

# Public Document Pack

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24 January 2020

## Planning Committee

A meeting of the committee will be held at **10.30 am** on **Tuesday, 4 February 2020** at **County Hall, Chichester**.

Tony Kershaw  
Director of Law and Assurance

## Agenda

### 1. **Declarations of Interest**

Members and officers must declare any pecuniary or personal interest in any business on the agenda. They should also make declarations at any stage such as an interest becomes apparent during the meeting. Consideration should be given to leaving the meeting if the nature of the interest warrants it. If in doubt please contact Democratic Services before the meeting.

### 2. **Minutes of the last meeting of the Committee** (Pages 3 - 12)

The Committee is asked to agree the minutes of the meeting held on 7 January 2020 (cream paper).

### 3. **Urgent Matters**

Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances.

### 4. **Certificates of Lawfulness - Decision Making** (Pages 13 - 16)

Report by Director of Highways, Transport and Planning and Director of Law and Assurance.

To consider and determine the following proposal:

That Planning Committee delegates to the Director of Highways, Transport and Planning in consultation with the Director of Law and Assurance the determination of applications for a certificate of lawfulness for existing or proposed use.

5. **Development Management Performance** (Pages 17 - 24)

Report by Head of Planning Services.

To note the following:

Report on Development Management Performance (1 January 2019 – 31 December 2019)

6. **Update on Mineral, Waste and Regulation 3 Planning Applications**  
(Pages 25 - 30)

Report by Strategic Planning, County Planning Manager.

To note the schedule of County Matter applications and the schedule of applications submitted under the Town and Country Planning General Regulations 1992 – Regulation 3.

7. **Report of Delegated Action** (Pages 31 - 32)

Report by Strategic Planning, County Planning Manager.

To note the report of applications approved subject to conditions under the Town and Country Planning Act 1990 and Regulation 3 of the Town and Country Planning General Regulations 1992 since the Planning Committee meeting on 7 January 2020.

8. **Date of Next Meeting**

The next meeting of the Planning Committee will be held at 10.30 a.m. on Tuesday, 25 February 2020.

**To all members of the Planning Committee**

## Planning Committee

7 January 2020 – At a meeting of the Planning Committee held at 10.30 am at County Hall, Chichester.

Present: Mr High (Chairman)

Mrs Kitchen, Lt Cdr Atkins, Mr Barrett-Miles, Lt Col Barton, Mr McDonald, Mr S J Oakley, Mr Patel, Mr Quinn and Mrs Dennis

Apologies were received from Mr Simmons

Substitute (applications WSCC/050/19 and WSCC/051/19 only): Mrs Dennis

### Part I

#### 11. Declarations of Interest

11.1 In accordance with the County Council's code of the conduct, there were no declarations of interest made by Committee members.

#### 12. Minutes of the last meeting of the Committee

12.1 Resolved – that the minutes of the meeting held on 9 July 2019 be approved and signed by the Chairman as a correct record.

#### 13. Urgent Matters

13.1 There were no urgent matters.

#### 14. Waste Planning Application accompanied by an Environmental Statement (County Matter)

**WSCC/050/19 Installation and Operation of a Soil Heat Treatment Facility. Brookhurst Wood, Langhurstwood Road, Horsham, West Sussex, RH12 4QD.**

14.1 The Committee considered a report by the Head of Planning Services, as amended by the agenda update sheet (copy appended to the signed copy of the minutes). The report was introduced by Jane Moseley, County Planning Manager, who gave a presentation on the proposals, details of the consultation and key issues in respect of the application. It was clarified that the table in 9.7 of the committee report is incorrect and should read as follows:

#### **Hazardous Waste Management in West Sussex (tonnes)**

<b>Year</b>	<b>Arisings</b>	<b>Exports</b>	<b>Imports</b>
2016	39,610	21,407	11,293
2017	42,718	21,917	11,979

14.2 Mr Brian Johnson, representing Langhurstwood Road Residents Group spoke in objection to the application, asking the Committee to

note that any relevant comments also apply to application WSCC 051/19. The number of planning permissions granted over the last 10 years has caused ever increasing numbers of HGVs and other vehicles on Langhurstwood Road, affecting residents. The bigger picture is never considered. Reassurances made some years ago about limits on HGV movements by operators at Brookhurst Wood have not been kept because more planning applications have had more vehicle movements allowed. There is no need for the 19% increase of 75 HGV movements (15 for WSCC/050/19 and 60 for WSCC/051/19). There is headroom in the 392 movements for the Biffa Mechanical Biological Treatment facility (MBT) on the same site because the tonnage throughput has reduced at the facility by 26% due to the success of recycling, and also because Biffa has published that it expects HGV movements relating to the landfill to reduce. However, Biffa has refused to compromise on the requested HGV movements for this application and for application WSCC/051/19.

14.3 Mr James Stewart-Irvine, Planning Manager at Biffa spoke in support of the application, asking the Committee to note that any relevant comments also apply to application WSCC 051/19. The waste management industry has shifted away from landfill to recycling, recovery and reuse. Applications WSCC/050/19 and WSCC/051/19 will enable a more diverse range of materials to be collected, separated, processed and reused, enabling the movement of waste up the waste hierarchy. The application site is in the wider Brookhurst Wood waste management complex which is allocated for such use. There are currently no facilities in West Sussex to manage hazardous soil. The need for the facility is established. All technical and environmental aspects have been considered including impacts from wider development in the locality. The site will operate in accordance with an Environmental Permit to control pollution. Objections including concerns about traffic are acknowledged and proposed conditions restricting HGV movements have been accepted.

