



**To: PLANNING PANEL**

**Development Control Section**

**Date of Meeting: 11/03/2020**

<b>Application Number:</b>	4/19/2412/OF1
<b>Application Type:</b>	Full : CBC
<b>Applicant:</b>	Jeanne Park
<b>Application Address:</b>	FORMER ZEST RESTAURANT, LOW ROAD, WHITEHAVEN
<b>Proposal</b>	CHANGE OF USE TO SUI GENERIS TO OPERATE A PET CREMATION FACILITY AND THE ADDITION OF OUTLET FLUE
<b>Parish:</b>	Whitehaven
<b>Recommendation Summary:</b>	Approve (commence within 3 years)



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### **Reason for Determination by Planning Panel**

This application is brought for consideration by Members of the Planning Panel due to the level of interest from surrounding properties. Under the constitution, this application raises public interest and should therefore be determined by the Planning Panel.

### **Site and Location**

This application relates to a detached property, formerly known as Zest Restaurant, situated on Low Road in Whitehaven. There is a residential property to the west with commercial buildings to the north and south west. To the east and south there are wooded areas.

The site is accessed from Low Road which runs north to south and is west of the property. The building is currently served by a small car park.

## **Proposal**

Planning Permission is sought for the change of use of the building from a restaurant to use as a pet crematorium facility. The proposal includes the addition of an outlet flue on the east of the property which will protrude by 4.3 metres from the existing flat roof.

The building will house an Addfield A50-IC1 incinerator which measures 3.3 metres x 1.2 metres.

The applicant has submitted a management plan with the application which sets out how the pet crematorium will be operated and managed. In summary, it describes the following:

- The site will be fully licensed and managed by the applicant;
- It is intended to employ 2 part time members of staff;
- Most pets will be collected by the business in their own transport with only one pet being cremated at a time;
- The cremation process will be Defra/EU/EPA compliant with zero smoke or odour emissions;
- The building will contain a kitchen, toilet facilities and a farewell room, in addition to the incinerating function;
- The applicant intends to undertake 3 cremations per week on start up, increasing as the business matures.

The crematorium is proposed to be open 7 days per week and between the hours of 09:00 and 19:00.

Access and parking will remain as existing, with the entrance off Low Road serving the existing car park which will be utilized by the business.

## **Relevant Planning Application History**

There have been no previous planning applications on the site.

## **Consultation Responses**

### **Whitehaven Town Council**

No objections.

### **Environmental Health**

No objections as there will be no burials or ash spreading. Low Road is a smoke control area therefore no smoke can be emitted from the flue, however the technical details of the cremator show that there will be no emissions of smoke or odour and therefore would not cause a breach or nuisance. It is therefore unlikely that the development will cause an impact on air quality. Given that there are nearby residential properties, the opening hours should be conditioned, but given that the previous use as a restaurant was open until 11pm, the opening hours applied for are not unreasonable.

### **Cumbria County Highways**

No objections as it is considered that the proposal is unlikely to have a material effect on the existing highway conditions.

### **Local Lead Flood Authority**

The proposal will not affect the drainage arrangements on site therefore there are no objections raised.

### **Public Representation**

The application has been advertised by way of a site notice and neighbour notification letters issued to 12 no. properties..

13 objections have been received from 7 properties raising the following concerns:

- The area is a smokeless zone;
- The development will devalue surrounding properties;
- There is not a substantial demand for this service;
- The road cannot take more capacity;
- The building should be converted into small residential units;
- The increased parking requirements will add to the already limited space available;

- There will be an effect on the health of people in the surrounding area;
- The development will omit dangerous gases;
- The smell from the development will carry in all directions;
- The proposal would be more appropriate out of town;
- The flue to vent out heat will be harmful to the public and to wildlife;
- Animal remains deposited into the ground will contaminate the ground and affect the water table at Pow Beck;
- The Council should guarantee that there will be no risk to lives from this venture;
- Concerns relating to whether the development will have public liability insurance;
- Air quality in the area will be affected;
- The incinerator may become less efficient over time and emit more noise and smells;
- The tax banding of the surrounding area should be lowered;
- Residents will be aware that there is a pet burning;
- The development has been refused elsewhere;
- The proposal is to be open 7 days per week which is more than the Zest restaurant;
- The Council has committed to being carbon neutral;
- The proximity to town cemeteries;
- The proximity to surrounding businesses;
- The site should be closed down if there is human error causing pollution;
- Should electronic chips not be removed from the animals, this would constitute a further hazard.

