areas for the interment of ashes; parking provision for 76 cars (including 5 disabled spaces); and landscaping to enhance the setting and biodiversity and intended to provide a tranquil and reflective environment.

- 4.2 The crematorium has been designed to separate the public elements from the business elements, and to facilitate a one-way flow of people through the building. The chapel has been designed with glazing that faces northeast, reducing the amount of direct sunlight but allowing views across the lake through a screen of trees. Additional light is provided by a glazed roof light. The crematorium incorporates a chapel seating up to 96 people, with additional standing room. The chapel is accessed via an entrance lobby, which also provides access to the vestry and a store. The book of remembrance, public toilets and waiting area are accessed separately, sheltered by the roof overhang. To the rear of the chapel are the transfer room, cremator room, and an externally accessed garden store. Offices and staff facilities are located adjacent to the cremator room.
- 4.3 The building is flat roofed, 4.8m in height, with a protruding angled roof light extending up to 7m at the highest point. The chimney also extends to 7m, approx. 1.2m above the roof height. The overall footprint of the circular building is 30.5m diameter at the maximum point but with the roof overhang 33.5m. A small element that houses the cremator projects rearwards by some 2.5m beyond the circle of the exterior wall. To the front the circle is truncated by approximately 3.5m but the roof overhang, which incorporates the Porte Cochere, extends some 6m beyond the main wall.
- 4.4 The external materials comprise a mix of rubble stone, a glazed curtain wall, timber doors and windows, and stone cills and surrounds. The roof light over the chapel is enclosed in a random rubble stone upstand with natural stone copings. The private elements of the building are delineated through coloured render, with timber doors and windows and stone cills. The 'Porte Cochere' entrance feature is supported on steel columns and runs the full length of the forward face of the building. The roof over the building comprises a larch edged soffit with a green roof over. Two voids are in the roof, one over the raised planting beds that adjoin the chapel and one over the entrance to the book of remembrance.
- 4.5 The applicant advises that the cremator plant to be installed would be to the latest filtration specification which has the benefit of allowing the height of the flue stack to be minimised. Details of the method and process of cremation has been provided as part of the planning application.
- 4.6 The finished floor level of the building is set 1.03m (75m AOD) above existing ground level (73.97m AOD). The raised car parks are at 73.36 AOD to 73.87 AOD, with the disabled access car park being 74m AOD to 74.75m AOD. The 'Frequent use' lay by car park on

entrance road has been raised from 73.2m AOD to 73.6 – 73.8m AOD. The 1 in 100 year level is due to rise from 74m AOD to 74.07m AOD (with climate change).

- 4.7 In comparison to the former Riviera building, the proposed crematorium is set back into the landscape and away from the river and lake, to the west of the footprint of the former building. Externally the grounds have been laid out to provide access roads and car parks, including provision of a new bridge over the River Thames. The proposal retains some existing landscaping and introduces new landscaping to enhance the setting of the building and provide screening to sensitive areas, which has been carried out. The building is set in close proximity to the mound, with a section excavated to accommodate the building and a gabion-style retaining wall constructed to the rear.
- 4.8 Parking is provided within the main car park (49 spaces, 2 suited to disabled use) and the overflow car park (24 spaces). These are located to the southeast of the River, and users would walk over the proposed bridge to access the building. In addition, three disabled spaces are indicated on the far side of the river, to the southeast of the building. Additional operational parking would be provided within the yard area to the northwest of the building. A total of 76 spaces are proposed altogether.
- 4.9 Supporting information indicates that the intention is to provide a crematorium that typically has an average of four to five services a day, thus allowing for services to be spread between 10.30 am and 4.30 pm, with a break of at least forty five minutes or an hour between services. Cremation services do not take place during peak hours and are spread throughout the day. The Crematorium Federation provides information for the attendance at cremation services. The national average is in the region of 35 persons, which normally equates to 17 car trips. It is estimated that the daily traffic movements are unlikely to exceed 200, with 50 vehicle movements in the peak hours.
- 4.10 A detailed landscaping scheme (including planting schedules, management plans and specifications) has been submitted with the application to demonstrate how the existing planting would be reinforced with native planting, in particular to the lakeside edge where the lakeshore walk passes the building. The planting in close proximity to the crematorium is ornamental, including yew hedges, standard and heavy standard trees, interspersed with specimen shrub planting.
- 4.11 The original application included a range of supporting plans and documentation which have been updated following the completion of the development, and following the decision of the

Court of Appeal to quash planning permission for the development. Some of the submitted documents, as identified in the list in this report, were originally submitted (prior to the decision being quashed) in order to discharge the former planning conditions which now no longer benefit from approval, and therefore are resubmitted for consideration as part of the current application.

- 4.12 The applicant has confirmed that the topographical survey of the as built development reveals a number of small changes to the development which differ from the previously submitted drawings which accompanied the original planning application and the various condition discharges. The application drawings submitted has been amended to illustrate the below amendments. The following areas of difference are noted:

Architectural and Functional Design Changes to the Main Building

- Minor fenestration differences in proportion and pattern.
- High level lantern in ashlar stone rather than rubble. (Cleared in discharge of condition regarding materials, dated 22 April 2016)
- Internal layout alterations.
- Lowered floral tribute wall.

Changes to the Approved External Works and Associated Ground Surfaces

- A Tighter radius to the service yard retaining wall has been built which creates a smaller service yard and less excavation. The Turning head incorporated to the service yard in lieu of gas compound which was not required as mains gas was used.
- A Swale has been introduced to the overflow parking area adjacent to lake and riverside. This allows the car parking to set back further than 8m from lake side. The applicant confirms this detail was discharged under the former condition 7 regarding storm and foul drainage (dated 31 March 2016), prior to the quashing of the original application decision.
- The northern compensation bund has been extended compared to original drawings as part of engineer's analytical calculations. This detail has been discharged under the former condition 7 as above (on 31 March 2016) prior to the quashing of the original application decision.

- The surface material to east overflow car park has been completed in permeable paving, which was originally shown in gravel. This detail was submitted under former condition 3, prior to the quashing of the original application decision.
- 4.13 The current application incorporates revised Planning Design & Access Statements, an Extended Phase 1 Habitat Survey (and Phase 2 survey), an updated Flood Risk Assessment (including an updated Flood Mitigation Plan and Flood Management Plan and relevant Addendums and Clarification Letters), a revised Crematorium Needs Assessment and Addendum (reflecting on the approved Bierton Crematorium), an updated Transport Statement, detailed Sequential and Exceptions Tests (and addendums), Environmental Management Plan, Planning Response Report (responding to the representations), Groundwater Risk Assessment, Cremator Plant Specifications, Directional Signage Report and Tree Survey. The application also includes further details submitted in regard to the original set of planning conditions imposed on the quashed planning application. An identical set of drawings and reports are offered for reconsideration, as part of the application. Additional details have been submitted with regards to the following:
- Material Samples (formerly Condition 2)
 - Revised Detailed Landscape Plan (formerly Condition 3)
 - Revised Flood Mitigation Plan (formerly Condition 5)
 - Surface and Foul Water Drainage Details (formerly Condition 7)
 - External Lighting Details (formerly Condition 8)
 - Works to be carried out in accordance with updated Flood Risk Assessment (formerly Condition 9)
 - Works to be carried out in accordance with updated Flood Mitigation Plan (formerly Condition 10)
 - Environmental Management Plan (formerly Condition 11)
 - Updated Phase 1 and 2 Habitat Surveys (formerly Condition 12)
 - Updated Flood Management Plan (formerly Condition 17)
 - Directional Signage Application (formerly Condition 18)

- Planting Proposals Plan and Trees & Vegetation Retention and Removals Plan (formerly Condition 19)

4.14 Officers have considered whether the above documents are satisfactory or whether the conditions need to be reattached or amended to reflect their as built condition.

5 RELEVANT PLANNING HISTORY

5.1 The following planning applications are recorded:

85/02056/AV - Ski slope, sailing lake, residential development, children's zoo and community hall (outline) – Approved 04/09/86.

87/02178/ADP - Ski-club building and associated car parking – Approved 15/02/88.

88/02340/APP - Overspill car park – Approved 10/05/89.

94/01605/APP - Extensions to ski lodge to provide nightclub and ancillary space for existing leisure facilities relating to the ski slope and the lake – Withdrawn 18/10/94.

95/00874/APP - Alterations and conversions to part of ground floor to form restaurant – Approved 02/11/95.

03/00176/APP - Rear extension to create additional storage – Approved 09/04/03.

04/00969/APP - Single storey side and rear extension to provide disabled access, kitchen and improvements to toilets – Withdrawn 28/05/04.

07/02522/APP - Two storey extensions to north, east and west of existing building, relocation of ski club changing facilities and change of use of existing changing facilities to restaurant use. – Refused 28/02/08.

09/01444/APP - Construction of replacement bridge to provide new vehicular and pedestrian access to restaurant – Approved 26/08/10.

11/00759/APP - Construction of replacement bridge to provide new vehicular and pedestrian access to restaurant – Approved 06/06/11.

11/01814/AOP - Demolition of existing restaurant building and erection of care home with associated parking and amenity areas – Withdrawn 27/02/13.

5.2 Informal advice was given in August 2013 in relation to a proposal for a crematorium, landscaped garden and car parking provision for up to 75 cars.

- 5.3 An EIA Screening Opinion was sought by the developers. It was concluded that an ES would not be required in this case.
- 5.4 A further revised EIA Screening Opinion has been sought by the developers in 2017 subsequent to the previous scheme being quashed. It was concluded by AVDC that the proposal does not comprise EIA development and a decision letter was issued 22nd January 2018 stating this position.

Previous Legal Agreements relating to the application Site and surrounding Land

- 5.5 On 4 September 1986, three separate agreements under section 52 Town and Country Planning Act 1971 were entered into in respect of the development at Watermead: one related to phasing of the housing development and the provision of open space, one related to the provision of recreational facilities, and one related to the restriction of a specified area of land to agriculture and forestry uses respectively. The agreement that is said to be relevant to this application, relates to the provision of recreational facilities, as the “second 1986 agreement”, for ease of reference.
- 5.6 The second 1986 agreement [included in Appendix 1 of this report] was made between AVDC (1), Royco Corporation Limited (2) and Royco Leisure Parks Ltd (3). This agreement related to outline planning permission granted under reference AV/2056/85; the development included housing, a dry ski slope with associated shop and café, and a nature reserve area, recreational land, jogging tracks, children’s zoo and two lakes.
- 5.7 Clauses 2(a) and 2(c) of the second 1986 agreement required that the recreational facilities listed in columns 1 and 2 of Schedule II were provided to the reasonable satisfaction of the Council. Clause 2(b) of the second 1986 agreement required that no houses would be occupied until a scheme had been submitted by RLP and approved by the council, and that a further agreement or undertaking would be given which would provide how the recreational facilities referred to in Schedule II of the second 1986 agreement, and located “on the green land” were to be maintained and used in perpetuity, without cost to the Council, for the purposes set out in Schedule II, for the benefit of the public free of charge. Below is the relevant extract from clause 2 of the second 1986 agreement:
- 5.8 Schedule II set out the recreational facilities to be provided as follows:

Column 1	Column 2
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Water sports lake with boat slipway	Lake clubhouse
Scenic lake	Ski slope shop/cafe
Public recreation/meadow	Interpretation centre
Dry Ski-slope and its car parking	
Wildlife reserve	
Jogging track and footpaths	

- 5.9 There were subsequent agreements entered into dated 13th June 1988 and 13 February 1992. Of particular relevance, is the further agreement [included in Appendix 2 of this report] dated 13 June 1988 (“the 1988 agreement”) which referred to the fulfilment by the developer of the obligation in clause 2 of the second 1986 agreement.
- 5.10 The parties to the 1988 agreement (Appendix 4) were the same as the parties to the second 1986 agreement. It was agreed that the developer had provided to the council’s satisfaction those recreational facilities referred to in clauses 2 (a) and 2(c) of the second 1986 agreement, in accordance with the descriptions shown in columns 1 and 2 of Schedule II of that agreement.
- 5.11 Clause 2(b) of the 1988 agreement required that:
- ‘In accordance with clause 2(b) of the Agreement RLP Limited hereby agrees to maintain the aforementioned recreational facilities (and also those to be provided in accordance with clause 2(c) of the Agreement) in a reasonable state and available for public use but so that the public recreational areas edged green on the attached plan shall always be available for use by the public free of charge’
- 5.12 The obligations of the 1986 agreement were to build various recreational facilities and to enter into a scheme for their future care and management. The Council take the view those obligations were discharged and could not now be enforced against the successors in title to the original agreement.

- 5.13 The more difficult question is what is covered by the 1988 agreement and the enforceability of that agreement. That is a matter on which both the Parish Council and the Applicant have made submissions. Officers at this stage do not think it is likely that the 1988 agreement would now be enforceable and are doubtful that it would oblige the applicant to maintain the ski slope and restaurant in any event. However, whilst officers remain of the view that the S52 is not enforceable, in order to be robust Officers recommend that the committee in making this decision proceed on the assumption that the section 52 agreement is enforceable and does require the applicants to maintain the dry ski slope and the ski slope café/shop. The existence of the 1988 agreement is a material planning consideration, as is the assumption for the purposes of this decision that it is enforceable.
- 5.14 Even if it is right as the committee are being asked to assume that the 1988 agreement is enforceable against the current Applicants and requires the maintenance of the dry ski slope/shop then that does not mean that the Council are required to seek to enforce the agreement. Whether to enforce the agreement would lie at the discretion of the Council in the future. The existence of the agreement does not prevent the grant of a planning permission for a use inconsistent with that identified in the agreement if the Council think it is appropriate.
- 5.15 Furthermore, both those advising the Parish Council and the Applicant are in agreement that the obligations of the 1988 agreement are capable of being brought to an end (in so far as they are still enforceable) by virtue of a deed of variation or by an application under section 84 of the Law of Property Act 1925.
- 5.16 The Parish Council separately raise concern that part of the flood attenuation works has taken place on land coloured green referred to in clause 2(b) of the 1988 agreement set out above. The flood alleviation and soft landscaping that have been carried out does not result in access for recreational walking/jogging being prohibited in this area, and does not in itself represent a breach of the Agreements.

OTHER RELEVANT HISTORY:

- 5.17 In addition to this planning application, there has been another planning application for a new Crematorium at a site in Cane End Lane, Bierton with Broughton (AVDC reference 14/01125/APP), which was granted planning permission on 14th October 2015. In reaching this conclusion regard was paid to the planning permission at Watermead which had not yet

been quashed at the time of that decision, and members accepted in making that decision the need for a second crematorium.

6.0 PARISH AND TOWN COUNCIL COMMENTS

6.1 Watermead Parish Council opposes this application. Original comments: The PC's comments raise the following material considerations: flooding concerns; traffic infrastructure; environmental issues; character and identity of Watermead; and process violations.

6.2 Updated comments: Watermead Parish Council continues to strongly oppose this application on all of the original grounds, in addition to new grounds, and that have been supplemented by technical reports produced by consultants acting on behalf of the Parish Council [included within Appendices 4, 5, 6, 7, 8 and 9 of this report]. The following main grounds of objection are set out in detail in the various representations with the local planning authority, and are set out in summary below:

- Development should not have been constructed with the applicant knowing it was in breach of planning;
- Development should be considered against a baseline of cleared site; and not with the former restaurant in place;

Flood Risk:

- Site is mainly within Flood Zone 3B (1:20 chance of flooding each year) – site should only be used for water compatible development;
- Car park/significant part of the built area is not 'water compatible development' and is in Flood Zone 3B
- Artificial on-site reduction in flooding but there will be an increased risk of the surrounding area;
- One of two flood alleviation areas is on land protected by s52 which should have remained open to the public.
- The site fails the sequential test as the site fails the applicants selection criteria
- No adequate study of the effects downstream from the site;
- Flood mitigation works carried out by the applicant can only result in significant increased flood risk to the village caused by run-off from the site
- As the soil in the area is clay – water lies on it rather than soaking through it. The balancing ponds created are full of water despite lack of rainfall

- Proposals do not accord with paras 100 and 101 of NPPF which state development should be preferably on sites that do not flood;
- Economic consequences of increased flooding in the village – increased insurance premiums (non –planning);
- The site is not suitable as there is another site less than 2 miles away, and it would put 2000 people at risk as well as visitors to the site;

Loss of Leisure/Recreation;

- There are other better sites and ample time to find them, especially in light of Berton approval;
- Restaurant on the site provided a service to the community matching concept for the village;
- The area is designated for recreation and leisure and loss of this facility is in conflict with AVDLP policies GP93;

Section 52 Agreement

- Adverse impact of proposal will destroy identity of Watermead forever and will affect the peaceful enjoyment of the facilities to the ability to hold community events on the leisure land surrounding the crematorium site;
- Unlikely visitors will enjoy the leisure land when funerals are held, burials and scattering of ashes which takes place in full view on an open and highly visible site, which affords no privacy to the bereaved;
- Parish Council wish that site is reclaimed as a component in the leisure aspirations it was originally meant to serve;
- The building is overbearing surrounded by a concrete car park and is out of keeping with the village vernacular;
- Surrounding land is used heavily;
- Concerns raised by balloon field operators – on safety and aesthetics, hot exhaust air and particulates would be released into the air during their activities;
- Notion of a crematorium unpleasant to allotment holders;
- Legal Advice provided by Richard Kimblin QC advises that the S52 agreements are still binding and these have not been lifted by the Council and the change of use is prohibited by the s52 agreements.
- Previous council advice given that there was no current scheme to protect the Riviera land is not accepted.