14.4 Mr Peter Catchpole, local member for Holbrook spoke on the application, asking the Committee to note that any relevant comments also apply to application WSCC 051/19. North Horsham and Langhurstwood Road have suffered ever increasing HGV traffic due to not only Brookhurst Wood but also other industrialisation in the locality. Planners state that each development adds only a small incremental increase in traffic but the overall impact does not appear to be taken into account. North Horsham roads are already severely congested. Waste sourced from out of county will increase traffic pollution. Carrying hazardous waste is a risk to health and safety. There is no guarantee of the facility will meet West Sussex needs. Sustainability is not considered. Residential amenity along Langhurstwood Road will be impacted because overall there will be 45 HGV movements every hour. Horsham District Council has queried the lack of mitigation plans regarding additional traffic emissions. NICE states that pollution should be addressed at the planning stage and developers should show they are looking to protect local people from the effects of air pollution. It is hoped the mitigation plans can be shared with the Liaison Group. The application does not meet Policy W10 of the Waste Local Plan (WLP). Residents are sceptical of the temporary permission and believe it will become permanent. There is no need to increase HGV movements by 75

per day because Biffa is using only 44% of its capacity allocated to under WSCC/021/15/NH and WSCC/055/09/NH - the Committee is asked to remove the requested HGV movements because of the surplus capacity in the planning permissions already granted to the applicant. The plans for rerouting of traffic along Langhurstwood Road may take 10-15 years to be implemented.

14.5 Planning Officers provided the following clarification on points raised by speakers:

- The proposed changes to Condition 3 -Temporary Permission, that would provide an end date of 31 December 2025, aims to align the permission with the timeline for the reassessment of the WLP and the need for landfill. Also, it would allow reasonable time for the operator to set up the facility and work towards commercial viability.
- The mentioned 19% increase in HGV movements is applicable to permissions granted to operators on the Brookhurst Wood site. The 13% increase noted in the report is applicable to all HGV traffic along Langhurstwood Road. In future the Langhurstwood/A264 junction will close and traffic will be re-routed east along the southern edge of the North-Horsham development.
- Matters relating to the request for the HGV movements to be considered as part of the 392 HGV movements granted under permissions for the MBT plant are covered in minute 14.6 below.

14.6 During the debate the Committee raised the points below and clarification was provided by the Planning Officers and Legal Officers, where appropriate:

**Need for additional HGV movements per day (15 HGV movements per day for application WSCC/050/19)**

**Points raised** – The Committee noted the matter, raised by Mr Johnson and Mr Catchpole, regarding the spare capacity in the allocation for HGV movements for the MBT facility and also the reduction in HGV movements following the closure of the landfill site. The future re-routing of Langhurstwood Road as part of the North Horsham development was noted but would be beyond the end date of the temporary permission. Could the requested additional HGV movements for this application be absorbed within other allocations granted to the applicant and, therefore, could this application be granted without any HGV movements being permitted?

**Response** - The eventual closure of the landfill site will not result in a reduction in permitted HGV movements because the landfill and MBT movements are tied through a legal agreement.. The proposed HGV movements are considered reasonable by WSCC Highways; the assessment takes into account known vehicle movements from the following: sites at Brookhurst Wood which have restrictive permissions on HGV movements (some don't); the proposed Energy from Waste facility on this site; other industry in the locality, and the future North Horsham development. Each

application must be decided on its own merits. This application site does not lie within the MBT site or the landfill site. Planning permission applies to the land not the operator, who may change in future. An adjoining operator may relinquish rights through a S.106 agreement. Granting permission with limited HGV movements might be considered unreasonable because it would likely impact on the viability of the facility, particularly if passed to another operator. Langhurstwood Road currently carries 3,500 vehicles per day, based on assessments provided; government guidelines for this road type and design show that it has the capacity to carry 13,000 vehicles per day.

### **Weighbridge**

**Points raised** – Where will the weighbridge for the proposed facility be sited?

**Response** – HGVs for this facility will use the existing weighbridge for the landfill site which is sited on the access road.

### **Drainage – prevention of pollution outside the application site**

**Points raised** – It is noted that WSCC Drainage has stated that there is 'insufficient information' about drainage. Due to the fact that the proposed facility will process hazardous waste concerns were raised and reassurances sought about the drainage mitigation including bunding to contain any pollution during a significant rainfall event. Additionally, reassurances were sought regarding protection from pollution due to run-off from stockpiles, and the maintenance of drainage to prevent silting up.

**Response** – The WSCC Drainage Officer has subsequently confirmed that they are happy for drainage details to be provided by condition. Continuous monitoring of water quality will take place. Much of the water used in the facility will be recycled through the process. Clean and foul water will be separated. Foul water is discharged to the wastewater treatment works. The site will be bunded. A detailed drainage scheme has been sought by condition – Condition 7 – Surface Water Drainage Scheme – which must be approved before commencement of the development.

### **Air Quality**

**Point raised** – Reassurances were sought regarding mitigation for air pollution, particularly for the residents of Langhurstwood Road and future residents of the North Horsham development. Concern was raised that there is no baseline provided regarding air quality.

**Response** – The air quality assessment, including proposed mitigation, is based on the latest legislation and government standards. It takes into account all upcoming development in the area as a 'future baseline'.

### **Condition 3 - Temporary Planning Permission**

**Point raised** – The proposed planning permission is temporary in nature (amended as per the agenda update sheet). Can it be

confirmed that a new planning application would be required for permanent permission?

**Response** – Yes, for permanent planning permission a new application would need to be submitted and considered.

**Cross-boundary movement of waste**

**Point raised** – Can the importation of waste from outside West Sussex be restricted?

**Response** – The need for the facility is established. There is a relatively small market for processing hazardous soil and there are only a few facilities of this nature in the UK, the nearest being in Birmingham. It would be unreasonable to restrict the sources of waste; planning case law has proved this to be unsound where it was attempted with other planning applications.

14.7 It should also be noted that points, where relevant, made by the Committee and responses provided by the Planning Officers and Legal Officers during debate on application WSCC/051/19, as noted in minute 15.4 below, also apply to this application.

14.8 Mr S Oakley proposed that Condition 7 – Surface Water Drainage Scheme should be amended to add a new bullet point:

- Bunding shall be provided around the facility to ensure containment of pollution and prevent water run-off.

This was seconded by Mr Patel, and put to the Committee and refused by a majority.

14.9 The substantive recommendation, as amended by changes to conditions as noted in the agenda update sheet, was proposed by Lt. Cdr. Atkins and seconded by Mr Quinn and was put to the Committee and approved by a majority.

