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15 April 2024

Planning and Rights of Way Committee

A meeting of the Committee will be held at **10.30 am** on **Wednesday, 24 April 2024** at **County Hall, Chichester, PO19 1RQ**.

The meeting will be available to watch live via the Internet at this address:

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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, contact Democratic Services before the meeting.

2. **Minutes of the last meeting of the Committee** (Pages 3 - 22)

The Committee is asked to confirm the minutes of the meeting held on 19 March 2024 (cream paper).

3. **Urgent Matters**

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

4. **Planning Application: Minerals** (Pages 23 - 52)

Report by Head of Planning Services.

The Committee is asked to consider and determine the following application:

WSSC/045/23 - Erection of a rail fed concrete batching plant, with associated ancillary structures and facilities, including HGV and car parking (Variation of condition No. 6 of Planning Permission

WSCC/052/19 to allow 24 hour operations at the site, Monday to Friday, for a period of five years)

at Land at Crawley Goods Yard, Brett, Gatwick Road, Crawley, West Sussex, RH10 9RE

5. **Date of Next Meeting** (Pages 53 - 60)

The next meeting of the Committee will be held at 10.30 am on Wednesday, 15 May 2024 at County Hall, Chichester.

Report by the Head of Planning Services, Director of Law and Assurance and Assistant Director (Highways Transport and Planning).

The Committee is invited to ask about planned agenda items and to note the following report:

Current Planning Applications, Current Definitive Map Modification Orders (DMMOs), Town and Village Green Applications (TVGs) and Public Path Orders (PPOs) under investigation.

To all members of the Planning and Rights of Way Committee

Webcasting

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Planning and Rights of Way Committee

19 March 2024 – At a meeting of the Planning and Rights of Way Committee held at 10.30 am at County Hall, Chichester, PO19 1RQ.

Present: Cllr Burrett (Chairman)

Cllr Atkins, Cllr Duncton, Cllr Gibson, Cllr N Jupp, Cllr McDonald, Cllr Mercer, Cllr Oakley, Cllr Patel, Cllr Quinn and Cllr Wild

Apologies: Cllr Montyn (whole meeting), and Cllr Quinn (PM session only)

Also in attendance: Cllr Kenyon, via Teams

Part I

33. Declarations of Interest

33.1 In accordance with the County Council's Constitution, including the Code of Conduct as well as the Code of Practice on Probity and Protocol on Public Participation in Planning and Rights of Way Committees, the following declaration was made in relation to the lobbying of all members of the Committee:

- Item 4 – Planning Applications WSCC/046/23 and WSCC/047/23.
- Item 5 – Application for a Town or Village Green at Collingwood Road Green, Horsham.

33.2 In accordance with the County Council's Constitution, including the Code of Conduct, the following members made declarations of interest in the applications noted below:

- Cllr Gibson – a non-prejudicial Disclosable Pecuniary Interest, which has been confirmed by the Council's Monitoring Officer as non-prejudicial, in respect of Item 4 – Planning Applications: WSCC/046/23 and WSCC/047/23 in respect of a business owned by a family member.
- Cllr N Jupp – a Personal Interest in Item 4 – Planning Applications: WSCC/046/23 and WSCC/047/23 because he is married to Cllr Amanda Jupp, County Councillor for Billingshurst who was mentioned by Cllr Kenyon as having concerns about the impact of the applications on traffic in her electoral division. Cllr Jupp made it clear that his opinion on the applications is independent of his wife's.
- Cllr Atkins – a Personal Interest in Item 6 – DMMO 4/21 because he is known to the Goring family and the Wiston Estate, the landowners of the route in question.

33.3 No other declarations of interest were made.

34. Minutes of the last two meetings of the Committee

34.1 The Committee resolved:

That the minutes of the meeting of the Committee held on 5 December 2023 be approved and that they be signed by the Chairman.