- Council ignored pre-app advice (in granting previous permission) which raised potential concerns about potential conflicts between needs of crematorium and its users and the use of adjacent land for recreation facilities;

Transport and Infrastructure [Appendix 4 and 7]

- The requirement (in the Crematorium Act) is that there must be a pedestrian gateway adjoining the entrance gateway which has not been addressed (and is therefore unsafe for pedestrians)
- Vehicles entering the site will have to wait whilst vehicles leave the site and there is insufficient width for turning vehicles;
- Funeral cars and traffic will exacerbate a dangerous situation with traffic coming into Watermead from Buckingham Park and the A413 and will create backed up traffic due to the access;
- Insufficient width for opposing vehicles to pass through gates and the access road and this would create danger for pedestrians especially those with limited mobility;
- Visitors to the memorial gardens would not be able to access the site when the gate is closed;
- More traffic would be using the Watermead spine road, particularly during morning peak;
- Gateway should be set further back to allow a full turn in from Watermead Road;
- Parking restrictions on the Spine Road would be necessary if development approved and the road is not suitable for car parking; Car parking would damage grass verges and would make pavements inaccessible;
- Overtaking funeral traffic would represent a danger to motorists and is unacceptable
- Road is not wide enough to accommodate number of vehicles waiting to turn into the site;
- Those existing site will have incomplete view of oncoming traffic on the main road increasing accident risk
- The applicants will not make car parking area available when larger village events take place
- Applicant will not be able to give advance notice in the event of flooding. Suggestion that funeral director will contact mourners to advise of parking in the town is impractical;
- Funeral director would not want to drive a hearse through standing water and could result in funerals not taking place
- Transport statement by applicants are inaccurate
- Site remains an unsuitable development in the wrong place

- Watermead Parish Council requests BCC Highways to re-visit the consultation and to take into account the factual information and corrections provided in the extract from its own consultee submission:
- Pedestrian access – dedicated route & usual layout in other crematoria. Pedestrians would NEVER be able to access a pedestrian access route on site. The writer has never attended any crematorium in any part of the country where there is no pedestrian access. This statement is simply incorrect by BCC. This could never be ‘conditioned’
- Bus routes – comments on BCC statements - The Water Rider service does not serve the spine road, nor does it pass the crematorium during proposed operating hours. This is complemented by the Buckingham Park bus service with bus stops within 10 minutes walking distance of the site.
- The only bus route, within Watermead serving the site does not operate at any time the crematorium would be open it is merely in the early hours of the morning and last buses at night.
- Trip generation - Your comments on trip generation refer to totally different areas and cannot be used as any comparison with this area. The applicant has given this information for two of their own sites, out of this are and cannot be relied upon, they are neither close to towns nor to residences.
- Junction: This junction is very busy and traffic frequently backs up in all directions. The addition of any sort of funeral cortege, at any time of day, can only exacerbate the situation. Why has no junction analysis been requested? Traffic impact analysis has been based on the assumption that all trips are new. There is no A3/D2 use on site. The 2014 figures cannot be relied on previous use was mainly at night, over the weekend, and arrivals and departures were staggered by diners. The restaurant was closed on Monday and frequently on Tuesday.
- Parking Spaces: 76 spaces is not adequate if two funerals run after one another and if it is a popular funeral there will be parking on the village roads and verges, causing danger and inconvenience. There is no chance to two vehicles could pass one another into or out of the site. The driveway is not wide enough. Offsite parking plan couldn't work as nobody knows how many mourners will be attending any funeral. Where is this off-site parking and details of the dedicated bus service? Application should not be permitted without full investigation of the proposal and testing of its practicality. How could / would BCC propose to check compliance.
- Currently the car park, as set out and built is within the 8m EA required ecological buffer zone and will, presumably, have to be moved, resulting in less parking spaces. Further EA condition

is that the buffer zone scheme shall be protected during any remaining construction works and free from built development including lighting, formal landscaping and formal management.

- BCC Highways Authority should be objecting to this development, rather than relying on AVDC to impose conditions, which, as demonstrated, cannot be met, and are not realistic.

Crematorium Act

- Prevailing wind towards Watermead – which is a serious concern to local residents, with operation of crematoria causing smells, emissions, and mercury.
- AVDC should not have granted license stating it meets the criteria – which is disputed.
- Nearest home in Watermead are 350 yards (Osprey Walk) and 330m (Buckingham Park) and 306m from the gym. Lack of screening and siting of chapel with viewing windows ensures mourners will have full view of homes and residents will be subjected to the sight of funerals.
- Walkers will also see into the chapel which is totally unacceptable
- Lakeside path should be considered the equivalent to a public highway and is within 50 yards of the crematorium contrary to the 1902 Crematorium Act and AVDLP policy GP84;

Environmental Impacts

- EA guidance requires 15-30m buffer zone to be established between the River Thames and Watermead Lake, free from built development. Car park, landscaping and lighting in this land which is contrary to this advice;
- Concern over scattering of ashes – where will this be? This is unacceptable to local residents who have a full view. Confirmation of method being employed to scatter ashes
- Refer to EA conditions - No burials to take place below water level, within 30m of any surface, watercourse or lake or within 10m of any drain field.

Needs Analysis (statistics from Bucks CC Health and Wellbeing figures)[Appendix 5]

- WPC challenge the need for a second crematorium citing that there is adequate area for burials in the Aylesbury Cemetery and the Birtton Crematorium is sufficient to cater for the current needs.
- WPC considers many families choose locations outside their own immediate area to accommodate the attendance of family members from elsewhere and the applicant is incorrect in assuming local families only use local facilities;
- For many years Aylesbury residents have used Chiltern and Milton Keynes crematoria without difficulty and there has never been any known issue with booking a funeral.

- WPC considers journeys in excess of over 30min to arrive at a crematorium are expected and there is no evidence that this has presented a problem to those using the Amersham facility or has attracted any comment, adverse or otherwise.
- WPC refers to Chiltern Crematorium booking calendar for the period over Christmas which illustrates that there were plenty of available slots throughout the period, without any other provision in the locality.
- Enquiries made with local funeral directors have also confirmed that they have experienced no particular difficulties in booking suitable slots;
- Bierton Crematorium will be ready for use shortly and additional burial space has already been created at Aylesbury Cemetery, and the Natural Burial Meadow at Owlswick.
- The Needs Study report by Impact for Westerleigh takes in surrounding areas, all covered by the closer crematoria, as opposed to our listing of all crematoria. Factors in bereaved families making their choice of crematorium: We dispute the applicant's assertion that a 30 minute drive time is the criteria to use when assessing need, it is just one of many factors, including preference, convenience for wider family and economic considerations.
- WPC Population growth to 2033 is forecast to be 258,280 based on 18,400 new households resulting in: 77,280* new individuals. Each household is assumed to contain 2 adults and 2.4 children likely to be less, 181,000 current individuals
- Given the death rate of 0.81% of population, current actual deaths are 1466 per annum, with 75% of those choosing cremation, giving a requirement for 1099 cremations per year as a reasonable current estimate of need. With a population of 258,280 and death rate of 0.81%, future actual deaths would be expected to be 2092 per annum, with 75% choosing cremation resulting in 1569 cremations. Holding these cremations over 255 working days (excluding bank holidays and weekends) equates to 6.15 cremations per day.
- There is demonstrably no need for an additional facility within the foreseeable future. Any such need could not materialise for many years hence and would not arise as a sudden acute need but would begin to be identifiable years in advance. That would give more than ample time for other more suitable sites to come forward.

Technical Reports

Abington Consulting Engineers - Ian Brazier (Flood/Surface Water) [Appendix 4 and 9]

- Dispute who should carry out Sequential Test – if LPA are short on expertise, the EA should assist. Not the responsibility of the applicant;

- Sequential Test analysis is deeply flawed
- Sequential and Exceptions test report fails to identify the sub-division of Flood Zone 3
- Proposed and as-built levels taken from submitted plan generally the same.
- Car park is in Flood Zone 3B and comprises a 'less vulnerable' use – and should not be permitted in Flood Zone 3B;

Sequential Test Comments

- Area of search in Sequential Test is based on 18min drive time not 30min and is therefore too small a search area;
- The application site would have been sieved out of the applicants analysis
- Using EA fluvial mapping to exclude flood zones 2 and 3 of the sieve mapping part of the sequential test to exclude sites shows a lack of understanding of flood risk engineering – as sites in FZ 2 can easily be raised to be in FZ1.
- The applicant does not have the specialist expertise to correctly assess highways, landscape of topographical constraints within their own operational assessment;
- Question whether the applicant is capable of carrying out an impartial assessment;
- Question whether criterion 9 (topography) should be elevated that of the site being in a flood zone
- Question whether criterion no.10 is suitable if the site area is 1.3ha (and the search is looking for site above 4.04ha).
- Savills (who carried out a review of the 6 sites which made it into the final phase of the sequential test) – are not qualified to comment on housing or commercial development – and have not backed up their claims with sufficient evidence. Question why former owner sold to crematorium operator at a competitive or lower value when it had a former commercial use. Question Savills advice in terms of seeking higher land values for sites which may be unsuitable for commercial or residential uses;

Ambiental Flood Risk, Climate Change and Sequential Test (Alternative)

- FRA Addendum (September 2017) fails to highlight additional information relating to climate change, development in flood plain, impact on flow/characteristics of the river and flood plan compensation;

- Suggest total potential change of 70% (for river flow increases) for upper end Thames River Basin (anticipated for 2080s) based on Hertfordshire EA Guidance (current scheme is based on planning for 1:100 year flood events up to 20% flow increase).
- There needs to be a more detailed investigation into downstream effects of the proposals;
- The development should undertake a 1D/2D hydraulic modelling to show that the flow patterns of the watercourse are not affected;

Ambiental Alternative Sequential test;

- Search Area defined uses the same approach as the Chilterns Crematorium Joint Committee (CCJC) and reviews sites between Waddesdon, Princes Risborough Drayton Beauchamp and Weedon.
- Sites within search area out of 407 sites in HELAA V4 + 10 original CCJC sites considered
- Sites between 2.05-6.30ha are deemed appropriate
- 4 x Site suitability criterion adopted – (is the site in Flood Zone 1, is the site size similar to the proposed site (between 2.05-6.3ha), is site in a sensitive area (if surrounded by residential dwellings eg;) and good transport links in the area).
- 7 out of 11 sites shortlisted considered potentially suitable sites (based on above) and it is unknown which of these are available (if any are); 14 sites reviewed did not meet criteria but could warrant investigation based on their size);
- 5 sites out of those considered in CCJC appraisal in 2013 (relating to Bierton Crematorium) are discounted by applicant as they were unavailable in 2013 but these could be investigated again. Noted that these sites were also discounted due to cost or location but are considered superior to Watermead site.
- Ambiental consider Watermead requires significant earthworks to remodel the site to mitigate flood risk
- EA floodplain modelled water levels for the 1% AEP event with 20% additional flow due to climate change give a level of 74.08m AOD in the NW, 74m AOD in SW. The 0.1% AEP event is recorded as 74.32m-74.14m AOD. The 20% AEP varies from 73.64m AOD to 73.58m AOD. The Crematorium Building has a floor level of 74.5m AOD (or above).
- Ambiental considers there are suitable alternative sites at lower risk of flooding and therefore the applicant's sequential test fails.

- Updated sequential test is more extensive and better presented than initial version submitted in March 2017.
- There are some limitations and flaws and we endorse the comments of Abington Consultants;
- The applicant has previously argued against the need for 2 crematoria and is now arguing for 2 facilities.
- Built development is located in Flood Zone 3B which is not permitted in Table 3 of the NPPG.

Balloon Meadow – Champagne Flights [Appendix 4]

- Very concerned to hear about proposed development. Proposals will have a massive effect on our business and spoil a leisure facility for local residents;
- Safety of flights would be compromised by emissions from crematorium
- Consider relocating if crematorium was to open

Watermead Gardening Society (Appendix 4)

- Concerned about a large building in a recreation area;
- Uncomfortable having fun in adjoining recreation fields being watched by grieving families;
- Inappropriately sited building;
- Fine matter may escape chimney – and this may have long term impacts on health and whether particulates will enter the food chain through vegetables and fruit grown;
- Proposals could curtail present use of wide open spaces and permission should be refused.

6.3 The PC's main representations, including the original comments (excluding the technical reports) are attached to this report as Appendices 4, 5, 6, 7, 8 and 9.

6.4 Aylesbury Town Council: Original: No Objection.

Updated comments: Aylesbury Town Council have concerns regarding the potential flooding of the proposed car park and the impact this could have on the town centre and surrounding residential areas. In the Transport plan the applicant states; Westerleigh will enquire about the potential attendance at each funeral scheduled to occur during a flooded period. For larger funerals with a potentially greater attendance than could be provided on site, an off-site parking plan will be put into place. Westerleigh can arrange for people to park in public car parks and be reimbursed the parking fees, and provide transport people to the site. Westerleigh will also make arrangements for an off-site location to be designated for up to 45 parking spaces in the event of a serious flood, and arrange for a dedicated bus service to

be available to bring people to the crematorium. The off-site location is likely to be the town side of the site, and on site which itself is not liable to flooding. The Committee feel that this idea is not sustainable and would potentially have detrimental effect on the surrounding areas.

7.0 CONSULTATION RESPONSES

7.1 The following consultation responses were received post September 2017, when the Council carried out a further consultation on the application after it had been returned to AVDC for redetermination after the original application was quashed.

7.2 Environment Agency: *(Original Comments prior to the quashing of the decision and works carried out on site)* Amendments and additional information indicate that a section of the proposed compensation scheme is located outside of the 1 in 100 plus climate change floodplain extent, and the developer's calculations demonstrate that the proposed compensation scheme is level for level and this ensures that the characteristics of flooding will remain the same post-development. There are, however, apparent discrepancies between the drawings and the calculations, so a condition is recommended to ensure submission for approval of full details of flood compensation, including an addendum to the Flood Risk Assessment to explain the proposed changes and to demonstrate that there would be no increase in flood risk downstream as a result of the new proposals, to be submitted and approved prior to commencement.

The proposed replacement bridge is acceptable in principle, as the proposed soffit level would be set at 74.0m AOD, which higher than the soffit level of the existing bridge. However, submission of drawings showing the design of the proposed bridge would be required, to be submitted for approval as part of the flood compensation details submission.

The amended proposals are considered acceptable in terms of the buffer zone to the River Thame, habitat protection and creation, and wildlife protection, subject to a condition to require submission and approval of a Landscape Management Plan.

(Further Comments post 2017): No objections to the proposals on grounds of flood risk subject to development permitted by this planning application being carried out in accordance with the Flood Risk Assessment and associated documents and the following mitigation measures detailed within these documents including the compensatory flood plain storage as shown in the updated summary of flood storage volume and the updated flood compensation locations. The Finished flood levels are set no lower than 74.5 metres above Ordnance Datum. No

objections to the scheme, with regards to ecology, but request that the Council ensure the correct drawing for the planting proposals and on-going management of the site are identified. The Council should ensure that, with the exception of the small area of non-native planting agreed with the applicant, they are happy that the landscape/planting plans show that the remainder of the 8 metre buffer is planted with native species only and is managed for wildlife. The EA reiterates that should any bank erosion result from the close proximity of the car parking spaces to the top of the bank of the River Thames, the spaces are moved to prevent further damage and will not consent any bank revetment. The EA have reviewed the Environmental Management Plan 2017-2021 which makes no reference to an ecological buffer zone, which was agreed when the original planning application was granted. The development will be acceptable if a planning condition is included requiring a scheme to be agreed to protect an 8 metre wide ecological buffer zone around the River Thames. The scheme shall not become operational until a scheme for the provision and management of the 8 metre wide ecological buffer zone alongside the River Thames has been submitted and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.