14.10 Resolved – That planning permission be granted subject to amended conditions and informatives, as set out in Appendix 1 of the report and the update sheet?, as agreed by the Committee.

**15. Waste Planning Application accompanied by an Environmental Statement (County Matter)**

**WSCC/051/19 Installation and Operation of a Soil Washing Facility. Brookhurst Wood, Langhurstwood Road, Horsham, West Sussex, RH12 4QD.**

15.1 The Committee considered a report by the Head of Planning Services, as amended by the agenda update sheet (copy appended to the signed copy of the minutes). The report was introduced by Jane Moseley, County Planning Manager, who gave a presentation on the proposals, details of the consultation and key issues in respect of the application.

15.2 The Committee noted that comments made by the following speakers on application WSCC/050/19 also apply to this application, where relevant:

- Mr Brian Johnson, representing Langhurstwood Road Residents Group who spoke in objection, as noted in minute 14.3 above;
- Mr James Stewart-Irvine, Planning Manager at Biffa who spoke in support, as noted in minute 14.4 above, and
- Mr Peter Catchpole, local member for Holbrook who spoke on the application, as noted in minute 14.5, above.

15.3 The Committee also noted that where Planning Officers provided clarification on points raised by speakers on application WSCC/050/19 as noted in minute 14.5 above these also apply, where relevant, to this application.

15.3 The Committee also noted that points made by the Committee and responses provided by the Planning Officers and Legal Officers during debate on application WSCC/050/19 as noted in minute 14.6 above these also apply, where relevant, to this application. It was clarified that in reference to 'Need for additional HGV movements per day' this can be also read as 60 HGV movements per day for this application.

15.4 During the debate the Committee raised the points below and clarification was provided by the Planning Officers and Legal Officers, where appropriate:

#### **Warnham Parish council**

**Points raised** – Surprise was expressed that there has been no objection from Warnham Parish Council.

**Response** – None required.

#### **Residential Amenity**

**Points raised** – The application site is quite a distance from residential properties and, therefore, there should be minimal impact from noise. Because of HGV routing a small number of properties would be impacted by the proposed additional HGV movements.

**Response** – None required.

#### **Drainage**

**Point raised** – It may need to be specified that bunding is required to the south of the site to prevent pollution run off from stockpiles.

**Response** – Responses which were given in relation to application WSCC/050/19 under 'Drainage – prevention of pollution outside the application site' also apply in this case. The operator must ensure under both planning and Environmental Permitting that spillage onto adjacent sites does not occur. The scheme of surface water drainage, as specified in Condition 7 – Surface Water Drainage Scheme, will provide detailed specifications.



**Stockpiles** (*specific to this application only*)

**Points raised** – Is there a requirement to separate stockpiles of hazardous and non-hazardous waste? Concern was raised over the lack of control of the height of stockpiles. Restrictions may be necessary to prevent dust blow-off with its potential to impact on the environment and residential amenity.

**Response** – Stockpiles of hazardous and non-hazardous waste will be separated and will be in the open. The control of hazardous waste is managed through the Environmental Permitting regime and so it is not necessary to include this as a proposed condition. Stockpiles will be no higher than 4m due to the reach of the loading equipment. The prevailing wind means dust blow-off would generally go towards the landfill which is much higher than the proposed site, but the Environmental Permit requires that dust must be contained within the site.

**Tonnage throughput of hazardous and non-hazardous waste** (*specific to this application only*)

**Points raised** – It may be necessary to limit by condition the levels of hazardous and non-hazardous waste allowed so as to control the level of hazardous waste allowed into the site.

**Response** – The management of hazardous waste would be controlled through the Environmental Permitting regime.

15.5 Mr S Oakley proposed that a new condition be included as follows:

**17. Stockpile Heights**

Stockpiles shall be restricted to a height of 4 metres.

*Reason: To effectively manage waste on the site and to minimise the impact of any dust blow-off onto adjacent land given the hazardous nature of a proportion of the waste, and to aid the visual impact.*

This was seconded by Mrs Dennis and voted on by the Committee and approved by a majority.

15.6 Mr S Oakley proposed that the first sentence of the proposed amendment to Condition 11 – Quantities of Waste and Record Keeping, as per the agenda update sheet, should be further amended as follows:

No more than ~~100,000~~ 29,999 tonnes of hazardous, and 70,001 tonnes of non-hazardous waste shall be managed at the site in any one year. ...

This was seconded by Mr Barratt-Mile and voted on by the Committee and approved unanimously.

15.7 The substantive recommendation, as amended by changes to conditions as noted in the agenda update sheet and as agreed by the Committee, was put to the Committee and approved by a majority.

15.8 Resolved – That planning permission be granted subject to amended conditions and informatives, as set out in Appendix 1 of the report, as agreed by the Committee.

15.9 The Committee recessed at 12.40 and reconvened at 12.43 p.m.

**16. Waste Planning Application (County Matter) - Certificate of Lawful Development**

**WSCC/070/19 Certificate of Lawful Development for an existing use or operation or activity: the importation, deposit, re-use and recycling of waste material and use of land for storage purposes. Land at Bolney Park Farm, Broxmead, Bolney RH17 5RJ.**

16.1 Mrs Dennis stepped down from the Committee for the duration of the application in order to speak as local member on the application.

16.2 The Committee considered a report by the Head of Planning Services, as amended by the agenda update sheet (copy appended to the signed copy of the minutes). The report was introduced by Jane Moseley, County Planning Manager who gave a presentation on the application, details of the consultation, evidence provided by the applicant and evidence from the County Council and the key issues in respect of the application.

16.3 Mrs Joy Dennis, local member for Hurstpierpoint and Bolney spoke on the application. Concern was raised about the impact of this site and other similar sites that are in her division and also across West Sussex. This type of operation appears to be on the increase with numerous small landowners being approached to allow their land to be used to effectively dump waste without planning permission. Many of these sites are small so they avoid enforcement by the County Council. Concerns was raised in relation to all of these types of sites, including this application site, about visual impacts on the countryside and the impacts on ecology, and also the increased potential for flooding problems.