## **Planning Policies**

Planning law requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

## **Development Plan**

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

### Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ER6 – Location of Employment

Policy ER7 – Principal Town Centre, Key Service Centres, Local Centres and other service areas: Roles and Functions

Policy ER11 – Developing Enterprise and Skills

Policy SS4 – Community and Cultural Facilities and Services

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#### Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM22 – Accessible Developments

#### **Other Material Planning Considerations**

National Planning Policy Framework 2019 (NPPF)

Cumbria Development Design Guide 2017 (CDDG)

#### **Assessment**

The encouragement and expansion of new businesses is generally supported throughout national and local policy, however the main considerations in the decision of this application is the appropriateness of the location for the use proposed, the potential effects on neighbours, access and parking and environmental impacts.

#### **Appropriateness of location**

The proposed pet crematorium is to be housed within the existing building on Low Road which was formerly used as a restaurant known as Zest. The building is within the current settlement boundary for Whitehaven and is located in a mainly commercial area.

Whitehaven is designated as Copeland's Principal Town in Policy ST2 of the Copeland Local Plan where the majority of development should take place.

Policies ST1 and ER11 encourage the reuse of existing buildings with the commercial use of the property considered to be appropriate in this location which includes other businesses. The building has been vacant since the restaurant business closed in January 2017 and it is considered that the use of the building will ensure that it does not fall into disrepair and become an eyesore.

The applicant has undertaken extensive research regarding the demand for this service and concluded that, with the nearest competitor being close to Carlisle, the provision of a pet crematorium in Copeland would be a welcome facility. The applicant has a written intention

of use from a local vets practice, with others expected to confirm their interest should planning permission be approved.

Overall, it is considered that the location, within the settlement of Whitehaven and within an area predominantly used for commercial purposes is suitable, subject to the proposal not affecting the neighbouring properties. As a result, the proposal complies with Policy ST2 of the Copeland Local Plan.

### **Effect on Neighbouring Properties**

There are some residential properties in the area, the closest being The Old Cottage situated approximately 13 metres to the west of the building. The Ranch is situated approximately 65 metres to the north and 1 and 2 Low Road are approximately 84 metres to the northwest. The potential for smoke, fumes and odour nuisance arising from the operation of the incinerator has been considered. Having regard to the separation distance of the site to residential properties, the low burn rate and the limited number of carcasses to be incinerated, the evidence indicates that if operated, maintained and serviced in accordance with the manufacturer's instructions then there would be no adverse impact on health or on the living conditions of the nearby residents. The applicant states that the incinerator operates in a similar fashion to a DEFRA exempt wood burning stove. The applicant states that there will be no carcinogenic emissions and any other emissions are negligible. The incinerator is classed as low capacity and is not obliged to meet the criteria set out in the Statutory Guidance for Animal Carcass Incineration due to the negligible emissions, however it is stated that it is well below EU threshold limits.

Carcasses would be stored in a freezer prior to incineration, preventing any odour issues arising. Environmental Health have stated that an Environmental Permit from the Environment Agency is not required for the use, however this is controlled by other legislation. There will be no ash spreading or burials with the pet owners having their animal ashes returned after cremation.

The crematorium will not emit any noise within the surrounding areas due to its location within the existing building.

There is a residential flat on the first floor of the building which is currently vacant. The applicant has ownership of the whole building and therefore has control of the flat. Discussions have been undertaken with the applicant to ensure that the flat is only used in association with the business, therefore ensuring the amenity for any occupier. Furthermore, it is considered prudent to attach a suitably worded planning condition to any

approval to ensure that the flat is not sold separately to the business, therefore tying them together in perpetuity.

The Scientific Officer in response to the consultation on this planning application has raised no objection to the principle of the development and has confirmed that no environmental permits are required to operate at the level proposed. It is considered that there is unlikely to be a statutory noise nuisance created by the development and the level of air emissions are unlikely to negatively impact air quality. Due to the residential properties in the vicinity of the building, a condition limiting the operating hours is deemed to be appropriate. Due to the previous use as a restaurant and the late opening hours associated with it, it is considered that the proposed opening hours of 9am until 7pm, 7 days per week are acceptable.

On the basis of the above, it is considered that the proposal complies with Policies ST1 and ER6 which intend to protect neighbouring amenity.