34.2 The Committee considered, and approved, the following requests for amendments to the minutes of the meeting of the Committee held on 9 January 2024 in relation to application: DMMO 2/19 - Definitive Map Modification Order. The Committee noted that the second amendment had not been referred to Cllr Payne because it is a factual amendment.

1) Request from Hilary Pierce, applicant of DMMO 2/19 in reference to her own submission to the Committee:

Minute 31.5:-

The applicant Hilary Pierce, on behalf of the British Horse Society, spoke in support of the application. It is felt that some pieces of evidence supporting the application had been overlooked by the case officer. ~~There were areas with~~ **No occupation roads show any** ownership in the Henfield Tithe records. The Woodmancote Tithe map had no apportionment numbers and the Henfield **Museum's** ~~Tithe map~~ **parish copy** marks the route as a 'Road'. Both Tithe maps show the route as 'to' and 'from' two places which ~~would~~ **PINS guidance says** suggest public rights were in place. It was inconceivable that all inter-connecting **occupation** roads as shown on Tithe maps would be private use. The Finance Act 1910 map shows Furners Lane as a "white road" excluded from the hereditaments, which ~~would~~ **PINS guidance says indicates** it was a vehicular public road. Legal documents dealing with the transfer of land either side of Furners Lane refer to the claimed route as a highway or lane. If there was no ownership then the ~~landlord~~ **adjacent landowner** had no authority to make the usage private. In 1949 Chanctonbury Rural District Council (RDC) conveyed part of the land indicating it was public if owned by the RDC. Horsham District Council had not supplied further information which would be required for a proper analysis. Gallagher 2002 and Fortune 2012 state there should be a proper analysis of the lane's appearance and width on old maps, considering what the lane connects to and its desirability for public use; such objective analysis is absent from the officer's report. Considering if the path was a footpath, the term highway pre-1835 was used for public vehicular roads. Old maps also show Furners Lane in the same manner as other roads in the area. It is more likely than not that the public used it both on horseback and with vehicles. Evidence demonstrates, on the balance of probability, that the proposed route along Furners Lane has restricted byway rights or at least bridleway status.

2) Request from Mrs Alison Short, supporter of DMMO 2/19 in relation to the minute of Cllr Sarah Payne's submission to the Committee:

Minute 31.7:-

Cllr Sarah Payne, as the local member for Henfield, thanked officers for their comprehensive research of the area. Cllr Payne had walked the route and noted that areas of the path had a chalk base, which supported the route being a footpath. Blocked ditches had been observed and **made** reference ~~had been made~~ to a local resident's mother historically ~~walking~~ **riding on horseback along** the route. In considering the application, Cllr Payne noted the legal tests required to support the application and felt that there had not been sufficient new evidence to support the application and, therefore, supported the officer's recommendation to decline the application.

34.3 The Committee resolved:

That the minutes of the meeting of the Committee held on 9 January 2024 including the amendments, as approved by the Committee, be approved and that they be signed by the Chairman.

35. Urgent Matters

35.1 There were no urgent matters.

36. Planning Application: Minerals

WSCC/046/23 - The siting and development of a temporary borehole, well site compound and access road including all ancillary infrastructure and equipment (Variation of condition 1 of planning permission WSCC/002/22 extending the permission by 24 months to enable the completion of phase 4 site retention and restoration)

WSCC/047/23 - Temporary installation of a security fence, gates, and cabins (Variation of condition 1 of planning permission WSCC/001/22 to enable the retention of security fencing, gates & cabins for a further 24 months)

at Wood Barn Farm, Adversane Lane, Broadford Bridge, Billingshurst, West Sussex, RH14 9ED

36.1 The Committee considered a report by the Head of Planning Services (copy appended to the signed minutes). The report was introduced by James Neave, Principal Planner, who outlined the application and the key points. The Committee was advised that the following should also be noted:

- On 15 March an additional representation was received from Protect Dunsfold, a group linked to the Loxley oil site in Surrey, suggesting that a bond should be sought for restoration. Bonds are addressed

at paragraph 9.26 of the Committee report. The representation does not change the substantive recommendation.