16.4 During the debate the Committee raised the points below and clarification was provided by the Planning Officers and Legal Officers, where appropriate:

**Site Operator**

**Points raised** – It is noted that the site operator has not elected to speak on the application to state why they believe the application should be approved. As such, on the balance of probabilities, this application should be refused.

Response - None required.

**Environmental Permits**

**Points raised** – Have Environmental Permits been granted at any point during the 10-year period?

**Response** – Some years ago an exemption was granted for under 500 tonnes of inert waste to held on the site when it was a construction compound. It is understood that the Environment

Agency is currently looking at enforcement action in relation to the site.

16.5 The substantive recommendation was proposed by Mr Patel and seconded by Lt. Cdr. Atkins and was put to the Committee and approved by a majority.

16.6 Resolved – That a Certificate of Lawful Development be refused for the reasons set out in Appendix 1 of the report.

**17. Update on Mineral, Waste and Regulation 3 Planning Applications**

17.1 The Committee received and noted a report by the Head of Planning Services on applications awaiting determination (copy appended to the signed minutes) detailing the schedule of County Matter applications and the schedule of applications submitted under the Town and Country Planning General Regulations 1992 – Regulation 3.

**18. Report of Delegated Action**

18.1 The Committee received and noted a report by the Head of Planning Services (copy appended to the signed minutes) applications approved subject to conditions under the Town and Country Planning Act 1990 and Regulation 3 of the Town and Country Planning General Regulations 1992 since the Planning Committee meeting on 9 July 2019.

**19. Date of Next Meeting**

19.1 The following scheduled meeting of Planning Committee will be on Tuesday, 4 February 2020 at 10.30 a.m. at County Hall, Chichester.

The meeting ended at 12.59 pm

Chairman

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<b>Planning Committee</b>	
<b>4 February 2020</b>	<b>Part I</b>
<b>Certificates of Lawfulness – Decision Making</b>	
<b>Report by Director of Highways, Transport and Planning and Director of Law and Assurance</b>	

**Summary**

This report seeks changes to the arrangements for decision making on applications for lawful development certificates. The current arrangement is that the Planning Committee determines all such applications. It is proposed however that the determination of such applications should be delegated to the Director of Highways, Transport and Planning in consultation with the Director of Law and Assurance.

The underlying approach to dealing with the applications will remain the same – that is the case officer will undertake the necessary investigations and produce a report setting out the evidence associated with an application. If there is no reason for the matter to be determined by the Planning Committee it will then be signed off as a delegated decision. It is envisaged that this change will improve the service that is provided to our customers.

**Recommendation(s)**

That Planning Committee delegates to the Director of Highways, Transport and Planning in consultation with the Director of Law and Assurance the determination of applications for a certificate of lawfulness for existing or proposed use.

**1. Background and Context**

- 1.1 At present all decisions on applications for lawful development certificates are taken by the Planning Committee. There are two types of lawful development certificate. A local planning authority can grant a certificate confirming that:
  - a) an existing use of land, or some operational development, or some activity being carried out in breach of planning condition, is lawful for planning purposes under Section 191 Town and Country Planning Act 1990; or
  - b) a proposed use of buildings or other land, or some operations proposed to be carried out in, on, over or under land, would be lawful for planning purposes under Section 192 Town and Country Planning Act 1990.
- 1.2 Lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force; or for which planning permission is either not required or is granted by virtue of being ‘permitted development’. A local planning authority needs to consider whether, purely on the facts of the case and relevant planning law, the specific matter (the subject of the application) is or would be lawful. Planning policy and the merits of the development are not relevant at any stage of such applications.

- 1.3 If the local planning authority is satisfied on the balance of probabilities that the appropriate legal tests have been met, it must grant a lawful certificate. There can be no discretion involved, as regard cannot be had to planning policy or the planning merits of the application.

## **2. Proposal**

- 2.1 It is proposed to delegate decision making on certificate of lawfulness applications from the Planning Committee to the Director of Highways, Transport and Planning in consultation with the Director of Law and Assurance. Applications are subject to the application of strict legal tests and relevant evidence will need to prove, on the balance of probabilities, that development is lawful. The planning merits of the development outlined in such an application are not relevant.
- 2.2 The underlying approach to dealing with work will remain the same – that is, the case officer will prepare the necessary report setting out the evidence and whether the legal tests have been met. However, as is the case with delegated planning applications, their decision will be signed off by a senior manager rather than Planning Committee.
- 2.3 In the event that an application generates significant local interest the matter will be referred to the Planning Committee for a decision.
- 2.4 It is envisaged that this change will improve the service that is provided to our customers by enabling a quicker decision process. It will also reduce the burden on planning officers by allowing shorter, more proportionate delegated reports to be prepared. The Planning Committee would determine slightly fewer applications, albeit typically only one Certificate of Lawfulness application is received each year.

## **3. Resources**

- 3.1 No additional resources are needed to implement this change. It is envisaged that through the adoption of these changes officers will be able to deliver its service in a more effective and efficient manner.

## **4. Risk Implications and Mitigations**

- 4.1 In order to minimise the risk of a decision being challenged a short officer report will be prepared in relation to each application to demonstrate that the evidence has been considered against the appropriate legal tests. A decision on an application will not be undertaken without consultation with the Director of Law and Assurance. On-going training will be provided to appropriate officers.

## **5. Crime and Disorder Act Implications**

Not applicable in relation to this proposal.

## **6. Human Rights Implications**

The proposed approach to working will ensure that the Human Rights legislation is addressed in relation to each application.

## **7. Conclusion**

The current practice is that the Planning Committee determines all applications for certificates of lawfulness. As the determination of such applications is by way of strict legal tests and appropriate evidence it is proposed that decisions are delegated to officers. The underlying approach to dealing with work will remain the same – that is the case officer will prepare the necessary report setting out the evidence and whether the legal tests have been met. If there is no reason for the matter to be determined by the Planning Committee it will then be signed off as a delegated decision. It is envisaged that this change will improve the service that is provided to our customers.