(Comments received dated 28/03/2018): The EA have reviewed the comments sent from Ambiental (representing Watermead Parish Council) and revisited the Flood Risk Assessment (Clive Onions, 05 February 2014), and the applicant's further statement on their consideration of the impact of climate change on flood risk by email (Clive Onions, 25 January 2018 15:37). The consideration of climate change allowances is simplistic but the EA consider it adequate in this case. The EA see no reason to expect a more detailed assessment of climate change to significantly alter the predicted flood levels in this location from those considered by the applicant or the conclusions of the flood risk assessment. The EA do not therefore consider it necessary to request a more detailed analysis. The note from Ambiental references climate change guidance from the EA's Hertfordshire and North London Area which is not directly applicable as the application site lies with the Thames Area boundary -A copy of the Thames Area climate change guidance was provided.

7.3 BCC Highways: *(Original Comments prior to the quashing of the decision and works carried out on site).* The application proposal is on the site of a former restaurant (A3 use class), and also a dry ski slope and water sport venue. The submitted Transport Assessment indicates the restaurant is no longer in business and the site now vacant. In addition, the dry ski slope has not been in use for over 10 years and the water activity centre is also vacant. Although there

are two existing access routes serving the site, the applicant has chosen to use just one of the existing accesses, some 225m east of the A413 Buckingham Road/Watermead signalled junction. The geometry and visibility splays of the existing access on Watermead are in compliance with the minimum standards and do not require any modifications. As part of this scheme, adequate directional signage would be required on the A413 Buckingham Road and on Watermead. The access width is shown to be 4m in the main; however it is this Highway Authority's view that as it is 2-way working, a minimum width of 4.8m is required for its whole length, this being achievable within the site as identified.

It is anticipated that the majority of mourners and staff will travel by car to the proposed site, however there are nevertheless bus services serving the Watermead development in both directions along Watermead. There are up to 4 services per hour for Aylesbury town and an hourly service to Buckingham with intermediate stops. From a pedestrian perspective, there is a frontage footway along Watermead and associated footpaths along the lake edge connecting to the site. Although there is only limited cycling infrastructure in the vicinity, cycle parking provision on the site would be beneficial.

Information provided by the applicants and based on data from the existing Westerleigh Crematorium has been used as a basis for predicting traffic generation associated with the proposal. Taking pro-rated Westerleigh data and Crematorium Federation information into account, there are predicted to be 220 vehicle movements per day, split between 4 services between the hours of 10.30 & 16.30hrs, therefore in the main not coinciding with the peak hours. In comparison to the previous uses, it is anticipated that over the whole day there is a reduction of some 145 vehicle movements, although it is acknowledged that the timing characteristics are different. Nevertheless, an overall reduction in terms of vehicle movements is seen as a likely outcome. Therefore no ALUTS contribution would be required. In addition, the Highway Authority is satisfied that this proposal would not have a detrimental affect on the A413 Buckingham Road/Watermead signalled junction or the A413/Aylesbury Ring Road junction and is therefore acceptable. It is concluded that the traffic generated by this proposal will not have a material impact on the local highway network.

The Transport Assessment indicates that parking provision for up to 82 cars for both mourners and staff is proposed. This level of parking is in compliance with relevant parking policy and appears to be adequate to serve a development of this type and size. However, County Council Cabinet Members are of the opinion that this level of parking is not sufficient to cater for larger funeral services and are concerned that at those times there will be overspill parking

along Watermead. It has been requested that the permanent parking provision be extended to allow for up to 100 vehicle spaces to overcome these concerns. In addition, temporary overflow parking provision should be allowed for on reinforced grassed areas, allowing for up to 30 additional parking spaces for use when required. The District Council is therefore requested to determine whether the actual level of parking is adequate to serve the development.

On balance, the Highway Authority has no objection to this application, but suggests that Highway related conditions and informatives be added if permission is granted.

(Further Comments post 2017) No objections. Taking into consideration that the transport assessment shows that the traffic from the development can be accommodated, the trip generation is based on a much larger site, and that a planning condition will restrict the use of the site outside of peak hours, it is considered that the transport impact of this development cannot be considered severe. Therefore, the Highway Authority has no objection to this development subject to conditions and informatives.

- 7.4 BCC Strategic Planning: *(Original Comments prior to the quashing of the decision and works carried out on site)* the proposals should include adequate walking and cycling links across the site and through to public transport connections (local bus stops etc). Cycle parking should be provided if this is deemed appropriate in terms of visitor numbers. A Travel Plan outlining the above would be welcomed.

Having considered the information provided in the Flood Risk Assessment and Flood Mitigation Plan, no objection arises to the proposed development of a crematorium, however there are some concerns due to the high risk of surface water flooding and fluvial flooding on the development site. Development is not encouraged within a floodplain, though it is observed that the building itself is not within the floodplain. It is suggested that further flood mitigation areas should be provided as the proposed flood mitigation areas are already within areas which are subject to flood from surface water and fluvial flow. The use of a green roof and permeable pavement in the development is supported.

The Historic Environment Record locates Roman sites in the vicinity of the development area. Following previous development on the site however, there is little chance of significant archaeological remains surviving. No objection on archaeological grounds.

Further comments have been received as LLFA on the FRA and reported below

7.5 BCC Rights of Way: *(Further Comments)* There are no public rights of way or register common within the red line. With regard to comments on the planning portal regarding pedestrian access taken around the lake, including within the red line, However, BCC is not aware if this access is taken by landowner permission or whether rights may have been gained by unopposed public use over 20 years. A submission has been made by the owner under Section 31(6) Highways Act 1980 for the area within the red line that would result in nullifying claims under the 20-year rule for the period of the submission. In light of the above there are no objections to this application.

7.6 Tree Officer: *(Original Comments prior to the quashing of the decision and works carried out on site)* No assessment of quality or individual trees of merit on or adjacent to the site has been made. However, the overall layout is sympathetic to retaining trees and augmenting them with new planting. About 120 additional trees are indicated although there is no firm commitment to plant all of these as part of the proposed development. Detail will be needed on the size, species and specifications of tree planting including those within the 'Future planting area'. Native species would be preferred throughout. More use of native evergreen species such as holly, yew and scots pine would be appropriate. The scheme can restore and enhance this prominent landscape feature. Size and specifications for new tree planting is needed to assess the impact of the planting. If permission is granted, prior agreement to, and full implementation of, tree protection and planting schemes complying with BS5837 and BS4428 will be required.

The ecological report is comprehensive and sufficient to determine ecological impacts. However recommendations are not stated definitively and therefore cannot be enforced. For example it states that integrated bat boxes could be employed. It should state that they will be used and where they will be placed. In addition, many of the habitats put forward in the landscape proposals are either not native, not appropriate in terms of species with no on-going management details. As a result they fail to maximise ecological gain. Revisions to the ecological report and the planting proposals should be sought.

(Further Comments Post 2017): No objection - acceptable impacts to trees, subject to condition. The proposal involves a significant number of removals, but these are of largely insignificant specimens and tree cover on the site is such that the wider impact of these removals will be negligible. There is substantial scope for replanting and improved arboricultural management of the site, which could feasibly lead to a net beneficial arboricultural impact.

7.6 Environmental Health: *(Original Comments prior to the quashing of the decision and works carried out on site)* No objections.

(Further Comments Post 2017): No objections

7.7 Environmental Health (Contamination): *(Original Comments prior to the quashing of the decision and works carried out on site)* No contaminated land conditions are required. However if any unexpected contamination is encountered during any of the works the Environmental Health Department must be informed immediately, and works must cease on site until a remedial strategy has been agreed by the local planning authority.

(Further Comments post 2017): No objections. No substantial changes have been made in relation to contaminated land and no contamination land conditions are required on the application.

7.8 Air Quality: *(Original Comments prior to the quashing of the decision and works carried out on site):* The cremation of human remains is a regulated activity under the Environmental Permitting Regulations 2010. Accordingly, the activity will require an Environmental Permit issued and enforced by AVDC, and based on the DEFRA Statutory Guidance for Crematoria; Process Guidance Note 5/2 (12).

(Further Comments post 2017): No substantial changes have been made. The cremation of human remains is a regulated activity under the Environmental Permitting Regulations 2016. Accordingly, the activity will require an Environmental Permit issued and enforced by Aylesbury Vale District Council, and based upon the Department for Environment, Food and Rural Affairs (Defra) Statutory Guidance for Crematoria: Process Guidance Note 5/2 (12).

The following comments were received post-re-consultation in 2017:

7.9 Biodiversity Officer: No objections subject to condition requiring development is carried out in accordance with approved ecological management plan.

7.10 Lead Local Flood Authority (Buckinghamshire County Council): The LLFA has no objection to the proposed development subject to the conditions provided. In response to the additional representations provided by WPC, BCC acknowledges that infiltration is not suitable as a method of surface water disposal, however any vegetated component will encourage infiltration and evaporation due its nature so some surface water runoff will be lost via these processes. Uncontrolled runoff to an outfall on the River Thames is noted and it is recommended that a condition could be included to ensure surface water runoff generated by

the proposed development shall not discharge at a rate greater than the existing brownfield runoff rates for the development site which is per the non-statutory technical standards for sustainable drainage systems which LSP refers to in their note. In relation to how surface water discharges to the watercourse, it would be for the EA to consent any proposed structure and there is usually an informative included on responses from the EA which covers this.

7.11 Natural England: No objections

7.12 Sport England: No objections

7.13 Landscape Officer: No objections

8.0 REPRESENTATIONS

8.1 The following comments were received in response to the original statutory consultation exercise carried out in 2014 and are presented in the committee report. 350 representations were received, including an objection from the Aylesbury Society. Material matters raised are summarised as follows:

- A crematorium would increase the traffic from 9.00 am until 5.00 pm at an already busy junction. This impact would be exacerbated when more homes are built in the area and by the link road to Berryfields which provides a by-pass for traffic using Bicester Road and for traffic travelling through Aylesbury and onto Aston Clinton and the M25.
- Watermead is primarily a residential area and not an appropriate site for a crematorium. It will have an adverse affect on the identity of the village.
- The development represents an unacceptable loss of open space.
- The proposed crematorium would alter and devalue the unique environment of the lake and the open space that surrounds it.
- The loss of the existing restaurant represents the loss of a much needed and well used facility for the local community.
- The proposal would be likely lead to the loss of recreational activities associated with the lake and the public open space, including hot air ballooning, motorised water sports, charity events and firework displays. Family picnics would be inhibited by the presence of the crematorium.
- The lake and adjacent land are regularly used by the Fire and Rescue Service for training. The presence of a crematorium would mean that these activities would be unwelcome.

- The site is within the flood plain and is regularly flooded, resulting in the past in closure of the access road to the Riviera. If the proposal includes raising the level of the land, this may increase flooding risk to Watermead houses.
- The proposed building is ugly and unattractive, out of keeping with its surroundings. It would devalue views across the lake.
- The application is lacking technical details about the equipment to be installed, emissions and air quality. It is noted that the prevailing wind blows in an easterly direction, carrying any pollutants towards Watermead. Concern is expressed about toxic waste and health implications.
- The proposal would devalue nearby homes, in particular those on the Watermead waterfront.
- There are allotments near to the site: concern is expressed about contamination and health risk.
- Despite the comments of the Highway Authority, traffic is likely to increase as the Riviera never gave rise to the amount of traffic the County has accepted. There are already congestion problems on Buckingham Road and at the Watermead junction. Watermead has only one entrance/exit route.
- A nursery opposite the site already gives rise to a lot of traffic.
- The spreading of ashes at the site could lead to contamination of the lake and surrounding areas.
- The proposal brings no benefit to the residents of Watermead. The other site identified for a crematorium, the site at Bierton, appears far more suitable.
- The proposal must be seen in the context of 1500+ homes proposed in the Watermead area. The cumulative impact of development on the environment and traffic infrastructure would be significant.
- There are many elderly residents in Watermead, and the sight of a crematorium would be disturbing for them.
- Sewage from Watermead is disposed of by way of a non-adopted pumping station that is the responsibility of residents and business owners. No information has been provided to indicate how foul sewage will be disposed of.

8.2 One letter expresses some support for the proposal, noting that the proposal has some advantages: it would redevelop a brownfield site and it is accessed by signalised road junctions.

Subsequent representations:

8.3 Representations (including new issues) were made by interested parties between the date the original application was considered by Committee and the date the decision was made to grant planning permission for the development in 2015. Those issues raised in representations received since the meeting that are material considerations, and are summarized below.

- The width of the “access corridor” between the Watermead access road and the site of the proposed crematorium is less than as shown on the drawings, and inadequate to accommodate the access road. Highway comments recommend that the carriageway should be laid out to a minimum width of 4.8m throughout. Watermead PC owns the land on either side, and the PC has indicated that additional land would not be sold or made available to enable the access road to be widened.
- Concern has been expressed about the proposed transfer of the ownership of the lake to the applicants. Concern arises because it is envisaged that residents would not be allowed to use the lake for recreational purposes, as at present.
- The adequacy of the five disabled spaces shown on the submitted plan has been questioned.
- The Committee was advised that the minimum distance between a crematorium and residential property specified in the Cremation Act 1902 is 100 yards. This figure is incorrect – the minimum distance specified by the Act is 200 yards.
- It is likely that the car park serving the crematorium will be flooded to a greater or lesser degree, on a frequent basis during winter months. This is likely to result in parking along the Watermead access road. At the meeting a representative of the applicant company stated that the crematorium would not operate when the car park is flooded. A condition should be imposed to ensure that at such times the crematorium is not allowed to operate.
- A stipulation should be attached to the permission to require the crematorium to cease operations if smells or pollution from the chimney are detected.

- Concern is expressed that buried or scattered ashes could cause pollution in the River Thame and in the lake, which would result in a potential health hazard to users of the area, including young children and wildlife.
- Concern has been expressed that the Habitat Survey/Biodiversity Report submitted with the application may be unreliable as it was commissioned by the applicants. An independent report should be commissioned and prepared before permission is granted. Representations argue that the site and surrounding area provide a habitat for many species, which could be adversely affected by the proposals.
- The consultation process undertaken by the applicants prior to submission fell short of expectations. There were merely 20 working days between the public exhibition and the submission of the application. The applicant's Statement of Community Involvement is also considered inadequate. The officers failed to ensure that a comprehensive and robust level of community engagement had been completed by the applicant prior to submission.
- Given the scale and nature of the proposal it is considered that an Environmental Impact Assessment should have been required in support of this application.
- 10% of all mercury pollution in the UK is emitted from crematoriums; this is partly the reason why no crematorium is allowed within 200 yds. Of residential properties. This site is within a few yards of the most heavily used walking and recreational area within Aylesbury.
- The AVDC/Chiltern Crematorium Joint Committee review by John Silvester Associates of suitable locations for a crematorium gave consideration to seven sites. Of these, only (site B) Watermead was considered to be unacceptable, wholly unsuitable for a crematorium.
- The proposal would have an adverse effect on local businesses, gym, hotel, children's nursery etc.
- The residents of Watermead feel that their considerations have not been taken into account by the Planning Authority. This proposal is too important to the wellbeing of the community for it to consider simply under planning criteria, as these do not appear to take account of human rights, only the protection of natural habitats and European

protected species. There are concerns over whether the Council has acted within the Human Rights Acts, 1988, in particular article 8.

8.4 Subsequent to the planning permission being quashed, further site and press publicity has been undertaken. 506 representations have been received, and the main planning issues raised are summarised as follows:

- Highways impacted with only a narrow, single road in and out of the village, and would be unsuitable for a hearse and accompanying procession.
- Increased congestion on this road, and with a lack of parking provision the possibility of more accidents.
- Highways and parking infrastructure is inadequate to support the development.
- Increase in traffic – the road network already can not cope with the traffic as it is.
- Lack of public transport to the site
- Car Parking provisions are not large enough to provide for a large funeral
- The additional 'over spill' cars will use the surrounding streets to park, causing an increase in parking issues
- If the crematorium is going to use buses to bring people in this will cause congestion and inconvenience
- Already a strain on the access road and further pressure on this route will cause major inconvenience and issues for residents
- Impact of increased Noise and Light pollution.
- Site located in Flood Zone 3B, therefore development is a potential flood risk to the site and the surrounding areas.
- In the event of a flood, which is regular there is no parking provision, nor is there provision to deal with the flooding.
- The car park is likely to flood which will mean the crematorium could not be used.
- The sequential test was conducted incorrectly.

- Fails the exception test due to flood risk and a development for another crematorium already given planning permission.
- Floodlighting means the building doesn't blend in with its surroundings and is also disruptive and will impact the wildlife.
- The scattering of ashes in the lake could lead to water pollution.
- Watermead is primarily a residential area and not an appropriate site for a crematorium. It will have an adverse affect on the identity of the village.
- No benefits to the residents of Watermead.
- Over-development of an area with 'high landscape value'.
- The building design is not in keeping with the surrounding area and due to the elevated position it is in a prominent location.
- The building shows no resemblance to the plans compared to what has been built.
- Other sites would be more viable; alongside the fact the crematorium in Bierton has already been approved.
- Aylesbury does not require two crematoriums - There are better sites to develop for a crematorium, such as Amersham.
- Inappropriate location due to the adjacent lake which is used for leisure facilities.
- Development will be on land designated as recreational (Section 52 Agreement), often used by families, alongside balloon rides and circuses.
- Residential amenity impact – surrounding properties will have a frontline aspect of the development, with the building being in a relatively elevated position and built up area of housing.
- Soft boundary provisions offer little screening to surrounding dwellinghouses.
- The proposal would be likely lead to the loss of recreational activities associated with the lake and the public open space, including hot air ballooning, motorised water sports, charity events and firework displays. Family picnics would be inhibited by the presence of the crematorium.