- The fire water tank and cabins shown on the plan at Appendix 4 are not currently on site, but may be required for the restoration stage.

36.2 Philip Maber, an interested party spoke in objection to the application. Several councillors voiced concerns when the third extension application came before the Committee. The site should be reinstated and made safe as per the conditions in place. The borehole suffered several serious integrity issues and didn't find commercial oil. Assets used in the drilling and testing phase, including well casings, have a short life. Is UKOG simply trying to avoid the expense of reinstating the site to a proper and safe condition, whilst keeping the site to shore up support from investors? UKOG's accounts show that their restoration asset has disappeared. The substance of the claims of generation of geothermal heat was queried. The legal challenges in relation to Horse Hill, Surrey and Loxley may have global implications, inspiring similar legal challenges in other countries. The Environment Agency is not fit for purpose and there are issues of permits without limit across the UK for the onshore oil and gas industry, which rely upon self-regulation and reporting. The Committee should consider the WSCC climate motion of 2019 and the strategy and commitment publication of 2021. Net Zero is impossible with further new fossil fuel exploration.

36.3 Ann Stewart, on behalf of the Weald Action Group, spoke in objection to the application. The International Energy Agency in 2021 stated there should be no new oil and gas developments. The well should now be plugged and the site restored. It is acknowledged that the complex policies sometime conflict, e.g. the three overarching policies of the NPPF, which includes an environmental objective to mitigate climate change. The Committee report gives great weight to the Energy White Paper and Energy Security Strategy, seemingly greater weight than to NPPF policy. These documents are mostly concerned with offshore oil and gas. On shore oil amounted to just under 2% of all UK production last year, with three quarters being from Wytch Farm in Dorset. Much of the UK's oil is sold for export. It is inaccurate to state this site would support UK energy security. Wood Barn Farm has never produced commercial levels of oil. The company stopped work there in 2018. Concerns were raised about the company's poor financial performance, and it was questioned if these repeated extensions are a way of avoiding the cost of restoration, potentially leaving the County Council responsible.

36.4 A written statement in objection to the application was read out by Nicola Peel, an interested party, on behalf of Dr Jill Sutcliffe, Chair of Keep Kirdford and Wisborough Green (a local group) and Trustee for the Campaign for the Protection of Rural England. The IPPC in 2022 was quoted regarding the need to limit global warming to 1.5°C, requiring global greenhouse gas emissions to peak before 2025 and be reduced by 43% by 2030. The UK Government's commitment to Net Zero by 2050 should be reflected in the NPPF. Concerns about planning legislation were raised, including that the planning system is not delivering sufficiently to align to wider climate change objectives; lack of clarity and absence of detail in national policy impacting on spatial planning, and the general obligation to consider climate change not being applicable to decision

making. Cllr Duncton and Cllr Oakley were quoted from comments made on an earlier extension application for this site in 2018. Policy M24 of the WSCC/SDNP Joint Minerals Local Plan 2019 states that sites should be restored at the earliest opportunity. Well integrity from issues in 2018 were raised and there were concerns that toxic liquids could get into drinking water via fractured rocks, and also that the borehole would not be suitable for geothermal use. A restoration bond should be secured.

36.5 Mr Nigel Moore, Planning Manager, Zetland Group Ltd, agent for the applicant and responsible for planning compliance at the Wood Barn Farm site, spoke in support of the application. An additional 24 months is needed for review of data from similar sites, e.g. pressure and flow rates followed by site restoration. It makes economic and environmental sense to ensure that all the available data is interrogated before restoration, which would be to agriculture. UKOG is exploring new methods of recovery at Horse Hill in Surrey and plans to continue the approach at Loxley in Surrey. Any future oil recovery from Wood Barn Farm could be made more efficient with shorter drilling durations and less environmental impact. The need for an extension is justified. There would be no new drilling and no new impacts, including landscape impact. The site is remote and officers find the screening of woodland to be acceptable. Site restoration has been frustrated by lengthy legal challenges. In January 2024, the courts dismissed the challenge at Loxley; there is now a real prospect of data recovery that could unlock the potential of Wood Barn Farm for the benefit of energy resilience and security. There is no evidence to support claims of a pollution risk from a well site that has been sealed, using tried and tested oilfield practices in compliance with an active Environment Agency permit. There are no novel, unusual or exceptional risks that would justify a bond. The UK advocates a power supply that is made in Britain and makes better use of the oil and gas in our own backyard; it signals that our energy policy is not solely about the achievement of Net Zero in 2050 but must also secure energy independence in 2024.