Matt Davey  
Director of Highways, Transport and  
Planning

Tony Kershaw  
Director of Law and Assurance

**Contact:** Becky Moutrey, Senior Solicitor, Tel: 0330 2222708

### **Background Papers**

Terms of Reference of Planning Committee  
Development Control - Delegation Code of Practice

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## **Planning Committee**

**4 February 2020**

### **Report on Development Management Performance (1 January 2019 – 31 December 2019)**

#### **Report by Head of Planning Services**

##### **Executive Summary**

This report reviews the work undertaken by the County Planning Team in relation to the determination of planning applications over the period 1 January to 31 December 2019.

It outlines the measures against which performance is measured, confirming that the Team is exceeding the Government's thresholds by determining 81% of minerals and waste applications on time over the past two years (where a 60% threshold is set). This figure has dropped slightly over previous years, for known reasons that the team are working to rectify.

The team determined 84% of 51 applications in 2019 on time, six of which were determined by the Planning Committee.

Monitoring visits were undertaken to all mineral/landfill sites, as well as some waste sites in response to complaints, with formal enforcement action taken on two occasions.

It is considered that the Team's performance in the past 12 months has shown a continued commitment to taking a positive and proactive approach to development, as set out in the National Planning Policy Framework.

##### **Recommendation**

That the report on development management performance is noted.

## **1. Introduction**

- 1.1 The purpose of this report is to review the performance of the County Planning Team in relation to the management of development, including the determination of planning applications, over the calendar year from 1 January 2019 to 31 December 2019.

## **2. Background**

- 2.1 The County Planning Team determines applications for planning permission relating to 'County Matters' (minerals and waste development) and 'Regulation 3' developments - that is, development to be carried out by West Sussex County Council or where the Council has a significant interest. The team is also responsible for ensuring minerals and waste

development across the county is compliant in planning terms, and for taking enforcement action where it is not.

- 2.2 Each application for planning permission has a target period for determination<sup>1</sup>, measured from the date the application is made valid, depending on whether it is defined as an Environmental Impact Assessment (EIA), major, or minor.
- 2.3 EIA development is the larger scale schemes that are considered to have the potential to result in significant environmental effects, as set out in Schedules 1 and 2 of the EIA Regulations 2017. The target for determination of EIA applications is 16 weeks.
- 2.4 Major development includes all minerals and waste applications, as well as applications involving sites of more than 1 hectare in area, or where more than 1,000 square metres of floor space will be created. The target for determination of major applications is 13 weeks.
- 2.5 Minor development includes all other applications. The target for the determination of minor applications is 8 weeks.
- 2.6 If a decision is not made by the target date, the applicant can submit an appeal to the Planning Inspectorate on the basis of the non-determination of the application. In addition, if a decision is not made within six months of the application being registered, the applicant can ask for a refund of the planning fee.
- 2.7 Missing target dates for determination also runs the risk of the planning authority being 'designated' for poor performance whereby applications can be made directly to the Secretary of State rather than the planning authority (known as being put into 'special measures').
- 2.8 The current 'criteria for designation' (November 2018)<sup>2</sup> are:
  - Speed of Decisions: percentage of decisions over the previous two years made on time (i.e. within the 8/13/16 week statutory determination period) or, crucially, an extended period agreed with applicant. The threshold for this measure is 60%.

Performance was previously only measured in relation to the determination of major applications, but was extended in 2016 to include minor applications, though this excludes Regulation 3 applications. All minerals and waste applications are, by definition, 'major', which means that the County Council's performance in relation to determining 'minor' applications is not measured.

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<sup>1</sup> Defined in Section 34 of the Town and Country Planning (Development Management Procedure)(England) Order 2015).

<sup>2</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/760040/Improving\\_planning\\_performance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/760040/Improving_planning_performance.pdf)

Local authorities are also separately measured in relation to oil and gas applications<sup>3</sup>. Where authorities have decided more than two such applications in the previous two years, they will be designated if less than 50% are determined on time – i.e. the measure will also be applied separately to oil/gas applications.

- Quality of Decisions: average percentage of decisions on applications overturned on appeal. The threshold for this measure is 10%.

### **3. Performance**

#### *Government Figures*

- 3.1 The thresholds for determining performance are set by the government with the intention of targeting the poorest performing authorities in the country. Over time, the government has increased the targets to ensure they capture those authorities that are genuinely underperforming.
- 3.2 The remainder of this report presents how the County Planning Team has performed in terms of meeting the above targets, measured over the period 1 January 2019 to 31 December 2019, as well as over the prior two year periods set by government.
- 3.3 Table 1 below sets out the performance measures and assessment period set by the Ministry of Housing, Communities and Local Government and the County Planning Team's performance against them. The table includes both the statistics measured by the Government, and figures including Regulation 3 applications.
- 3.4 There is an additional measure relating to the 'quality of non-major development' but for the County Council, this would only apply to appeals against the refusal of minor Regulation 3 applications, which are non-existent.
- 3.5 The figures for the speed of decisions take into account where extensions of time have been agreed. These are frequently used for more complicated and/or controversial applications, particularly those that need to be determined by the Planning Committee, which can extend the decision-making period.

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<sup>3</sup> <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2015-09-16/HCWS201/>