- There are many elderly residents in Watermead, and the sight of a crematorium would be disturbing for them.
- Not screened from public view.
- Development is not characteristic of other buildings in the area.
- Concerns over proposed landscaping, which not be user friendly to the existing users of the paths.
- Loss of birdlife and wildlife
- Impact on local businesses, the pub will become an undesirable location to visit.
- A wind report needs to be carried out.
- Air Quality concerns – not all particles will be filtered out and will be left in the air.
- Health associated concerns.
- Could be a trigger for those with anxiety and will have an overall negative impact on the lives of the residents. Impact on Mental Health.

8.5 Four letters express some support for the proposal, noting that the proposal has some advantages: the building is well designed and attractive, the finished premises would look peaceful, the building and gardens are more attractive in its setting than what was there before, there would be no traffic or noise issues, there is a need for this service and it would provide employment and bring business to local shops.

9.0 EVALUATION

a) The planning policy position and the approach to be taken in the determination of the application:

9.1. Members are referred to the Overview Report before them in respect of providing the background information to the policy framework when coming to a decision on this application.

Policy Background

9.2 The starting point for decision making is the development plan, i.e. the adopted Aylesbury Vale District Local Plan. S38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions should be made in accordance with the development plan unless material

considerations indicate otherwise. The National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) are both important material considerations in planning decisions. Neither changes the statutory status of the development plan as the starting point for decision making but as noted the NPPF is a material consideration. The NPPF advises that reduced or no weight in the planning balance can be put on policies if they are not consistent or not fully consistent with the NPPF.

9.3 There are no policies in AVDLP that deal specifically with crematoria. Nevertheless, a number of general policies of the AVDLP are considered to be consistent with the NPPF and therefore up to date so full weight should be given to them. Consideration therefore needs to be given to whether the proposal is in accordance with or contrary to these policies. The relevant saved AVDLP policies are set out in the overview report applying to all reports on this agenda, and further reference made in the following sections. The policies are given full consideration in the assessment of the application for this development. The overview report also refers to the emerging VALP which is at submission stage and carried limited weight at this stage.

9.4 There is no neighbourhood plan made or emerging for Watermead.

Other Policies and Guidance not covered in the overview report

9.5 Buckinghamshire's Local Transport Plan 4 is a material consideration. Local Transport Plan 4 aims to make Buckinghamshire a great place to live and work, maintaining and enhancing its special environment, helping its people and businesses thrive and grow to give us one of the strongest and most productive economies in the country. The Local Transport Plan Objectives are:

- Objective 1 – Connected Buckinghamshire - Provide a well-connected, efficient and reliable transport network which links to key national and international destinations helping Buckinghamshire's residents and economy to flourish while capitalising on external investment opportunities.
- Objective 2: Growing Buckinghamshire - To secure good road, public transport, cycle and walking infrastructure and service provision, working in partnership with local businesses, the community and district councils through a range of initiatives and taking advantage of new and emerging technologies to meet the (current and future) needs of our residents as Buckinghamshire grows.
- Objective 3: Healthy, Safe and Sustainable Buckinghamshire - Allow residents to improve their quality of life and health, by promoting sustainable travel choices and

access to opportunities that improve health. Ensure transport systems are accessible by all, safe and allow people to make the most of Buckinghamshire whilst protecting its special environments.

- Objective 4: Empowered Buckinghamshire - Allow everybody to access the educational, work and social opportunities they need to grow. Increase opportunities for residents to support themselves and their communities by enabling local transport solutions.

9.6 Whilst this is not part of the development plan it is adopted policy by the county council as highway authority providing a high level approach to the development of transport in Bucks and is a material consideration.

9.7 The applicant states in the Planning Statement and Sequential and Exceptions Test Report that they have sought to follow the 1902 Crematorium Act and 'The Siting and Planning of Crematoria' issued by the Department of the Environment (DoE) in 1978 (LG1/232/36), which combine to form 'historic' guidance on crematoria in a planning context. The applicant considers these are of relevance in the consideration of sites and proposals. This is evidenced by crematoria operators, local planning authorities and appeal inspectors and are referred to in the submission documents.

9.8 Section 5 of Chapter 8 of the 1902 Act states that:

'No crematorium shall be constructed nearer to any dwelling house than 200 yards (182 meters) except with the consent in writing, of the owner, lessee and occupier of such house, nor within 50 yards of any public highway.'

9.9 The 1978 Siting and Planning of Crematoria also offers guidance on the main principles which the applicant considers, should be observed in the siting of a crematorium:

- *That the site is well suited for the building, and is accessible by public transport, and normally that all main services are available;*
- *That the crematorium is so sited that its use does not have any material effect on the immediate neighbourhood;*
- *That the layout of the site provides for the easy movement of vehicles to and from the building, and adequate parking space;*
- *That the building should be so planned as to allow convenient circulation;*
- *That proper amenities are provided for those attending or working at the crematorium;*

- *That the cremation room and its ancillary rooms and space comply with good practices and permit cremation to be carried out in a reverent and dignified manner’.*

9.10 This document goes on to state that:

‘Care is needed in the selection of a suitable site for a crematorium and the local planning authority should be consulted at the outset. A well wooded piece of ground with natural undulations and good views is ideal, but this must be along with easy access by public transport and by private car’.

9.11 These documents are material considerations which will be taken into account.

b) *Whether the proposal would constitute a sustainable form of development:*

9.12 The Government’s view of what “sustainable development” means in practice is to be found in paragraphs 18 to 219 of the NPPF, taken as a whole (paragraph 6). The following sections of the report will consider the individual requirements of sustainable development as derived from the NPPF and an assessment made of the benefits associated with the issues together with any harm that would arise from the failure to meet these objectives and how the considerations should be weighed in the overall planning balance.

Building a strong competitive economy:

9.13 The NPPF (paras 18 & 19) states that the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future. The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. The planning system should not act as an impediment to sustainable growth.

9.14 Therefore significant weight should be placed on the need to support economic growth through the planning system, in order to sustain district wide employment. Although it is acknowledged that a crematorium is not a B1, B2 or B8 employment use, the applicant confirms that 4 full-time jobs will be created on the site. The additional employment would contribute to the local infrastructure supporting residents and business, would contribute directly and indirectly to employment in the area when operational, and clearly provided employment in the short term during the construction period. This is considered to be a benefit of limited weight.

Sustainable Location

- 9.15 The site is located to the west and north of development within Watermead and to the west on the opposite side of Buckingham Road lays the Buckingham Park development. Therefore it is considered that the site lies between existing residential estates to the north of Aylesbury, is close to the main built-up area of the town, and is therefore well located in terms of the proximity to the existing built form of Aylesbury town and its services.
- 9.14 Paragraph 17 of the NPPF sets out the core principles of sustainable development which includes encouraging the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. Development of such sites is normally preferred over green field sites, as set out in the NPPF,
- 9.16 Previously developed land is defined in the NPPF as;
- 'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.'*
- 9.17 Taking each element of the NPPF definition in turn, the site was occupied by a ski-slope, a permanent structure built from the spoil created from excavating the soil to create the lake. Although the use of the ski slope has ceased, the remains of the structure are clearly visible on the site. The land 'within the application red line' surrounding the ski-slope previously contained the Riviera Restaurant and associated pedestrian and vehicular accesses (including the bridges and footways) that were also permanent fixed structures, prior their removal. The land to the south which lies between the River Thame and the lake which includes part of the lakeside path and also provides access to a slipway (another built structure) could also have previously developed land status by reason of the association and connection to the ski-slope and lake (which was also used for leisure/recreation purposes). Appeal Inspectors have ruled in similar circumstances that operational and functional land associated with the built structures can be considered previously developed.

- 9.18 The definition of previously developed land in Annexe 2 of the NPPF refers to “land that is or was occupied by a permanent structure’ (emphasis added). Therefore the NPPF advises that land previously occupied by a permanent structure is previously developed land even where that structure has been removed by the time of the decision, so long as the remains of the permanent structure or fixed surface structure have not blended into the landscape in the process of time. Officers consider that the structures and features at the time of their removal or demolition and remaining features on the site cannot be regarded as having blended into the landscape, nor that it represents a greenfield site and the application site should therefore be considered to be previously developed land. This is considered in more detail below.
- 9.19 In terms of the appropriate lawful baseline that the proposed development is to be considered against, in the Parish Council’s view, the site has a nil-use, and the existence of buildings (now demolished) and previous trip generations should not be considered in order to justify the proposals. The Parish Council considers the site to be of a nil use or one for recreational/leisure uses only. Furthermore, it is the Parish Council’s view that once the Riviera restaurant was demolished, the site ceased to benefit for Class A3 use, and the act of demolition was fatal in ensuring that any subsequent baseline comparison should be against that of a cleared site, without any use.
- 9.20 The applicant has argued that those elements of the site previously associated with car parking and restaurant use represented previously developed land at the point at which planning permission was granted and as a recently “cleared site” in advance of construction those elements of the site must be regarded as previously developed. The applicant disputes the suggestion made by the parish that the baseline should be one of “nil use”. They argue that permission was implemented following the grant of permission and the discharge of conditions. That permission was quashed and is to be reconsidered by the council. Since the development is currently unlawful, no new chapter in the sites planning history has been created. The reversion to the previous use would not require planning permission (S57(4) of the TCP Act) and the application must be assessed against the previous lawful use of the site. They also point out that while completed the crematorium building has not been brought into use.
- 9.21 Officers have carefully considered both of these views and considers that the site benefits from previously developed ‘brownfield’ status, and lies on the edges of Aylesbury. The artificial mound (which has been dug out to accommodate the crematorium) is a permanent structure which previously had a covered slope and ski lift apparatus (now removed). The crematorium

forms a part of the backdrop of the mound. Officers do not consider that the site is green field or is open countryside in character.

- 9.22 In terms of the officers approach, it is considered that the baseline for the consideration should be one of a cleared brownfield site, and that it would not be appropriate to draw a comparison in the assessment below with the previous buildings and structures on the site and the use as a restaurant given that planning permission would be required to reconstruct these buildings and structures and for the use to be revived. The application will therefore need to be assessed on that basis.
- 9.23 Given that the applicants argue the correct comparison is with the previous use on site officers have on some occasions identified that comparison below, however officer's advice is that in order to be robust the correct comparison is with a cleared brownfield site.
- 9.24 The reuse of this land is considered to be of significant benefit. The environmental value and effects are addressed below.

Promoting sustainable transport:

- 9.25 Policy AY1 of AVDLP seeks that all traffic generating proposals are considered against the principles of the ALUTS strategy and the need to minimise travel and facilitating or encouraging journeys by means other than cars. Contributions towards the ALUTS strategy do not comply with the CIL pooling restrictions but the principles are relevant. AVDLP Policy AY17 seeks for residential and employment sites appropriate integration with public transport and accessibility for buses. The NPPF advises that transport policies have an important role to play in facilitating sustainable development and in contributing to wider sustainability and health objectives. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
- 9.26 Paragraph 32 of the NPPF explains that decisions should take account of whether:
- The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure
 - Safe and suitable access to the site can be achieved for all people Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.

- Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe

9.27 The site is located between existing residential estates to the north of Aylesbury, is close to the main built-up area of the town, and is therefore well located in terms of the distribution of existing crematorium provision serving the area and the existing and future needs of the town and district. The site is close to the A413 Buckingham Road, a route that accommodates bus services between Aylesbury and Buckingham Park, along with the towns and villages lying further to the north. Regular bus services also travel along Watermead (the road) to serve Watermead itself. It is considered that the site would score well in respect of its sustainable location given the proximity to public transport and the centre of Aylesbury which has the highest concentration of population in the district and could result in shorter drive times than the current drive times to crematoria in surrounding districts/boroughs.

9.28 Notwithstanding this, the potential impact of this development on the local roads remains a significant concern to a number of local residents and this must be considered in the assessment of this application. The applicant has submitted an updated Transport Statement which sets out an assessment of the potential traffic related impacts of the proposed development. The revised Statement (submitted in May 2017) seeks to address whether any changes have occurred since the original determination that would justify coming to different conclusions, in terms of transport impact.

9.29 The original committee report and post committee report, drawing an assessment based on the original Transport Statement concluded the following:

In the light of the comments received from BCC Highways, it is considered the proposal would have no significant adverse effect on the safety and flow of the highway network in the area. As such, and having regard to the overall network flow reduction that would be likely to arise from the provision of a crematorium in this area [if regard is given to the existence of the former restaurant], it is considered to accord with the relevant NPPF advice and the aims of Buckinghamshire's Local Transport Plan 3. Whilst the proposal would not detrimentally impact on highway safety or flow, it is not considered that it would deliver substantive improvements to the highway network locally, or that it would significantly enhance sustainable travel options. It is therefore considered that this factor should be afforded neutral weight in the overall planning balance.

It was acknowledged that peak time congestion is experienced on the A413 around the Watermead junction and further south at the traffic lights, however it is acknowledged that the application indicates that funerals would be organised between 10.30 and 16.30, avoiding peak times. The start times for funeral services can be controlled by condition. It is the case, however, that those arriving early for the first funeral of the day may arrive during the peak period, along with crematorium staff and contractors and visitors not associated with a funeral, but it is considered that there would be relatively few additional movements during the morning peak.

Subject to a condition requiring that the access road is constructed in accordance with the BCC specification there were no objections to the access road from BCC Highways/AVDC. It was considered that on balance the level of parking is adequate to support the proposed use recognising that funerals vary widely in attendance, but the level of parking indicated is likely to be adequate even at busy times.

Locational Accessibility:

9.30 The Watermead site is located on the edge of Aylesbury and is well placed to serve the towns and villages around the town and District, in particular those to the north that are further from Amersham.

9.31 The objectors have suggested that there is no need for a second crematorium in Aylesbury, and that a facility nearer to Buckingham would be preferable. At the time the original planning application was determined, the committee resolved to grant planning permission for the Crematorium on the basis of the information submitted at that time that there was a need for one facility in the District. Planning permission has since been granted for a second crematorium in the District at the Berton site on Cane End Road (ref: 14/01125/APP). Therefore, it is recommended that it is of relevance to clarify the position that was arrived at in determining the Berton crematorium which established the need for a second Crematorium in the District. It should be noted that the question of need at Berton arose only in the context of the assessment of whether there was a satisfactory alternative sites in applying the Natural England 3 tests on European Protected Species. This acknowledged that the population is expected to rise and given the level of planned growth, set out in the Council's emerging local plan. The applicant's Needs analysis suggests that the population is anticipated to grow significantly more than the estimated figures quoted in the 2015 Berton Needs Assessment, and has provided evidence to support this position.

- 9.32 The Berton application, and the needs assessment, was justified on the basis of the industry guideline that one crematorium is required to serve a population of 150,000. This approach has been endorsed by various appeal decisions including that at Halstead in Kent (Ref: APP/G2245/A/14/2217055). Using this as the population baseline, there would be a demonstrable need for more than one crematorium in Aylesbury Vale if the population to be served was above this threshold.
- 9.33 The report concluded that the Watermead site (which at the time benefitted from planning permission for a crematorium) would not provide sufficient capacity to meet the needs within the catchment area on its own.
- 9.34 In the case of Watermead, the question of need only arises in the context of the flood risk sequential test and whether there are no reasonably available sites as set out in the NPPF.
- 9.35 Notwithstanding the precise estimate of the demand for a crematorium, it is clear that the population based justification applied in its Berton decision to grant permission for a second crematorium is likely to have materially increased and the population is anticipated to exceed 150,000 (which is agreed by all parties) which would demonstrate to the satisfaction of officers that a second Crematorium is still justified.
- 9.36 Members will also be aware that commercial competition is not a matter for the planning authority, and the principle of the need for crematoria is a matter for operators of those facilities. If this process is to result in two approvals, it would be for the promoters of each scheme to decide whether or not to proceed with the approved development.
- 9.37 In locational terms, it is considered that Aylesbury is a sustainable location, with significant growth (committed and proposed) planned and offers sustainable modes of transport and would accord with AVDLP policies AY1 and AY17. For the above reasons, it is considered that the principle of locating a crematorium on the edge of Aylesbury is sustainable.