#### **Design of External Alterations**

The building will remain largely unaltered externally, except for the addition of a flue from the incinerator room. The proposed flue will extend 4.2 metres from the existing flat roof on the east of the building, but will remain below the ridge height of the existing building. It is considered that the flue will have little effect on the surrounding area due to its location away from the public road and will be seen in context with the existing building. The incinerator will not be visible from outside the building and the double doors leading to the incinerator room open out to the east and towards the adjoining wooded area. Although it is proposed to keep these doors closed, except for deliveries, the layout of the building means that there will not be any viewing opportunities from surrounding properties or public view points.

#### **Access and Parking**

The former Zest restaurant is currently served by an access off Low Road which leads from Whitehaven to St Bees. Due to the previous use of the building as a restaurant, it is considered that the use as a pet crematorium is unlikely to create a material change to the volume of traffic accessing and egressing the site. The applicant has stated that the vast majority of pets will be transported to the facility by their own fit for purpose van, but that some animals will be delivered by their owners. Cumbria County Highways have not raised any objections to the proposed access and do not consider that there will be a material effect on the surrounding highways network.



A parking facility is available within the grounds of the former restaurant. As only one appointment will take place at any time this is likely to result in a reduction in traffic from the previous use as a restaurant. Cumbria County Highways are satisfied with the parking facility proposed.

Overall, it is considered that the proposal complies with Policy DM22 of the Copeland Local Plan.

### **Comments on Objections Received**

Letters of objection have been received from the occupiers of the surrounding properties, with various concerns raised to the proposal. Most of the concerns raised relate to impacts on public health including noise, smell and smoke and any effects that the development may have on surrounding residential properties and the sports ground and nursery in the vicinity. As detailed above, the incinerator is unlikely to create any effect on the surrounding area with negligible smoke and odour emissions.

The objectors have also raised concerns relating to the burial of animals or ashes on the site. This facility is not proposed by the applicant and the remaining ash from the cremation will be taken away by the pet owner or disposed of in landfill.

Matters relating to the devaluation of surrounding properties, public liability insurance and compensation cannot be considered as part of this planning assessment as they are not material planning considerations.

### **Conclusion**

The proposal seeks to develop the existing building into a sui generis use by creating a new independent business in an appropriate, predominantly commercial location. This is supported by policies within the adopted Local Plan. The concerns raised have been addressed, with mitigation measures to be controlled by appropriately worded planning conditions, where necessary. On this basis this proposal is considered to be an acceptable form of development which accords with the policies set out in the adopted Local Plan also the guidance contained within the National Planning Policy Framework.

### **Recommendation:-**

Approve (commence within 3 years)

## Conditions

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

### Reason

To comply with Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -

Site Location Plan, scale 1:1250, received 18<sup>th</sup> November 2019;  
Block Plan, scale 1:500, received 18<sup>th</sup> November 2019;  
Existing floor plan, scale 1:100, received 15<sup>th</sup> December 2019;  
Proposed floor plan, scale 1:100, received 15<sup>th</sup> December 2019  
Front, rear and side views, received 15<sup>th</sup> December 2019;  
Flue elevations, received 18<sup>th</sup> November 2019;  
Addfield cremator A50-IC1, received 18<sup>th</sup> November 2019;  
Management Plan – Pets at Peace Ltd, dated 1<sup>st</sup> March 2020, received 2<sup>nd</sup> March 2020;  
Additional information, received 6<sup>th</sup> January 2020.

### Reason

To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. The pet crematorium shall be strictly operated and managed in accordance with the details set out in the management plan dated 1<sup>st</sup> March 2020. Any changes to the way the site is operated or managed which deviate from the details set out in this plan shall be agreed in writing with the Local Planning Authority beforehand.

### Reason

For the avoidance of doubt and to ensure the site is operated in a controlled way that minimises its impact on the adjoining uses.

4. The existing residential flat must only be used in association with the Pet Crematorium hereby approved and must not be sold off, let or operated separately without prior written approval from the Local Planning Authority.

### Reason

To ensure the amenity of the residential flat is maintained.

5. The Pet Crematorium hereby approved shall be operated within the following times and no cremations or drop offs on the premises shall be allowed outside the hours of:

09:00 – 19:00 hours Mondays to Sundays

Reason

To protect the amenity of the adjacent neighbours.

6. No ash residues shall be retained at or disposed of within the site after completion of incineration but shall be removed from the site for disposal.

Reason

In order to minimise the risk of any detriment to the character of the area and to prevent any conflict with adjoining uses.

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#### Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

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