**Table 1: Government Figures - Designation Thresholds and WSCC Performance<sup>4</sup>**

<b>Measure</b>	<b>Threshold</b>	<b>WSCC Performance</b>
<b>Speed of Major Development</b> % of applications decided on time (13/16 weeks or agreed extension).	<b>2019: 60%</b> (Oct 2018 – Sept 2019)	<b>81%</b> of 41 County Matter applications.
	<b>2018: 60%</b> (Oct 2016 – Sept 2018)	<b>94%</b> of 38 County Matter applications.
	<b>2017: 60%</b> (Oct 2015 - Sept 2017)	<b>98%</b> of 40 County Matter applications
	<b>2016: 50%</b> (Oct 2014 - Sept 2016)	<b>93%</b> of 46 County Matter applications
<b>Speed of Non-Major Development *</b> % of applications decided on time (8 weeks or agreed extension).	<b>2019: 70%</b> (Oct 2017 – Sept 2019)	<b>90%</b> of 58 applications
	<b>2018: 70%</b> (Oct 2016 – Sept 2018)	<b>75%</b> of 44 applications.
	<b>2017: 70%</b> (Oct 2015 - Sept 2017)	<b>69%</b> of 67 applications.
	<b>2016: 65%</b> (Oct 2014 - Sept 2016)	<b>84%</b> of 93 applications.
<b>Quality of Major Development</b> % of LPA decisions upheld on appeal.	<b>2019: 10%</b> (Oct 2017 – Sept 2019)	<b>50%</b> (Crouchland refusal upheld; Firsland (liaison group condition) refusal overturned).
	<b>2018: 10%</b> (Oct 2016 – Sept 2018)	<b>100%</b> (Crouchland).
	<b>2017: 10%</b> (April 2015 - March 2017)	<b>100%</b> 2 appeals; both upheld (Burlands; Crouchland CLU).
	[ <b>2016:</b> Not assessed.]	
<b>Speed of Oil/Gas Applications</b> % of applications decided on time (13/16 weeks or agreed extension).	<b>2019: 60%</b> (Oct 2017 – Sept 2019)	<b>100%</b> of 5 applications.
	<b>2018: 60%</b> (Oct 2016 – Sept 2018)	<b>100%</b> of 6 applications.
	<b>2017: 60%</b> (Oct 2015 - Sept 2017)	<b>Not applicable</b> – only 1 application determined (only measured if more than two determined).
	<b>2016: 50%</b> (Oct 2014 - Sept 2016)	<b>Not applicable</b> – no applications determined.

\* Not a government target for County Authorities.

<sup>4</sup> Source:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/571144/Improving\\_Planning\\_Performance\\_-\\_Criteria\\_for\\_Designation\\_revised\\_2016\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/571144/Improving_Planning_Performance_-_Criteria_for_Designation_revised_2016_.pdf)

- 3.6 The above figures show that the County Planning Team has continued to perform well above any of the thresholds for designation. The key target is the speed at which major applications are determined, with the Team achieving 81% (33 out of 41) on time. This is a decrease over previous years, but four of the eight late decisions were refusals (applicants rarely agree an extension of time where there is a recommendation of refusal), and two were administrative error (extensions having been agreed but not recorded); the team are working to rectify such errors in the future.
- 3.7 This being the case, improving on these figures should be relatively straightforward, so the team will focus on that in the coming year.
- 3.8 In comparison with adjacent counties: Hampshire County Council determined 61 major applications, all of them on time (100% - with the caveat that HCC includes discharge of condition applications in this figure); East Sussex County Council determined 27 major applications, 26 of them on time (96.3%); and Surrey County Council determined 53 applications, 47 of them on time (88.7%).
- 3.9 In the same two year period, the Team has determined slightly more non-major applications than in the previous period (58 applications compared to 44), and more of them on time (90% compared to 75%). This means that 90% of minor applications, typically relating to schools, were determined within the eight week target date, without any extensions of time having been agreed, which is considered to be a good achievement for the team.

*County Planning Statistics*

- 3.10 Table 3 below, considers the applications determined between 1 January and 31 December 2019, with previous years' statistics for comparison.

**Table 3: County Planning Statistics (January – December 2019)**

- 3.11 Table 3 shows that compared with the previous year, the team dealt with around the same number of applications, but took fewer items to committee.

	2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>Applications Determined</b>	68	79	102	78	72	70	42	50	51
<b>% on time</b>	71%	69%	67%	85%	74%	72%	69%	86%	84%
<b>Minor % on time</b>	87%	82%	77%	84%	90%	88%	58%	87%	83%
<b>Major (incl. EIA) % on time</b>	50%	45%	51%	86%	88%	82%	88%	86%	76%
<b>Number of EIAs</b>	2	2	1	4	5	2	1	6	2
<b>Number to Committee</b>	6	11	14	13	18	17	9	18	6

- 3.12 It is of note this year that while 51 applications were determined, a further six were withdrawn before a decision was made. Two further

applications are awaiting a S106 legal agreement before a decision can be issued, namely TJ Waste in Yapton (ref. WSCC/037/19), and Marlpit Lane (ref. WSCC/053/19).

3.13 Just two applications were refused, namely:

- Erection of replacement dwelling, including acoustic bunds along east, west and side boundaries. at Dan Tree Farm, London Road, Bolney, Haywards Heath, RH17 5QD (WSCC/050/18); and
- Deposit of soils from adjacent housing development at Land west of London Road, Hassocks (WSCC/051/18).

#### *Other Matters*

3.14 The team's Principal Planner (James Neave) has continued to work on the Rampion offshore windfarm project, a Nationally Significant Infrastructure Project granted a Development Consent Order (DCO) by the Secretary of State. The project is near completion, focusing primarily on the new substation at Twineham. The Crown Estate has agreed that Rampion can extend the windfarm, so a new DCO application is likely to be forthcoming, but the timing is unclear at this early stage and it is also unclear whether the cable route will be through West Sussex or Hampshire (or both).

3.15 The Team has also been leading on responding to the Gatwick Airport DCO, relating to the proposed routine use of their standby runway. The County Council is a statutory consultee in the DCO process. Officers are providing technical advice to Gatwick Airport Limited as they develop their proposal. Formal pre-application consultation on the draft submission is anticipated later in 2020.

3.16 Significant staff resource was put towards defending the appeal against the refusal of the Wealden Energy from Waste application (ref. WSCC/015/18/NH), the public inquiry for which was held in October/November 2019, with the decision expected in February 2020.

3.17 The Team also provided fifteen EIA screening/scoping opinions (compared with five in 2018, and 10 in 2017), and 11 formal pre-application responses (compared to three in 2018, and seven in 2017). It has therefore been a busy year in terms of pre-application, which may indicate that 2020 will be a busy year for applications.

#### *Review of Committee Decisions*

3.18 Over the past year, six applications have been put before the Planning Committee, at three meetings. Of these, two were Regulation 3 developments (a school and a road), and four were waste developments. There were no deferrals, and members followed officer recommendations on all but one application (approval of the infill of land north of Rudgwick Brickworks).