Traffic Impacts

- 9.38 Notwithstanding the previous conclusions on traffic impact, it is necessary to carry out an updated assessment of the proposals which considers whether the development would have an acceptable traffic impact on the local area. It is noted that the site has been unused for over 4 years, and that the traffic generation has reduced since the former uses were in operation. Thus, as the site currently is regarded as a cleared brownfield site it is also necessary to revisit the transport statement (as updated) to determine whether the proposals would unacceptably

add to the traffic generation in the locality noting all trips to the site and from the site would be new.

- 9.39 BCC has reviewed the Transport Statement (as updated in 2017), having regard to the baseline as having a nil-land use. The traffic generation, as forecasted in the updated Transport Statement has been assessed by BCC on the basis of there being no land uses on the site which represents a different baseline scenario than what was assessed at the time of the previous approval. This baseline scenario presents the traffic impacts on the basis that there is no restaurant or recreation based car-bound trips to or from the site.
- 9.40 The trip generation associated with the proposed development has been based on data for two crematorium sites, a site owned by the applicant in Bristol, and the West Wiltshire Crematorium in Trowbridge. This was agreed as part of the previous assessment and is still considered the most robust assessment of trip generation to the site.
- 9.41 Trip generation of 29 arrivals and 1 departure were predicted for the AM peak and 4 arrivals and 6 departures were predicted in the PM peak. It should be noted that this is based on a much larger site than the proposed crematorium at Aylesbury. Therefore, the proposals are anticipated to provide half the number of services. The applicant's proposal is to restrict services to between the hours of 10.30 and 16.30. The trip generation from the Aylesbury crematorium is therefore anticipated to be much lower than the trip generated from the TA comparison sites.
- 9.42 The trip data has been used to assess the impact of the development on the existing highway network. The assessment of existing traffic is based on the 2014 Transport Assessment that has been updated with traffic counts undertaken in May 2017.
- 9.43 Several junctions have been modelled and these include committed developments at Weedon Hill and Berryfields. It is argued that the development known as Land East of Aylesbury does not impact on the latter as traffic flows on Bierton Road and the A41 reduce with the development as a result of the associated infrastructure and BCC Highways Officers have accepted this assumption.
- 9.44 Trip distribution of additional traffic is based on the assumption that that 5% of trips will travel to the site from the east, with 80% travelling to the site from the A413 South and 15% travelling to the site from the north on the A413. This distribution was accepted in the previous Transport Assessment. However, BCC advises it is unlikely that 5% of traffic would arrive from Watermead village. If the additional 5% of development traffic was redistributed on the

- junction of A413/Watermead/Prince Rupert Drive, it would still allow for the junction to operate within capacity.
- 9.45 A LINSIG assessment has been undertaken of the junction with the main A413/Watermead/Prince Rupert Drive using the same geometry and timings of the previous assessment. BCC Highways has considered whether this junction needs to be remodelled but, as the junction operates within capacity this work is not considered necessary. It is clear from the low trip numbers associated with the development that the additional trips would not change this outcome of this modelling work.
- 9.46 Observations of the signal junction show that while the junction work well in the PM peak, in the AM peak between around 7:30 and around 9:10 traffic is slow moving southwards away from the junction towards the signal controlled junction with the A4157. This is as a result of traffic slowing to merge from two lanes to a single lane combined with and the interaction with the merging slip lane from Watermead. After 9:00 southbound traffic is generally a little freer flowing but still slows to merge from two lanes to a single lane and to allow traffic from the Watermead slip road to exit. It should be noted that this is an existing problem and the level of traffic that is generated by this development would not severely contribute to the queues at this junction, particularly as the crematorium is planned to operate outside of the peak am and pm hours on week days.
- 9.47 An Arcady assessment has been undertaken of the A413/Oliffe Way roundabout. The am peak would see a 3% increase in traffic over existing flows. This is below the threshold that an assessment would be required to be undertaken and even with this increase, the junction would still operate within capacity. The increase is therefore is considered to be acceptable.
- 9.48 There is no junction analysis of the site access which could be requested. However, it is considered that the low levels of traffic generated by the development in the peak hours combined with the existing background flows on Watermead are such that the additional traffic can be accommodated without queuing on the highway. This would in officer's view negate the need for the junction analysis of the site access.
- 9.49 The traffic impact analysis has been based on the assumption that all trips to the site are new and that there is a nil-use on this site. Whilst the applicant contends that regard should be given to the historical presence of A3 (Restaurant) and D2 (Leisure) uses on the site, it would not result in officers coming to a different conclusion on the overall traffic impacts of the

development. The impacts would not be significant or severe in highways terms, having regard to the trip generation data set out in the Transport Statement.

- 9.50 Taking into consideration that; the transport assessment shows that the traffic from the development can be accommodated; the trip generation is based on a much larger site which over-states the trip rates; and that a planning condition will restrict the use of the site outside of peak hours. It is considered that the transport impact of this development cannot be considered severe, having regards to the test required in the NPPF para 32 (point 4).
- 9.51 In the light of the comments received from BCC Highways, it is considered the proposal would have no significant adverse effect on the safety and flow of the highway network in the area. As such, and having regard to the overall network flow that would be likely to arise from the provision of a crematorium in this area, it is considered to accord with the relevant NPPF advice and the aims of Buckinghamshire's Local Transport Plan 4
- 9.52 Acknowledging that the proposals will result in additional trips above than those considered in 2014/15 when the application was previously determined, the anticipated flows onto the highways network are not of significance whereby the safety and free flow of traffic would be severely affected as a result of the proposals. In coming to this conclusion, the proposals are considered acceptable in highways terms and would accord with AVDLP policies AY1 and LTP4

Site Access Routes:

- 9.53 BCC advises that the development only requires one access point for a development of this size and the access width provided is in line with the dimensions that BCC require as set out in Manual for Streets that would allow for two vehicles to pass simultaneously. Manual for Streets is the nationally accepted guidance that BCC follow for highway design standards. The Parish Council has argued that the proposed access is deficient on the following grounds:
- The access is unsafe for pedestrians. The requirement (in the Crematorium Act) is that there must be a pedestrian gateway adjoining the entrance gateway which has not been addressed.
 - Vehicles entering the site will have to wait whilst vehicles leave the site and there is insufficient width for turning vehicles;

- Funeral cars and traffic will exacerbate a dangerous situation with traffic coming into Watermead from Buckingham Park and the A413 and will create backed up traffic due to the access;
- Insufficient width for opposing vehicles to pass through gates and the access road and this would create danger for pedestrians especially those with limited mobility;
- Visitors to the memorial gardens would not be able to access the site when the gate is closed

9.54 However, BCC as highway authority advise that the width and geometry of the junction and access road would provide a safe and convenient access to the crematorium for vehicles (including larger cortege vehicles) and pedestrians without resulting in undue conflicts in the highway and are satisfied with the access arrangements and that it meets the visibility requirements of Manual for Streets. The highways officers do not consider there will be an unacceptable backing up of traffic and the manoeuvring of vehicles can take place in an acceptable and safe manner when turning in from Watermead.

9.55 Off-site signage has been agreed with BCC (under separate highways processes) which will direct pedestrians accessing the crematorium from Watermead by way of the access road and there is no planning policy requirement for a separate footway which can be imposed on the developer in this instance. The Parish Council has suggested that there is a requirement to provide separate pedestrian entrance within the main gate serving the site (from Watermead Road). BCC advise that the access has been widened to 4.8m to allow two way access and advise that a dedicated route for pedestrian is provided on the site access road which can be secured by condition. Given the number of trips to and from the facility are anticipated not to be high, and noting the hours of operation of the facility (outside peak traffic periods), it is considered there is insufficient justification to require on the provision of a separate entrance gate in terms of the broad policies set out in the Local Transport Plan 4 or the NPPF guidance in para 32. The absence of such cannot sustain a reason to refuse this application when it is noted that the main gate will provide acceptable access and will remain open for the main part of the day when staff open the facility in the morning until the last member of staff vacates the site in the evening, after the final service. This will provide adequate access for pedestrians without causing unacceptable conflict with vehicles.

Parking:

- 9.56 AVDLP policy AY21 and GP24 requires that new development accords with published parking guidelines except where it is well served by public transport. SPG1 “Parking Guidelines” at Appendix 1 sets out the appropriate maximum parking requirement for various types of development. There is no specific standard applicable to crematoria.
- 9.57 The proposals incorporate a total of 76 parking spaces, five of them suited to disabled use. These would be spaces available for public use, and further, albeit limited, provision is made for operational parking to the rear of the building itself. Having regard to the limited size of the site if the ski slope mound is excluded, and the constraints imposed by the River Thame and the need to incorporate flood mitigation measures, it appears that it would not be possible to significantly increase the area available for parking. It is recognised that funerals vary widely in attendance. Regard is given to the advice from the Crematorium Federation that indicates that the national average for attendance at cremation services is 35 persons, which normally equates to 17 car trips and therefore 17 parked cars. Thus for the average funeral, the parking provision on this site would be more than adequate. It is recognised that some funerals may attract many more people, but the number of attendees would be limited by the size of the chapel, which is designed to accommodate 96 seated people, although with some room for standing. The Crematorium Federation advice also indicates an average car occupancy rate of two, and on the basis of experience this is considered to be entirely plausible. Therefore, even with the chapel at full capacity the attendance could equate to around 50 cars.
- 9.58 It is considered that on balance the level of parking is adequate to support the proposed use. It is recognised that funerals vary widely in attendance, but the level of parking indicated is likely to be adequate even at busy times. Whilst the SPD does not have specific parking standards for crematorium it is considered the proposal would comply with the aims and objectives of policies AY21 and GP24 of AVDLP.

Rights of way:

- 9.59 AVDLP policy GP.84 states that in considering applications for development affecting a public right of way the Council will have regard to the convenience, amenity and public enjoyment of the route and the desirability of its retention or improvement for users, including people with disabilities. Planning conditions will be imposed on planning permissions, or planning obligations sought, to enhance public rights of way retained within development schemes. Where it is proposed to stop up or divert a public right of way to enable development to take

place, permission will only be granted where there is an existing suitable alternative route, or provision is so made.

- 9.60 There are no public rights of way shown on the definitive map affected by the proposals with the nearest PROW being located on the Watermead spine road. The lakeside path is not shown on the definitive map as a public right of way and there has been no application to add it to the definitive map. . WPC suggest that the lakeside path benefits from the same policy protection as a PROW but the policy only applies to proposals where a right of way exists and the BCC ROW officer advises that the path is not on the definitive map and there is no application to add it to the definitive map. The proposals are therefore in accordance with the requirements of policy GP.84. The proposal would not conflict with section 5 of the 1902 Crematorium Act referred to above.
- 9.61 In conclusion, whilst the proposal would not detrimentally impact on highway safety or flow, it is not considered that it would deliver substantive improvements to the highway network locally, or that it would significantly enhance sustainable travel options and the application would accord with policies AY1, AY17, AY21, GP24 and the LTP 4. Policy AY20 relates to safety of cyclists on the Aylesbury Cycle Network which is not affected and therefore is not engaged. It is therefore considered that this factor should be afforded neutral weight.

Landscape and requiring good design:

- 9.62 The NPPF states that the Government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development. AVDLP policy GP35 is consistent with the objectives of the NPPF and states that the design of new development proposals should respect and complement the physical characteristics of the site and surroundings, the building tradition of the locality; the historic scale and context of the setting; the natural qualities and features of the area; and the impact on important public views and skylines. AVDLP policy GP38 is also in conformity with the NPPF and states that new development schemes should include landscaping proposals designed to help buildings fit in with and complement their surroundings and conserve existing natural and other features of value as far as possible. In addition, policy GP39 seeks to ensure the protection of important trees and hedges, and GP40 opposes loss of trees and hedges of value.

Landscape Impacts:

- 9.63 As set out above the site is regarded as a cleared previously developed 'brownfield' site on the urban fringes of Aylesbury.

- 9.64 The planting and landscaping proposals are designed to assimilate the development with the naturalistic elements of the surrounding land. It is considered that the proposed building comprises a clean and modern circular structure with sensitive materials and capped with a green roof which complements its surroundings.
- 9.65 The building does not give rise to any significant adverse landscape impact, in terms of the landscape character (an urban fringe landscape appearance) although it is acknowledged the visual receptors would have views towards and into the crematorium prior to the landscape planting maturing, particularly from the lakeside path, the lake-fronting dwellings and parts of the Watermead Village Square which are at a distance of approx 290m away. It is considered that the landscape impacts on visual receptors will change (as a result of the landscaping scheme maturing) over time noting that, in today's condition, the site is visible in wider views, albeit these are from local vantage points. It is anticipated the additional planting, as part of the landscaping scheme, will gradually mature and grow in time, and this will ensure the development forms a part of the landscape in a sympathetic way.
- 9.66 The applicants argue that the impact should be compared to the former Riviera Restaurant which projected further towards the lake in a more exposed position than the crematorium, and in a more prominent position when viewed from the various public areas to the east, including the village square, the lakeside facing dwellings and the public footpath that runs around the lake. Officers, for the reasons set out above, do not agree that such a comparison is appropriate.
- 9.67 The site lies in an urban fringe landscape with a managed landscape character related to the town and distinct from an open countryside landscape character beyond. The proposal in landscape terms would be seen in a similar character area as the hotel and pavilion opposite set in spacious setting, and in the context of the allotments in a transitional landscape zone. In this context it is considered that the building would not have a significant harmful effect to be unacceptable. It is considered therefore that the impact on the landscape character of the area would be neutral. The proposed development is in compliance with Local Plan policy GP35 and is an appropriate setting for built development acknowledging its urban fringe landscape character. This report sets out an assessment of the design qualities of the architecture and landscape scheme for the site and it is concluded that the siting, massing and appearance of the crematorium is wholly acceptable in design terms to enable compliance with policy GP35 and the NPPF in terms of demonstrating good design. It is considered therefore that the

impact on the landscape character of the area would be neutral and is attributed neutral weight in the planning balance on this point

Proposed Landscaping and Trees

- 9.68 The measures put forward as part of the development include improvements to the River Thames corridor and extensive new planting across the site including within the mound. Full planting details have been submitted for the areas around the building, and majority of the mound indicated as a "Future Planting Area". This enables control over the species to be used to ensure maximum use of native species to maximise ecological benefit and a condition is recommended to guarantee that the net gains are secured as part of the application and can be maintained thereafter.
- 9.69 The Council's Tree Officer has reviewed the tree survey, original tree report and subsequent tree report carried out after the landscape and tree planting works had been carried out and raises no objections given the proposals did not remove any trees of appreciable amenity value and given the majority of on-site specimens were protected and/or retained. A standard condition is recommended to ensure replanting of any trees, if any are damaged as a result of the remaining landscaping works to be carried out. The proposal would accord with policies GP38-40 of AVDLP.

Design and Appearance of Crematorium

- 9.70 The crematorium building is designed to create a responsive environment for the public along with the facilities required for operational purposes. The public areas and the operational areas of the building are separated, and the centrepiece of the public space is the chapel. This accommodates 96 seats, along with a standing area, and features extensive glazing on the eastern side, with views towards the lake.
- 9.71 The building is primarily faced in stone and render, with a green roof, and is designed as a low-key, modern but pleasing structure well suited to its purpose. In this regard, the as-built structure is assessed as being of a good design standard, as was proposed and illustrated in the design and access statement and drawings submitted with the original application. The crematorium building is positioned within the structure of the mound and is set back sufficiently from the lake. This allows for the introduction of screening of the site which would help to soften and reduce the views of the site from sensitive public vantage points around the lake (including from the Village Square). The position and type of landscaping would also reinforce

the intimacy of the venue which is considered important in terms of the sensitive nature of the use. It is considered that this would not result in any undue harm.

9.72 The applicant has confirmed that the topographical survey of the as built development reveals a number of minor and insignificant changes to the fenestration, stonework, internal layout and floral tribute wall as part of the building and external surface materials within the car park and landscaped areas, including to the bund where the mound has been excavated to make space for the building, and the swale adjacent to the overflow car park adjacent to the lake, which differ from the previously submitted drawings. The 'as built' survey confirms that the development has been carried out substantially in accordance with the formerly submitted drawings and plans save for these areas. The changes are insubstantial in scale and would not have any qualitative lowering of the design standard of the development which is considered to be generally well designed and carried out to a high standard of construction. All other details in respect of the kerb lines, building positions and building heights are identical to the drawings which formed the original application.

9.73 Having regard to the scale and design of the proposals and the extensive landscaping scheme, it is considered that the wider and local impact on views from surrounding areas would not result in undue harm and accord with policy GP35 and GP38.