#### **4. Monitoring and Compliance**

- 4.1 The Monitoring and Compliance Officer has carried out 59 chargeable (fees) monitoring visits to minerals sites and landfills over the 12 month period. This is in addition to regular monitoring of waste sites and responding to complaints of breaches of planning control (either breaches of condition or operating without planning permission).
- 4.2 Eight Planning Compliance Notices were issued, along with two Enforcement Notices, with the latter resulting in waste being removed from land it had been deposited on without permission. In addition, a number of planning applications have been received, in an attempt to retrospectively regularise activity we have been made aware of. In a number of other cases, operations have been brought back into compliance to avoid formal enforcement action being taken.

#### **5. Conclusion**

- 5.1 The team has exceeded government targets for determining County Matter applications within statutory time periods, but performance in this regard has dropped slightly.
- 5.2 The team determined 84% of 51 applications in 2019 on time, six of which were considered by Committee.
- 5.3 Monitoring visits were undertaken to all mineral/landfill sites, as well as some waste sites in response to complaints, with formal enforcement action taken on two occasions, and far more frequently, informal enforcement action resolving issues without formal action being required.
- 5.4 It is considered that the Team's performance in the past 12 months has shown a continued commitment to taking a positive and proactive approach to development, as set out in the National Planning Policy Framework.

#### **6. Resource Implications and Value for Money**

- 6.1 There are no resource implications as this report is for information only.

#### **7. Equality Duty**

- 7.1 An Equality Impact Report is not required as the report only deals with internal and procedural matters.

#### **8. Risk Management Implications**

- 8.1 There are no risks associated with the recommended action of noting this report, which is for information only.

**Michael Elkington**  
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**Background Papers**

None



# Update on Mineral, Waste and Regulation 3 Planning Applications

Planning Committee date 4 February 2020

Report by Strategic Planning, County Planning Manager

## Minerals and Waste Planning Applications

Report run on 22 January 2020

Type	Reference (Case Officer)	Applicant	Proposal	Location	Member	Date Valid	Recommended determination date	Extension Deadline Date	Period post validation	Update comments
County Matter Waste	WSCC/020/19/AR (Chris Bartlett)	Paul Wilson	Infilling of a hollow to restore grazing land	Fulling Mill Farm, Selsfield Road, Ardingly, Haywards Heath, RH17 6TJ	Mr Bill Acraman	19/02/2019	21/05/2019		337	Reviewing of consultee comments and report to be written
County Matter Waste	WSCC/021/19/AR (Chris Bartlett)	Mr Paul Wilson	Infilling of a hollow to restore garden land	Fulling Mill Farmhouse, Selsfield Road, Ardingly, Haywards Heath, RH17 6TJ	Mr Bill Acraman	19/02/2019	21/05/2019		337	Reviewing of consultee comments and report to be written
County Matter Waste	WSCC/037/19 (Edward Anderson)	T J Waste & Recycling Limited	Proposed Inert Waste Recycling Facility, with new building, hardstanding, car parking, boundary treatment and re-aligned access to the agricultural unit. Includes variation to approved site landscaping and use of internal spaces within the existing MRF	T J Waste Burndell Road Yapton Arundel BN18 0HR	Mrs Jacky A Pendleton	29/04/2019	29/07/2019		268	Awaiting confirmation of 106 agreement – land subject to mortgage, 106 to be regularised with this
County Matter Waste	WSCC/052/19 (Jane Moseley)	Brett Concrete Ltd	Variation of condition 7 of planning permission WSCC/053/16/CR to allow 24 hour operations Monday to Friday	Crawley Goods Yard, Gatwick Road, Crawley RH10 9RE	Mrs Brenda Burgess	10/07/2019	09/10/2019	28/02/2020	196	Awaiting further EHO comments (Crawley BC objection; key issue is noise).

Type	Reference (Case Officer)	Applicant	Proposal	Location	Member	Date Valid	Recommended determination date	Extension Deadline Date	Period post validation	Update comments
County Matter Waste	WSCC/053/19 (Chris Bartlett)	Landacre Trading Limited	Amendment of conditions 2, 3, 7 and 17 of planning permission WSCC/007/12/WE to allow extension of time for completion of restoration works by 18 months and variation of schemes	Hambrook Marlpit Marlpit Lane, Hambrook, Westbourne PO18 8UL	Mr Mike Magill	22/07/2019	21/10/2019		184	Section 106 to be agreed
County Matter Waste	WSCC/067/19 (James Neave)	Biffa Waste Services	Amendment of Restoration Scheme approved through WSCC/005/16/NH to provide rich grassland rather than woodland	Brookhurst Wood Landfill Site Langhurst Wood Road Horsham RH12 4QD	Mr Peter C Catchpole	24/09/2019	24/12/2019	28/02/2020	120	Awaiting additional info and plans (imminent).
County Matter Waste	WSCC/068/19 (Edward Anderson)	Five Oaks Farm	Erection of a bund on the northern boundary	Land at Five Oaks Farm Haven Road, Slinfold	Mr Christian R Mitchell	30/09/2019	30/12/2019		114	Awaiting historic evidence of attempts to secure boundary
County Matter Mineral	WSCC/071/19 (Chris Bartlett)	Angus Energy Ltd	Remove drilling fluids and carry out an extended well test. This proposal is a two-stage activity: 1) Pumping out previously used drilling fluids to ascertain any oil flow (up to 4 weeks) 2) Should oil be seen to flow, an extended well test would be carried out over a period of 3 years.	Lower Stumble Exploration Site, off London Road, Balcombe, Haywards Heath, RH17 6JH	Mr Bill Acraman	08/10/2019	07/01/2020		108	Further information from agent/applicant sent out to consultees.
County Matter Waste	WSCC/066/19 (Edward Anderson)		Replacement of existing below ground drainage to provide an improved foul and waste drainage system for existing dwellings at the property, comprising the installation of new pipes, a new bio-digester and field drain	Climping College The Mill, Climping Street, Climping BN17 5RN	Mrs Jacky A Pendleton	20/11/2019	19/02/2020		63	Awaiting additional information in response to ecology officer's recommendation.