Bridge and Car Park Design:

9.74 The proposed development includes the provision of a new shared pedestrian and vehicle bridge to replace the former pedestrian bridges which have now been removed. The new bridge permits access from the main car park up to the crematorium building. The as-built bridge comprises a concrete based structure spanning the river Thame with a glazed balustrade sat upon the concrete upstand with aluminium capping. The design has been amended and now comprises a greater proportion of concrete with a reduced balustrade. The bridge has a solid appearance which appears in context with the hard landscaped site car park, access road and landscaping with the crematorium building and former ski-slope mound dominating the views. The bridge is visible in views towards the crematorium from the south and east from around the lake. Views of the bridge and car park will reduce as the landscaping matures and the bridge will appear more assimilated into the environment. Notwithstanding the appearance of the bridge appearing 'engineered' and solid, it is considered that the appearance of the structure is acceptable and would blend in appropriately with the context.

- 9.75 The main 'Frequent use' lay by car park on entrance road has been raised from 73.2m AOD to 73.6 – 73.8m AOD but this level rise is acceptable in landscape terms as it does not appear visually intrusive within the surrounding landscape. Although this presents a more urban – hard landscaped appearance than the former car park, the presence of soft landscaping including the new trees will blend into the landscape over time, and is acceptable in design terms.
- 9.76 It is considered that the bridge and car park and their impact would accord with policy GP35 and GP38.

Views of Crematorium from Watermead Village

- 9.77 Objectors have raised concerns over the view towards a crematorium, due to the inevitable and unwelcome association with grief and death. Residents also feel that the presence of a crematorium nearby would inhibit enjoyment of the nearby green spaces and the perception is that this will harm the quality of life. Officers accept that the fact that what is proposed is a crematorium and the associations with such a building are a material planning consideration. However, the resulting impact raised by objectors is considered to be based on perception which is not a quantifiable or tangible impact. It is considered that the views should be appreciated in the wider context of the views from properties and given the distance and the mitigation proposed which will filter the views and officers consider that whilst there may be some very limited impact in the short terms with the maturing of the landscaping over time this will be reduced and would not have a harmful impact..
- 9.78 In concluding on landscape and design, as set out above the impact on the landscape character would not result in undue harm in this urban fringe landscape. The layout, scale and design of the proposals and the extensive landscaping scheme would not result in undue harm to wider and local views from surrounding areas and would accord with AVDLP policy GP35 and GP38-40. This element is afforded neutral weight in the planning balance.

Promoting healthy communities:

- 9.79 The NPPF seeks to promote healthy communities by facilitating social interaction and creating healthy, inclusive communities. This includes (para 70) delivery of the social, recreational and cultural facilities and services the community needs. The planning authority should plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and the residential environment. An

integrated approach to consideration of the location of housing, economic uses and community facilities and services should be adopted.

- 9.80 As set out above the purpose of the planning system is not to regulate commercial competition between operators. It is considered that a crematorium in this area (acknowledging that the Bierton facility will be built out soon) would still represent an important and valuable resource for the people of Aylesbury and the District, providing a facility in the local area that is located close to the largest concentration of population within the district and future growth.
- 9.81 Reference has previously been made to AVDLP policy GP32 which applies to proposals resulting in the loss of a shop, post office or public house and AVDLP policy GP.93 which states that the Council will resist proposals for the change of use of community buildings and facilities for which there is a demonstrable local need. These policies also require regard to be given to the viability of the existing use, the presence of alternative local facilities and the community benefits of the proposed use. For the reasons set out below officers do not consider these to be of relevance.
- 9.82 Policy GP32 is no longer of specific relevance to the proposal as once the restaurant was demolished, the use ceased with it, and so no further regard to the criteria set out in this policy is necessary. Policy GP93 is not relevant in that the site is not a community building or facility, it is privately owned and there are no public rights over the land save for the public footpath which is to be retained. Given the baseline established above the site is regarded as having a nil use and it is considered that there is therefore no conflict with AVDLP policy GP32 or GP93.
- 9.83 The resulting weighting on this matter considered to be neutral in the planning balance.

Meeting the challenge of climate change, flooding and coastal change:

- 9.84 The NPPF at Section 10, "Meeting the challenge of climate change, flooding and coastal change" advises at paragraph 99 that new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures. Paragraph 100 recommends a sequential, risk-based approach to the location of development to avoid, where possible, flood risk to people and property. Paragraph 101 of the NPPF states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding and

development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

- 9.85 The proposed crematorium is classified as a less vulnerable use within Table 2 of the NPPG which requires a sequential test and exceptions test to be carried out, given parts of the building lie within the EA maps as being Flood Zone 3. The car park and access road (and some landscaping) are substantially within Flood Zone 3B but provide supporting infrastructure for the Crematorium which in the officer's view, constitutes development 'ancillary' to the less vulnerable use of the building. The NPPG Table 2 does not permit less vulnerable uses within Flood Zone 3B but does not state if this applies to 'development' that is ancillary to a less vulnerable use. Flood Zone 3B only permits Essential Infrastructure and Water Compatible Uses and the car parking area and access road do not fall within these categories by virtue of their association to the crematorium (which is a less vulnerable use). Officers must therefore consider whether the proposed development (as a whole) should be refused on the basis of the development 'for ancillary uses' of land in Flood Zone 3B or whether there are any exceptional circumstances that justify departing from the Table 2 classification and the NPPG which suggests development should not be permitted. In the first instance, for the purposes of the FRA, the car park, access road and landscaping works are treated as being 'uses ancillary to the less vulnerable use' and not essential infrastructure as proposed by the applicant.
- 9.86 In coming to a view on this, officers have given regard to the car park and access road that were already established on the site and if by virtue of this development 'in Flood Zone 3B' the proposals will increase flood risk on the site or elsewhere. The raising of the land and resurfacing of the car park and access road would support the crematorium (a less vulnerable use) and the applicant confirms this work has been carried out to ensure the surfaces and landscaping are permeable to manage flood risk on the site and to ensure that the functionality of the flood zone is safeguarded, to minimise flood risks elsewhere. The FRA confirms that the car park and access road would remain capable of flooding (as they would have been capable of in their former condition) and the applicant has proposed a flood management plan to ensure managed evacuation for visitors in the event of flooding (resulting in a betterment in terms of managing flood risk and surface water treatment). The resulting betterment in flood risk, coupled with the previously developed status of the land, does in the officers view provide circumstances to ensure the development (as a whole) would comply with the NPPF overarching objective to reduce flood risk on the site and to ensure no adverse impacts elsewhere. It is also considered Table 2 of the NPPG vulnerability classifications does not

specifically cover development of existing established uses within the functional flood plain or whether ancillary uses 'such as car parks or access roads' should be capable of being treated as standalone uses or uses ancillary to principle land uses. It is officer's interpretation that for the above reasons there are exceptional circumstances to justify a departure from Table 2 of the NPPG and EA guidance and the application could not be refused on this ground. It has been suggested by Watermead Parish Council in their technical responses, that the car parking area comprises operational development and should not be permitted in Flood Zone 3B. The EA has verified that the correct classification has been applied to the assessments (in terms of assessing flood risk of the built component of the development within Flood Zone 3A) and raises no objections to the raised car park in Flood Zone 3B (subject to condition). Officers consider that the supporting part of the development would be acceptable subject to passing the Exceptions Test which is set out below. The applicant has carried out a comprehensive pre-application process with the EA in 2014 at the time of the original application. There are no changes to the classification tables and the EA and Local Planning Authority still considers the correct classifications are set out for the purposes of assessing flood risks. Given the above classifications, it is necessary to carry out a full sequential assessment and exceptions test of the crematorium, its landscape works and car parking/accesses to determine whether the development should be restricted.

- 9.87 The applicant has provided further mapping details which identifies that the proposed development works result in raising the site levels to accommodate the crematorium above the functional flood plain (ie: to move the building into a notional Flood Zone 1 datum). Notwithstanding this, parts of the proposed building is still located within Flood Zone 3 that are calculated from the Environment Agency mapping and therefore, the following steps have been considered in order to demonstrate whether the proposed development is able to meet the challenge of climate change and flooding in accordance with the NPPF.Paragraph103, states:

'When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment [footnote 20] following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- *Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and*

- *development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.*

9.88 Footnote 20 states that a site-specific flood risk assessment is required for proposals of 1 hectare or greater in Flood Zone 1; all proposals for new development (including minor development and change of use) in Flood Zones 2 and 3, or in an area within Flood Zone 1 which has critical drainage problems (as notified to the local planning authority by the Environment Agency); and where proposed development or a change of use to a more vulnerable class may be subject to other sources of flooding.

9.89 More information about development and flooding is provided in the Planning Practice Guidance. Specifically, the advice on Planning and flood risk, (published March 2014), in the section entitled 'Addressing flood risk in individual planning applications' explains that '...the broad approach of assessing, avoiding, managing and mitigating flood risk should be followed'. It continues in the section about applying the sequential test:

- *'For individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed.'*

9.90 Paragraph 034 of the NPPG states: It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. The developer should justify with evidence to the local planning authority what area of search has been used when making the application. Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere

9.91 The Guidance Note advises when applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example'...It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. The developer should justify with evidence to the local

planning authority what area of search has been used when making the application. Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere’.

Sequential Test

- 9.92 The applicant has submitted a detailed Sequential Test and Exceptions Test in accordance with the requirements of the NPPF paras 99-103. In setting out the Sequential Test, particular regard has been given by AVDC officers to the advice and guidance on Sequential Tests set out in the Environment Agency’s Guidance Note. The EA recommend that this approach is used by local planning authorities to apply the Sequential Test to planning applications located in Flood Zones 2 or 3. The approach provides an open demonstration of the Sequential Test being applied in line with NPPF flood risk Practice Guidance.
- 9.93 The recent examples of flood risk sequential tests including the ‘Flood Risk Sequential Test Practice Note’ by Bristol City Council, August 2013 and other examples from Wyre Forest, May 2015 and North Somerset, November 2016, provide useful guidance to the practical implementation of the national policy, guidance and the standing advice note from the EA. These approaches from the local authorities have consistent structures which are followed in the submitted Sequential Test.

Sequential Test Methodology

- 9.94 In the search for reasonably available sites Watermead Crematorium, the applicant has submitted a planning report which contains an estimate of population within the 18-minute drive time (30mins at cortege speed ie: 60% of normal speed) which has been updated with newer (ONS) Mid-Year Estimate ward data for 2016. the applicant estimates that the population within the catchment area based on the ONS Mid-Year Estimates is 268,891 which is significantly higher than the estimate for the year 2026 revealed in the Define Report May 2015(223,466) that was used to justify the Bierton site. Watermead Parish Council suggest that the estimate is closer to 258,280 (within Aylesbury Vale District) but this does not consider the other parts of neighbouring districts, or reveal the source of information explaining how this figure was arrived at.
- 9.95 The applicant has adopted a fully comprehensive ‘sieve analysis’ as a means of identifying suitable and available sites, and sites that are at a lower risk of flooding than the application site. The Sequential Test methodology for the sieve analysis was discussed and agreed with AVDC prior to formal submission. It was proposed to agree the source of sites and then take a

two-stage process in the sieve analysis with planning constraints mapped to remove areas from the initial area of search. Once that stage had been reached the sieve process would then look at the sites or areas that remained unaffected by the initial sieve. The initial sieve mapping process identifies the various planning, environmental and infrastructure constraints plotted across the whole search area in order to eliminate these constrained areas from further consideration. This stage also considered and eliminates employment and housing sites that are identified or discounted from within the Council's evidence base study (HELAA) that is in the process of informing the emerging Local Plan. With the exception of three sites in the HELAA, all other potential sites within the HELAA were included in this layer of the sieve maps and were therefore eliminated from further consideration, as the sites were not considered suitable. Alternative methodologies have been proposed by objectors as a means of identifying reasonably suitable alternative sites, and these are less comprehensive and detailed than the methodology adopted by the applicant. As such, it is considered the evidence base adopted by the applicant is sufficiently robust for the purposes of the sequential test.

- 9.96 This second stage focuses in more detail, whether there are any reasonable alternative sites. Part of that second stage included individual site assessments including the commercial and operational suitability of sites against a set of criteria from the operational point of view. That part of the process is in addition to the planning assessments and provides a further layer of analysis of sites in the catchment area.
- 9.97 It is considered that this approach is systematic, logical and comprehensive which covers a wide search area in order to consider all possible sites in the District and adjoining authorities, which is entirely reasonable in the context of this application. Officers have reviewed the Sequential Test, taking advice from the EA, and has questioned, where appropriate whether the use of subjective judgement based criteria is appropriate for the purposes of an objective Sequential Test which would, by design, include an element of subjectivity and commercial/operational expertise necessary to identify whether a site is suitable.
- 9.98 The applicant has provided a justification to address this matter by advising that Crematoria Operators identify sites that are governed by a unique set of criteria, and that each operator has its own bespoke requirements. For instance, the applicant has sought to distinguish the differences between a commercial crematorium operator and a municipal crematorium operator who deploy different criteria and are often more constrained by budgetary restrictions. This is reflected in the applicant's decision not to consider the Bierton site on Cane End Lane, or sites in similar contexts/sizes in the search area, which were considered too small (under

4.04 ha) and did not have a sufficient standard of highways access for the commercial operator. Crematoria operators have a different and unique set of operational criteria which should be taken into account as part of the Sequential Test. The applicant advises that:

Those who operate crematoria, whether they are private companies or local authorities, can differ in their requirements of new sites depending on their balance of priorities for the various components of the development. These include the buildings themselves, access roads and car parking, areas set aside for the strewing of cremated remains or for formal and informal memorials and space left in and around the crematorium to give visitors the sense of place and tranquillity. This last point is important to Westerleigh Group Ltd., as they believe that those visiting the crematorium and memorial parkland need to feel that they are in a special place, specifically set aside for remembering those who have passed.

- 9.99 Officers consider that there is some merit in this argument put forward, and this is manifested in the difficulty operators have in finding sites resulting in the significant period of time it has taken to identify site(s) within Aylesbury Vale. It is also concluded that it should not be for the planning system to impose unreasonable restrictions on the operator, in the context of a Sequential Test if an operator advises that a site is unsuitable (for sound reasons) and is able to provide sufficient evidence to come to this conclusion on a reasonable basis.
- 9.100 After the operational assessment of the parcels of land, the assessment considers whether any remaining alternative site is reasonably available that is: the site is within the agreed area of search; the site is of comparable size and can accommodate the requirements of the proposed development; the site is: owned by the applicant; or is for sale at a fair market value; or is publicly owned land that has been formally declared to be surplus and is available for purchase; and the site is not safeguarded in the local plan for another use.
- 9.101 Sites are not considered to be reasonably available if they fail to meet any of the above requirements or already have planning permission for a development that is likely to be implemented. The applicant also argues that some sites are reasonably not available if the landowners expectations are for a higher land value than what a crematoria operator is willing to pay.
- 9.102 It is considered that the applicant has reasonably identified the geographical area of search over which the test is to be applied which comprises a 30minute drive time for cortege traffic (18mins at 60% of normal speeds). The applicant has provided further justification for the size of the facility, following officer's request and in response to objections from Watermead Parish

Council, relating to the minimum site area of 4.04 ha or 10.0 acres. The Parish Council's consultants view the site area of the crematorium as falling under this amount (ie: 1.3ha) and therefore a smaller area should have been considered in the search. This view is reflected in the alternative Sequential Test put forward by the Parish Council and by a local resident who consider sites of approx. 2ha could have been potentially suitable. The applicants argue that the minimum area of 4.04 ha (10 acres) has been accepted previously by Planning Inspectors and other Local Authorities when forming a view on whether there are any suitable sites in the catchment/search area. Furthermore, the applicant states:

'Westerleigh Group Ltd [The Applicant] operates 29 crematoria, 21 of which it developed for itself. The majority of these are on sites well in excess of 4.04 ha or 10 acres, but some are smaller. Westerleigh Group Ltd. has found that these smaller sites present operational challenges, particularly in terms of a lack of space for memorialisation. Increasingly people are looking to "living memorials" - often including the planting of a tree or small garden of shrubs and flowers. These take considerably more space than a plot for the interment of cremated remains. As a result, there is a need for memorial parks to be larger. In 2017 Westerleigh Group Ltd acquired additional land adjacent to its existing crematoria in five separate locations, and is looking to repeat this in 2018. Acquiring land next to existing sites is expensive, as we are seen as a "special purchaser" in such cases. Westerleigh Group Ltd therefore seeks to ensure that the site first acquired is adequate for our needs'. Westerleigh Group Ltd.'s own site search criteria, when set out to agents and landowners, are for sites of between 10 and 15 acres. The most recent planning permissions secured in Nottinghamshire (13 acres), Wiltshire (67 acres) and Worcestershire (42 acres) and applications in Leeds (16 acres) reinforce this.