Type	Reference (Case Officer)	Applicant	Proposal	Location	Member	Date Valid	Recommended determination date	Extension Deadline Date	Period post validation	Update comments
County Matter Waste	WSCC/002/20 (Chris Bartlett)	Southern Water Services Ltd	Construction and operation of a sludge cake barn, polymer dosing kiosk, LV distribution kiosk and steam boiler house	Goddard Green Sewage Treatment Works Cuckfield Road. Haywards Heath RH17 5AL	Mrs Joy A Dennis	11/12/2019	11/03/2020		42	In consultation period
County Matter Mineral	WSCC/078/19 (Chris Bartlett)	UKOG (234) LTD	Amendment of condition no. 1 of planning permission WSCC/033/18/WC to enable the retention of security fencing, gates and cabins for a further 24 months	Wood Barn Farm, Adversane Lane, Broadford Bridge, Billingshurst, RH14 9ED	Mrs Pat A C Arculus	13/12/2019	13/03/2020		40	In consultation period
County Matter Mineral	WSCC/079/19 (Chris Bartlett)	UKOG (234) LTD	Amendment of condition no. 1 of planning permission WSCC/032/18/WC extending the permission by 24 months to enable the completion of phase 4 site retention and restoration	Wood Barn Farm, Adversane Lane, Broadford Bridge, Billingshurst, RH14 9ED	Mrs Pat A C Arculus	20/12/2019	20/03/2020		33	In consultation period
County Matter Waste	WSCC/080/19 (Chris Bartlett)	H Ripley & Co Ltd	Variation of conditions 2, 8, 9 and 12 of planning permission WSCC//037/18/CR to alter approved plans and documents relating to noise control, waste deliveries and skip and waste storage and non-compliance with condition 4 relating to access and discharge of Condition 5 relating to cycle parking	International Park, Priestley Way, Northgate, Crawley RH10 9NT	Ms Karen Sudan	20/12/2019	20/03/2020		33	In consultation period
County Matter Waste	WSCC/081/19 (James Neave)	PJ Brown Construction Ltd	Proposed Temporary Concrete Crushing and Soil Recycling Facility	Kilmarnock Farm Charlwood Road. Ifield RH11 0JY	Mrs Liz Kitchen	23/12/2019	23/03/2020		30	Awaiting consultation responses.

Type	Reference (Case Officer)	Applicant	Proposal	Location	Member	Date Valid	Recommended determination date	Extension Deadline Date	Period post validation	Update comments
Certificate of Lawful Development	WSCC/082/19 (James Neave)	Lewis & Co Planning	Erection of a 1.8m high means of enclosure comprising bund, wall and gates	Dan Tree Farm London Road. Bolney RH17 5QD	Mrs Joy A Dennis	31/12/2019	25/02/2020		22	Report being written.
County Matter Waste	WSCC/001/20 (Chris Bartlett)	Britaniacrest Recycling Ltd	Variation of conditions 1,2,4,8,19 and 22 of planning permission WSCC/009/18/SR to allow two further years' extraction and restoration by 2028	Washington Sand Pit Hampers Lane. Sullington West Sussex RH20 3EX	Mr Paul A Marshall	06/01/2020	06/04/2020		16	In consultation period

## Regulation 3 Planning Applications

Type	Reference (Case Officer)	Applicant	Proposal	Location	Member	Date valid	Recommended determination date	Extension Deadline Date	Period post validation	Update comments
Reg 3	WSSC/047/19 (Edward Anderson)	West Sussex County Council	The installation of a daily mile track at Colgate Primary School	Colgate Primary School, Blackhouse Road, Colgate, Horsham RH13 6HS	Mrs Liz Kitchen	03/07/2019	28/08/2019		203	Awaiting method statement for track installation
Reg 3	WSSC/073/19 (Edward Anderson)	West Sussex County Council	Replacement all-weather pitch with new surfacing, sub-base, fencing and drainage provision. New lighting electric head units and wiring.	The Weald School, Station Road, Billingshurst, RH14 9RY	Mrs Amanda J Jupp	07/11/2019	02/01/2020	24/01/2020	76	Awaiting consultation response from National Rail
Reg 3	WSSC/076/19 (James Neave)	West Sussex County Council	Erection of a 1 story modular building for use as a classroom. Demolition of existing hutted single story classroom.	Albourne Primary School. The Street. Albourne BN6 9DH	Mrs Joy A Dennis	16/12/2019	10/02/2020		37	Awaiting clarification. Delegated report being drafted.
Reg 3	WSSC/077/19 (Tyra Money)	West Sussex County Council	Replacement of the main front entrance doors (south elevation) as part of a wider proposal to remodel and refurbish the existing library to create a new community hub	Central Library Richmond Road, Worthing BN11 1HD	Mr Michael A Cloake	23/12/2019	17/02/2020		30	Still in consultation period
Reg 3	WSSC/003/20 (Edward Anderson)	West Sussex County Council	Installation of external cladding system to North Elevation of Grange Building	County Hall, The Grange, Tower Street, Chichester, PO19 1RE	Mr Jamie D Fitzjohn	17/01/2020	13/03/2020		5	Still in consultation period

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# Report of Delegated Action; Applications approved subject to conditions

Planning Committee date: 4 February 2020

Report by Strategic Planning, County Planning Manager

Decided between: Period Start Date : '19-DEC-2019' , and Period End Date : '21-JAN-2020'

Report run on 22 January 2020

Application Type	District	Application No	Proposal	Location
Regulation 3	Mid Sussex	WSCC/074/19	Retrospective Planning Application to extend timeframe for one single temporary classroom and conservatory to provide teaching space for year R children	Blackthorns County Primary School, 3 Blackthorns Close, Lindfield, Haywards Heath, RH16 2UA
	Mid Sussex	WSCC/075/19	The continued use and siting of a temporary classroom unit	Blackthorns County Primary School, 3 Blackthorns Close, Lindfield, Haywards Heath, RH16 2UA

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