- 9.103 The applicant cites that although the 1978 Guidance advises sites of between 2-4 ha of land is sufficient for a municipal crematorium, it is suggested that modern commercial operators require greater area due the need to create a more extensive tranquil landscaped setting and ambience which can accommodate memorial gardens and areas for internment of ashes in parkland. The applicant evidences that they have needed to acquire further land previously at greater cost, which demonstrates that a large enough site is preferred at the outset. Officers consider this appears to be reasonable justification to support the search for sites of over 4.04 ha.
- 9.105 The methodology used for comparing flood risk between sites has been agreed with AVDC in accordance with the flood zone tables 1 and 2 of the NPPG which describe the levels of flood

risk and identify classification for land uses, including the agreed less vulnerable category for the proposed development.

9.106 Following the sieve mapping, and operational assessment site searches carried out, the applicant has then identified the reasonably available sites with the application site. The applicant has identified the name and location of six sites which required further investigation. The applicant states that none of these sites are preferable in terms of their location, unavailability, unsuitability and lesser quality of environment (than the application site), although they are all in lower flood zones. These sites have been reviewed in detail and it is considered that none of the 6 sites carried forward would comprise a reasonably alternative site considering none were available. It is concluded that there are no reasonably available sites in areas with a lower probability of flooding that would be appropriate to the type of development or land use proposed.

Conclusion on the sequential test

9.107 In conclusion, the applicant has carried out a comprehensive and systematic review of in excess of 1000 sites within the geographical 'catchment area' set by the 30 minute drive time (for cortege traffic). Officers have reviewed the sites and consider the applicant has taken a reasonable approach evidenced by a robust methodology in concluding that the sites are unsuitable. The reasons set out in the Sequential Test for concluding that all of the reasonable alternative sites and sites to be eliminated from the sieve mapping process are considered to be sound. These reasons include (but are not limited to) sites that; are in unsustainable locations (far and remote from Aylesbury), have inadequate access for cortege traffic and staff, or that require substantial highways interventions to make the site suitable, the buildings are within the minimum distances set by the 1902 Crematorium Act (ie: within 200yards of a dwelling, or 50 yards of a public highway), under-sized (ie: below the minimum site area of 4.04 ha, presence of above or below ground infrastructure, adjacency to non-conforming land uses/infrastructure (including planned infrastructure such as HS2), are on green-field land, or on inappropriate sites from a landscape or topographical perspective, or are on land that requires significant landscaping works in order to assimilate with the wider landscape character. There have been no reasonably available alternatives/options put forward by objectors (including those put forward by Watermead Parish Council) as the sites would all fail to meet the operational criteria set by the operator or the sites are in particularly unsustainable locations that are remote or they require significant landscape and highways works to create a potentially acceptable high quality environment. It is also noted that the

methodology adopted by the applicant is considerably more robust and comprehensive in its scope than the limited scope set out in the alternative Sequential Assessments carried out in the alternative Sequential Tests. The WPC Sequential Test in particular recommends sites that are considered unsuitable in landscape, sustainability, access, size and location and that have been considered unsuitable for housing and employment uses in the council's VALP evidence based studies (HELAA). The applicant has provided a comprehensive rebuttal of these sites which has been reviewed by the local planning authority and it is considered that none of the site put forward constitute reasonable alternative sites that could support this type of development, for the same principle reasons as set out in this paragraph.

- 9.108 The WPC's main criticism of the Sequential Test is that the proposed site would fail its own operational based assessment in sequential test terms, which is refuted by the applicant. The applicant has supplied an operational assessment of the site against the criteria it adopted when considering sites across the 30min drive time search area. The applicant considers that the site passes the criteria and therefore it would remain a reasonable alternative (if considered on the basis that a similar site came forward with similar characteristics in a similar location) and irrespective of the flood risk.
- 9.109 The applicant has considered whether the application site itself would meet the operational requirements in terms of suitability, and concludes that the entire criterion is met. This matter has been strongly challenged by residents, interested parties and the Parish Council who considers the site would not meet the operational requirements and would also fail the Sequential Test because of its location within Flood Zone 3. It is the officers view that the site passes the operational assessment, having regards to the extent of works necessary to make the development acceptable in planning terms, and coupled with the fact that the site constitutes brownfield land in a sustainable location that is to be preferred over green field sites in unsustainable locations. In planning and operational terms, it appears that the proposed development has been suitably and reasonably considered alongside other potential sites in accordance with the NPPF paras 99-103 and the EA Guidance on Sequential Tests.
- 9.110 Officers consider that satisfactory details have been provided to demonstrate that the site would notionally pass its operational criteria which adequately confirms the criteria adopted by the applicant is sufficiently robust and reasonable for the purposes of the Sequential Test and the criteria is not unnecessarily skewed to make it difficult to identify suitable sites. Notwithstanding this, the purpose of a Sequential Test is to consider sites of lower flood risk which comprise those in zones 1 and 2 (not sites in Flood Zone 3 where the application lies)

and to identify whether there are any that are sequentially preferable (ie: are available and suitable). The purpose is not to determine whether the actual site subject to the development would be a reasonable alternative. Therefore, this argument put forward by the PC is not supported or justified in terms of the NPPF tests set out in paragraphs 99-103.

9.111 Officers have reviewed the remaining 'more sustainable' and less 'constrained' sites within the Sequential Test that fail on landscape terms, and are of the view that the conclusions offered by the applicant in eliminating these sites are reasonable and the sequential test has been carried out on a consistent basis throughout the study. These sites were selected for further appraisal by officers as the sites could have been deemed suitable alternatives on a more subjective rationale and were in similarly accessible and sustainable locations with the application site (ie: closer to Aylesbury, on brown-field land and on main road networks). Notwithstanding this, the majority of the more sustainable sites were considered unsuitable after further investigation which revealed most were outside of settlements, are on open land or were deemed unsuitable by the presence of other significant constraints (eg: overhead power cables, proximity to non-conforming uses or the requirement for significant landscaping). Sites that were considered suitable, after stage 2 were investigated further by Savills and the applicant to determine whether these sites could be available or reasonably suitable. The Savills report concluded that the sites were either unavailable or were more suitable for residential purposes which would likely result in the owners (of these sites) holding out for higher land values making them less likely to be willing to sell to a crematoria operator at the values such an operator could afford (and therefore potentially unavailable). It was concluded that there were no reasonably suitable sites, within flood zone 1 which could accommodate the proposed type of development or land use. Therefore, in light of the above analysis, the sequential test is considered to be passed.

The Exceptions Test:

9.112 Paragraph 102 of the NPPF explains that the Exception Test applies after it has been shown that the Sequential Test has been passed. The NPPG confirms that there are two parts to the Exception Test. The first part requires the proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce the flood risk overall. The second part of the Exception Test requires a demonstration that the development would be safe for its lifetime, and that residual flood risk can be managed.

Sustainability Benefits

- 9.113 The exception test requires consideration of the wider sustainability benefits of the proposal. The applicant considers that the most sustainable location for a crematorium should be as close as reasonable to Aylesbury town. This is due to the need to serve the district and is where the highest concentration of people is located. The site is considered to be one of the most sustainable locations, in the district, for the crematorium to serve the area in need – a fact recognised in granting permission previously for the development and in granting permission for the Berton Crematorium in a similarly sustainable location. As there is a larger concentration of population within and close to Aylesbury, locating a crematorium closer to the town would be more sustainable by virtue of reducing the distances people currently have to travel to alternative crematoria.
- 9.114 In determining whether there are sustainable benefits as a result of the proposal that could outweigh flood risk, regard is given to the three roles to sustainable development in paragraph 7 of the NPPF along with the paragraphs 18-219 in the NPPF which define what is sustainable development.
- 9.115 *Economic Benefits:* The economic benefits of the proposed development are set out in paragraphs 9.13 and 9.14 of this report. It is recognised that the proposal will help secure jobs at the site and in related businesses as a result of funeral wakes and similar meetings in addition to the support to catering businesses and floral companies together with local charities which could all potentially benefit in economic terms. This would be considered an economic benefit under the three roles for sustainable development set out in paragraph 7 of the National Planning Policy Framework.
- 9.116 *Social Benefits:* The social benefits of the proposed development are highlighted above in this report and in the applicant's Exceptions Test. It is considered that the proposals at Watermead will provide a facility to benefit the wider and local community in a sustainable location, and which is in a sequentially preferable location than the other sites put forward in the alternative Sequential Tests submitted by objectors. As outlined above the need for two crematoria in the District was accepted by the local planning authority in granting of the Berton facility where the committee were directed to the social benefits of this facility (in addition to a second facility in the District which at the time comprised the Watermead site). Watermead Parish Council has challenged whether the proposals will bring about any social benefit in their opposition to this scheme. Evidence has been provided by WPC that the Amersham Crematorium has sufficient capacity for funerals without the need for a crematorium at Watermead (in addition to Berton) and that there is adequate space for burials in the Aylesbury Cemetery. The evidence

provided by WPC has been rebutted by the applicant who has provided more detailed evidence of the booking schedule over a longer time period which is considered to be a more robust evidence base to make a judgement on. On balance, having regard to the evidence put forward by both parties (in respect of the Crematorium at Amersham), and considering the significant planned growth in the District it is concluded that the proposals will provide for a facility to meet the growing needs of the rising population of which a social benefit can be reasonably attributed. There are no material changes to this position, other than the revised population estimates which have increased since the Berton decision, to lead to the local planning authority coming to a different conclusion in terms of the need, or to the principle of whether the development will provide social benefits.

9.117 Environmental *Benefits*: Throughout this report, officers have set out that the application site provides further opportunities for improved ecological habitats, landscaping, biodiversity and flood management and these comprise environmentally sustainable benefits, if secured as part of the development. These benefits are also considered to deliver improvements if compared against an un-managed site comprising informal land with a nil-use. Subject to the proposals being carried out in accordance with the approved detailed design of the planting scheme and flood management plan, and with the on-going ecological management/maintenance measures, there would be clear ecological benefits to the immediate and wider environment if compared against a nil-use site with minimal management and maintenance. It is considered that the proposals would result in betterment in flood conditions on and adjacent to the site in contrast to the un-managed alternative. The Environmental Management Plan sets out the specific improvements carried out on the site and specify additional improvements to be implemented should planning permission be granted.

9.118 Further environmental benefits would deliver a reduction in carbon emissions with the additional planting of trees and plant species and subject to the measures in the EMP, biodiversity gains would be provided in the long term. The applicant advises that crematoria operators are required to regularly maintain and manage the external spaces around the buildings in order to create a quality environment which is appropriate for visitors to enjoy in time of grief. This operator has reiterated this commitment to maintaining the external environment to a high standard as set out in the landscaping proposals and EMP. The EA, AV Ecologist and BCC SuDs team officers have reviewed the details set out in the Environmental Management Plan

and detailed drawings and conclude that the proposals are acceptable subject to compliance with the approved technical details which can be conditioned.

- 9.119 The applicant has proposed that the riverine section will be improved by softening the hardened banks to help otters, the creation of a wetland feature to diversify the invertebrates there and improve resources for grass snakes. There will be annual and five yearly schedules, plan reviews and management responsibilities. These are further tangible environmental benefits of the development that could not be realised by an informal and un-managed site with a nil-use (where the local authority and EA have limited control over the long-term ecological conditions).
- 9.120 *Transport Benefits:* The location of the site is adjacent to a public transport route which is designated in the Aylesbury Vale Transport Strategy January 2017 as a Primary Transport Corridor identified along the A413. The site therefore allows the opportunity for transport choices although it is accepted for the main business for the site most of these journeys are likely to be made by car.
- 9.121 *Flood Risk:* The proposals are considered to result in a net reduction in flood risk on the site when compared with the baseline of a cleared site and in regards to the previous condition (with buildings and structures on it) and this is considered to represent a sustainable benefit. The applicants make reference to the former restaurant which was sited entirely in Flood Zone 3, immediately adjacent to the lake which would have contained compromised escape routes and a lower level car park further below the functional flood plane, lower than the level of the raised car park as constructed on the site. Although the former site condition is noted, officers have considered the proposals against a baseline of a nil use with all of the structures/buildings removed. The proposed less vulnerable use (the crematorium) is raised above the flood plain level (higher than that of a cleared site) and retains access to higher ground at the former ski slope mound and Watermead Road. A cleared site would potentially be lower lying (and in the Flood Zone 3) with less permeable ground surface materials and no bridges across the river significantly compromising escape routes. The proposals include provision of a new shared pedestrian and vehicular bridge (which has a greater capacity for both pedestrians and vehicles than the former bridges) and this provides further means of escape to higher ground. The flood compensation volume tables and mitigation scheme identifies a before and after condition which verifies that the development results in a betterment in terms of flood risk, and this has been verified by the Environment Agency and BCC SuDS officers in their representations to the application. The applicant has adopted a

level to level based approach in terms of providing further flood storage areas (at lower levels to compensate the raised land). The comparison against a nil-use cleared site does not reduce the extent of the betterment, as a cleared site could result in lowering the flood zone back to its former level, removal of safe pedestrian and vehicular routes (including the bridge) and result in increases to the risk of flooding on the site.

- 9.122 The above sustainable benefits are challenged by objectors for the reasons set out above. Notwithstanding these concerns, the sustainability benefits set out above, particularly those relating to flood risk, drainage and biodiversity can only be realised subject to the proposals being implemented in full accordance with the plans which can be conditioned. The reduction in trips (to other crematoria outside of the District) is also a clear wider sustainability gain to arise out of the proposals acknowledging that the Berton Crematorium will absorb some of these trips. In summary, officers consider that the above stated wider sustainability benefits are clear and tangible and will result in the proposals passing the first part of the Exceptions Test.

Site safety context

- 9.123 The exception test (part 2) requires the applicant to demonstrate that the site can be made safe for the lifetime of the development in accordance with paragraph 102 of the NPPF. The applicant has commissioned a Flood Risk Assessment in June 2017 to understand the nature of flood risk affecting the application site. Information was gathered on the likely depth and velocity (speed) of flood water on part of the site and a hazard rating assigned to enable the Council to determine whether the development will be safe,
- 9.124 The applicant has set out in their Exceptions Test review that safety is a serious consideration in times of flood and many people are unaware of the highly hazardous nature of flood water. The Flood Risk report notes that the flood risk to the site will occur slowly over many hours and will be preceded by a prolonged wet period. The time taken for the site to flood would provide ample time to escape in the event of a flood. The main car park may flood for a day or two in an extreme event, possibly every five years and the Operator has proposed to manage these occasions by over-providing parking provision on the site.
- 9.125 The Flood Risk Assessment (FRA) also clarifies that the building is above the level of the highest predicted flood and will therefore not require protection against flood risk. All other development (in Flood Zones 2 and 3) such as roads and landscaping are considered to be water compatible or permeable thereby safeguarding the function flood plain in accordance

with the EA Guidance. The car park and access road comprise infrastructure essential to the development and do not change the established parking/access uses in these areas.

- 9.126 The FRA concludes that personal risk is significantly diminished compared with the previous restaurant use. Even with a cleared site as a baseline, there would remain some personal risk as the site would sit lower in the flood zone with potentially diminished access/evacuation routes (ie: no bridges or defined routes). The Flood Management Plan states that 'the site can be operated safely and, subject to the recommended condition from the EA relating to flood compensation areas and will not adversely affect flood risk elsewhere and would bring benefits for the environment, biodiversity and flood characteristics'. It goes on to explain that the Environment Agency accepted the FRA and associated supporting documentation relating to the flood mitigation scheme which shows the crematorium has safe access at all times for floods in excess of the 1 in 100 year event, with climate change allowance. As some of the parking is vulnerable to flooding then there is a need to consider arrangements in times of serious flood. The Flood Management Plan addresses this matter to the satisfaction of the EA and AV officers.
- 9.127 The Flood Management Plan describes the management control, preparation and operation of the parking. It shows that parking can be managed safely and responsibly for the lifetime of the development. This detail is considered satisfactory subject to a condition that requires the development is carried out in accordance with the submitted Flood Management Plan. Highways officers have requested that the applicant provides further detail of any temporary car parking arrangements, in the event that such alternative parking scheme is needed.
- 9.128 The Parish Council have raised concerns about the flooding effects in Watermead Village and on land surrounding the site and attribute such (potential) effects to the development. The applicant has precisely followed the relevant EA guidance (for this region – Thames Area) at pre-application stages through to the submission of the original application and beyond (including to address the as-built development conditions) in terms of managing flood risk on the site and to ensure there are no adverse impacts beyond the site attributable to the development (in accordance with EA guidance and the NPPF para 102). The EA raises no objections to the methodologies adopted by the applicant to assess flood risk on or off the site and has advised that it is not necessary to carry out further modelling or testing for this application. The WPC has referred the EA and AV to EA guidance in the North London/Hertfordshire area which is not applicable to this site and therefore the thresholds

relied on with respect to climate change flow increases, site classification and AEP (Annual Exceedance Probability) are not relevant to this application, in this location.

9.129 The site specific flood risk assessment (FRA) has demonstrated that the development of the site will be safe for its lifetime, taking account of the vulnerability of its users, without increasing the risk of flooding elsewhere, thereby passing the second part of the Exceptions Test.

Conclusions on exceptions test

9.130 The proposed development provides wider sustainability benefits to the community from developing a new crematorium at this site which will serve an expanding population at a sustainable location within the District. The benefits are set out in the Exceptions Test and in this report under the three roles of sustainable development and elsewhere throughout the report. These wider sustainability benefits to the community (as a result of the development) comprise the provision of direct and indirectly related jobs (economic), improvements to the ecological habitats, biodiversity, flood management and surface water drainage measures (environmental), provision of a facility serving a district wide need (social), reductions to travel times/shorter journeys and development of a brownfield site which is accessible to public transport (transport) and increased flood storage from the on-site compensation/flood alleviation measures which provide betterment (flood risk). These wider sustainability benefits are considered to outweigh flood risk on the site which will be safe for its lifetime, without increasing flood risk elsewhere and will reduce the flood risk overall. Given the nature of the development, the nature of any flooding of the car park area and lakeside areas and the use of flood storage areas within the site, officers are satisfied that the applicant has demonstrated that the proposal can be safely developed and operated, without making flood risk elsewhere worse. It is therefore considered that the Exceptions Test is passed.

Site Specific Flood Risk, Flood Mitigation Works and Ecological Enhancement.

9.131 Paragraph 103 of the NPPF requires following the Sequential Test, and if required the Exception Test, development to demonstrate that:

- Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and;
- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed,

including by emergency planning; and it gives priority to the use of sustainable drainage systems.

- 9.132 The planning application addresses the above policy and NPPF guidance by the evidence submitted within the Flood Risk report and the Flood Management Plan. The improvements to the water channel and the flood compensation details have been agreed with the Environment Agency and these include appropriate landscape for amenity and habitat for increased biodiversity. Biodiversity improvements are set out in the Enhancements within the report: Environmental Management Plan 2017- 2012 which the council's Ecologist has reviewed and confirms is acceptable. It is important to note that the planning application comprises a comprehensive and detailed high quality landscape scheme with extensive management and maintenance regime in order to enhance biodiversity, manage flooding and to maintain a high quality environment for visitors, which are a necessity for crematorium operators given the sensitive nature of the use (as well as being a requirement of planning policies GP38-GP40 and the NPPF). As such, the proposals provide an opportunity to bring the stewardship of the site grounds within the remit of a detailed environmental and flood management scheme which provides further opportunities for enhancement (in terms of biodiversity) and a managed scheme to manage flood risk when in use. This opportunity, if weighed against that of a cleared site with no regime in place is considered a clear benefit which could not be secured was this development and its environmental controls not proceeded with. The details submitted with the application are considered to satisfy the requirements of the NPPF with respect to safeguarding and enhancing biodiversity and is viewed as an improvement against that of a cleared site.
- 9.133 The detailed construction works submitted for consent under this application comprises the formation of new flood compensation measures (within 8m of the river bank) that are intended to replace the volume of existing flood plain that will be lost following works to the access road and car parking that will serve the completed development. The flood compensation works comprise the excavation of a new compensation basin adjacent to and connected with the river. The base of the Lagoon is set with a minimum base level of 73.0m in order to provide the volume of flood compensation storage required. In order to reduce risks of erosion and scour of the new earthworks areas adjacent to the River Thames will be protected with a proprietary erosion control matting that will protect and promote the quick establishment of healthy vegetation.

- 9.134 The applicant has modelled the terrain using the digital surveys to calculate the before and after water volumes for 100mm layers, which replicates the process required and agreed by the Environment Agency. In all layers the volume is more after the development and in many cases much more, bringing betterment to flood risk when compared with the previous conditions of the site (pre-development). The applicant has provided further updated information relating to the flood compensation storage volumes alongside updated detailed plans showing the location, cross section and plan of the flood compensation measures which resulted in the Environment Agency withdrawing their initial objection to the application when they had not been in receipt of the relevant information. The EA advice that the development is acceptable subject to the proposals being carried out in accordance with the Flood Risk Assessment and associated documents and the following mitigation measures detailed within these documents.
- 9.135 Notwithstanding the above improvements, the WPC has challenged the application of the climate change allowances that were agreed between the EA and the applicant prior to submission of the application. WPC have specifically questioned whether the appropriate allowance for climate change has been factored into the FRA submitted to inform the proposed development and whether an alternative 'higher end allowance' is appropriate recognising more extreme flood events. The EA has reviewed the technical statements submitted on behalf of the WPC from Ambiental and the revisited the Flood Risk Assessment and the applicant's further statement on their consideration of the impact of climate change on flood risk. The EA advises that although the consideration of climate change allowances is simplistic, it is considered to be adequate in this case. The EA advises that there is no reason to expect a more detailed assessment of climate change to significantly alter the predicted flood levels in this location from those considered by the applicant or the conclusions of the flood risk assessment and the EA does not therefore consider it necessary to request a more detailed analysis. The note from Ambiental (on behalf of WPC) references climate change guidance from North London and Hertfordshire Area which is not directly applicable as the application site lies with the Thames Area boundary which is subject to the Thames Area climate change guidance. The applicant has followed this approach, and it is considered they have carried out the assessment in accordance with the relevant guidance which is satisfactory to consider the proposals against. It has been pointed out by the Parish Council's advisors that the site exceeds the 5ha threshold set out in the EA guidance for major industrial/housing developments which justifies the provision of a more detailed modelling exercise and the adoption of an upper end allowance. Officers consider that the site area

exceeds 5ha, but the development itself is not a major industrial or residential scheme and so would not fall within this category. The built part of the development occupies a relatively small part of the wider site within an area considerably under 5ha which therefore considered being a small-major development in which case a basic approach is considered appropriate in this instance in respect of the flood risk assessment. The approach put forward for alternative modelling by the Parish Council is not supported by the EA guidance, and this is reflected in the approach the EA adopted, in its pre-app and post application consideration of the proposals.

- 9.136 The EA advises that a further condition is secured which requires a scheme for the provision and management of the 8 metre wide ecological buffer zone alongside the River Thames to be submitted and agreed in writing by the local planning authority prior to occupation to ensure compliance with Policy GP66.

Surface Water Drainage

- 9.137 BCC SuDs officers advise that a review of the updated Flood Map for Surface Water shows that the 1% Annual Exceedance Probability (AEP) event is contained within the River Thames channel and the footprint of the crematorium is not at risk from surface water flooding. However, the area of the large parking to the south of the site may experience surface water flooding for the 1% AEP and 0.1% AEP. A sequential approach has been taken to locate the crematorium building within an area of very low surface water flood risk.
- 9.138 BCC SuDS officers have also reviewed the access and egress from the site in relation to surface water flood risk. For the 1% AEP, hazard mapping shows that there is a 'moderate' flood hazard meaning dangerous for some (i.e. children) within the parking area south of the River Thames. In the 0.1% AEP event, hazard mapping shows that the hazard rating increases to 'significant' meaning danger for most. Whilst the FRA focuses mainly on safe access and egress in relation to a fluvial flood event, the same measures can be applied to a surface water flood event should it be anticipated that the parking area will experience surface water ponding.
- 9.139 Surface water runoff from the development will be managed by incorporating a green roof on the crematorium (which has been constructed), with a water feature and swale to convey flow from the impermeable area adjacent to the crematorium and dispose of to the River Thames and the parking areas will be constructed of permeable paving.

- 9.140 The Parish Council has challenged the effectiveness of the green roof as a form of drainage and has suggested that as the local ground area is made up of clay it would not drain water (and would store it instead) and therefore the proposed drainage benefits have been overstated. The LLFA advises that infiltration is not suitable as a method of surface water disposal, however any vegetated component will encourage infiltration and evaporation due its nature so some surface water runoff will be lost via these processes (in addition to the green roof). The LLFA advise that uncontrolled runoff to an outfall on the River Thame could be resolved by condition which would require surface water runoff generated by the proposed development not to discharge at a rate greater than the existing brownfield runoff rates for development site. The EA has previously consented the method of surface water discharges to the watercourse from the structures on the site and no further controls are necessary.
- 9.141 The LLFA has no objection to the proposed development subject to the following conditions requiring a Surface water drainage strategy (including a restriction on the run-off rates) and a whole-life maintenance strategy once completed confirming the approved measures have been put into place. The applicant has submitted a surface water strategy in accordance with this requirement. However, a whole-life maintenance strategy is still required and it is recommended that this should be secured by way of condition to enable compliance with NPPF para 103 alongside a further condition requiring the run-off rates to be no greater than existing brownfield sites.
- 9.142 Taking all of the above factors into account with regards to flood risk, climate change, sustainable drainage and the detailed design of flood compensation and ecological mitigation scheme, the proposals result in a range of minor positive impacts that are afforded limited positive weight in the planning balance noting that the tilted balance could reapply in light of the application passing the Sequential and Exceptions Tests.

Conserving and enhancing the natural environment:

- 9.143 The NPPF at Section 11 “Conserving and enhancing the natural environment” advises at paragraph 109 that the planning system should contribute to, and enhance, the natural and local environment by, among other things, recognising the wider benefits of ecosystem services, and by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity.

- 9.144 AVDLP Policy GP.66 states that in riverside or canal-side development proposals, the Council will require access corridors and buffers adjacent to the watercourse to: a) conserve and enhance existing areas of landscape or wildlife value; b) promote public access and provide recreational opportunity; and c) protect or enhance the environment and habitat of those watercourses.
- 9.145 The Habitat Survey Report submitted with the application notes the presence of badgers on the ski slope mound, but advises that the proposals would not give rise to any significant impact. The applicant has submitted a Phase II Survey in regards to Reptiles, Water Voles and Badgers which was carried out in May/June 2017. The reports both confirm there is no evidence of water voles or other European Protected Species on the site. The Council's Biodiversity Officer has reviewed the various surveys and raises no further comments. Natural England also raises no objections.
- 9.146 In terms of conserving and enhancing the natural environment, the proposed development (as built) has the potential to result in a range of positive, neutral and minor adverse impacts subject to an effective on-going management and maintenance regime and EMP. Overall, the impact is considered to be afforded limited positive weight.

Conserving and enhancing the historic environment:

- 9.147 The NPPF requires new development to preserve and enhance heritage assets and their setting. There are no designated heritage assets (i.e. listed buildings or Conservation Area) in immediate proximity of the site and no archaeological interests identified so AVDLP policies GP53 and GP59 are not engaged and therefore it is not considered that any assets would be adversely impacted by the proposal and the impact is considered to be neutral.

Impact on residential amenities:

- 9.148 The NPPF at paragraph 17, under the heading "Core planning principles" sets out guiding principles for the operation of the planning system. One of the principles set out is that authorities should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. At paragraph 109, the NPPF advises that the planning system should contribute to and enhance the natural and local environment by (among other things) preventing development from contributing to unacceptable levels of soil, air, water or noise pollution.
- 9.149 AVDLP policy GP8 notes that planning permission will not normally be granted where the proposed development would unreasonably harm any aspect of the amenity of nearby

residents, unless the benefits of the proposal outweigh any harm to amenity. AVDLP policy GP95 states that regard will be had to the protection of the amenities of nearby occupiers. Development likely to exacerbate any adverse effects of existing uses will not be permitted.

- 9.150 In terms of air pollution, the supporting information advises that the proposed crematorium will be fitted with the latest equipment that would minimise smoke and smell. The crematorium would be licensed to operate by this Council. Strict guidelines are provided by the Environment Agency and emissions resulting from the cremation process are regulated under the Local Air Pollution Prevention and Control regime. Permits are issued by the Council subject to conditions which determine how pollution is to be minimised. The government has published guidance for each type of installation advising on pollution standards. The authority must, by law, have regard to that guidance and must also consider local circumstances. The licence is renewed annually and environmental health officers periodically inspect the operation as part of their regulatory responsibility.
- 9.151 In terms of the scattering of ashes, the applicant suggests that 20% of services result in the scattering of ashes on the site. The applicant has submitted a Groundwater Report which clarifies the geology of the site and notes that the land on mound above 75m AOD is suitable for the placing of ashes as it is over 1m above the 0.5% flood level and 600mm above the extreme flood level (1 in 100 years) with climate change. A condition can be imposed to ensure ashes are only scattered in the designated area.
- 9.152 Environmental Health Officers raise no objection to the planning application and the EA has raised no objection to the scheme subject to conditions.
- 9.153 It is considered that the site is located circa 300m distance from the nearest residents separated by the open space/ lake. There would be no loss of light, privacy or immediate outlook as a result of the proposals.
- 9.154 The proposed Crematorium is visible from parts of Watermead looking out across the lake, and from sections of the road leading to those areas. Due to the distance (circa 300m) between the site and the nearest houses, it is considered that there would be no direct visual or environmental (noise/air quality/ground condition) impact on the amenities of residents as the crematorium is not directly adjacent to existing residential properties. There is no material changes in circumstances from those reported to members in the previous committee report which could lead to officers to a different conclusion in respect of impact on amenities.

- 9.155 Impact as a result of smoke, fumes and particulates would be controlled by the licensing process and the air quality officer raises no objections to the proposals, having regard to the cremator equipment specifications.
- 9.156 The site is in close proximity to the lake and the land around the lake that is used for recreational purposes, including (but not limited to) hot air balloon launches, village fairs and circuses. Local residents remain very concerned about the crematorium in proximity to these uses and have submitted representations suggesting the crematorium would result in these activities ceasing to continue. It is suggested by residents that the crematorium is an incompatible use in context with the surrounding recreational character of the land. However, the evidence put forward is anecdotal and relies on a perception that the uses will no longer operate (rather than robust evidence). While it is acknowledged that there may be some concerns of residents over the views towards funeral activities including mourners and the tranquillity that the operators are seeking to achieve for the users of the crematorium impacting on the enjoyment and the activities relating to hot air balloon launches, village fairs, firework displays and circuses and other community activities it is considered that the crematorium use would not preclude or unreasonably prohibit these other occasional uses from taking place. It is considered that although the recreational use of the surrounding land is different to that of the crematorium, the activities and operations associated with the crematorium use could be managed (and controlled by way of conditions) to avoid potential conflicts from occurring. Once the landscaping has matured, the crematorium would have a more intimate and screened appearance that would address the potential for the more recreational based occasional uses from affecting funeral services and vice versa. The landscape scheme, once it has matured, particularly the tree planting around the car park and lane will enable views in and out of the crematorium to be more filtered and less open than the current condition. It is considered this will address concerns over the potential for visual intrusion to occur. The operators of the hot air ballooning raise concerns over the affect of emissions from the chimney on their take off/landing/ use of the land adjoining, however no evidence has been presented to substantiate this and given the very occasional use if any such evidence were forthcoming it is not considered that this would be a reason to justify a refusal of permission. It is considered that the concerns over the relationship between the surrounding recreational land uses given the landscape mitigation proposed will as it matures reduce the perception of the impact and would not have a harmful impact..

9.157 It is considered that there remains no undue impact on residential amenity and that the proposal accords with AVDLP policies GP8 and GP95. The impact on the environment and residential amenity is considered neutral.

(c) Other Matters

9.158 It is important to note that the as-built form of the completed development and associated works including the detail submitted under the former planning conditions has been re-assessed. There are a number of non-material alterations to the development that are outlined in the report and broadly, the changes are considered to be acceptable.

9.159 In addition to the amended architectural drawings and landscape plans, the applicant has submitted amended technical reports to update the relevant assessments to ensure the application has been assessed on the basis of the current material circumstances. The application also now consists of further information previously submitted as part of the former condition discharges that were provided subsequent to the original planning permission (now quashed). This information is largely still relevant to the as-built scheme provided any completed or further works are carried out in accordance with the submitted documents. The newly recommended conditions reflect where the requirements of the original planning conditions have been met through the additional information provided.

Other relevant planning matters raised in representations:

9.160 Of the latest objections that have been raised, and articulated in comprehensive detail by Watermead Parish Council and by a number of residents, matters relating to the extent to which the development is restricted by way of historic Section 52 agreements should be considered.

9.161 The Parish Council has suggested that the safeguards in the S52 Agreements provide grounds from which to refuse this planning application and section 5 of the report sets out the details and approach to be taken.

9.163 Officers do not consider that the S52 Agreements give any grounds to refuse this development on planning terms in view of the evaluation carried out above as no harm is considered to arise which would outweigh the benefits of this development. Section 5 sets out the officers advice on the legal position and if necessary, the council could enter into a Deed of Release to remove the effect of the covenants in respect of the land, and this would not be necessary before planning permission was granted. It is also possible to make an application under s84 of the Law of Property Act 1925 to the Upper Tribunal (formerly the Lands Tribunal) to

discharge the restrictive covenants affecting the use of the land. None of these processes have the effect of preventing the council from determining the planning application.

Case Officer: Neil Button	Telephone No:01296 585182
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