36.6 Mr Matt Cartwright, Commercial Director, UK Oil & Gas PLC, the applicant, spoke in support of the application. The oil below the Broadford Bridge site could extend across the whole of the south-east, but further data is needed to confirm this. The outcome of the legal challenge to Horse Hill in Surrey is awaiting the ruling of the Supreme Court. The legal challenge to Loxley was finally dismissed in January this year, but there is a nine-month programme of data recovery and a wait of up to 24 months before there would be meaningful data. The Government and the Committee on Climate Change both say we do need oil and gas, both now and in 2050, whilst needing to be more efficient, responsible and independent. This means not outsourcing to other countries with poorer environmental standards, and avoiding the carbon emissions of international transport. Recent events of COVID-19 and the war in Ukraine show the need to reassert the UK's energy independence, which can help stabilise the economy and manage energy shocks. The transition to Net Zero is not as fast as we would like it. Supply chains for large scale electrification and decarbonisation are not yet in place. The green energy transition is unpredictable and costs are high. Wood Barn Farm has significant potential in energy terms as a domestic source of oil and gas. It could also become a geothermal heat source to enhance food

production. The UK will need indigenous oil and gas production for decades to come.

36.7 Cllr Charlotte Kenyon, Member for Pulborough, spoke on the application. The continued judicious use of fossil fuels will be needed for some time. Energy security is also needed in a volatile world. However, the justification for this application feels weak, increasingly speculative and open-ended. It is against the wishes and concerns of the local community. Policies do provide for a justified extension to time limited mineral operations, but the original 2013 planning permission was for a temporary borehole. What is the definition of temporary and what's the end game? Condition 1 of the previous permission states that permission shall be "for a limited period, expiring on the 31 March 2024". Previous applications seemed to have been granted on the basis that the impact on the locality has not increased and it's not a protected landscape. How long should it be reasonable to keep a site because the company has been beset by obstacles at other sites? The Committee report brushes aside existing concerns and plays down the implications of possible future development, focusing instead on the off-site appraisal. UKOG says it does not wish to prematurely restore a site where future hydrocarbon extraction may still be viable; it has made a significant investment in drilling this borehole and wants to see a return on its investment. Does that justify continued extension? Granting permission might create a presumption in favour of consent for subsequent phases, including for further appraisal or production. Nothing has happened at Loxley yet, and Horse Hill continues to be locked by legal challenges. This fifth request for an extension undermines confidence in the planning system and WSCC must enforce the restoration to maintain public confidence. The report states such extensions may be acceptable, provided there is a need for the activity and they do not result in unacceptable impacts on the environment and communities; this should read sufficient and compelling need. The Committee has previously made comments that suggest further extensions will be given consideration but that patience is wearing thin. Paragraph 9.22 refers to restoration and aftercare at the earliest opportunity. Residents have concerns about the UKOG's commitment to the seriousness and costs of this. A bond has not been proposed. The Parish Council has repeated its objections of 2022. Generation of geothermal heat sounds like clutching at straws and is not substantiated. If hydrocarbons are found they will need to be extracted, and this would lead to increased HGV traffic on the B2133 with implications for road safety; Cllr Amanda Jupp, who represents Billingshurst, shares these concerns. Further extension of permission at least requires new information with a stronger justification.

36.8 The Committee made comments including those that follow and responses were provided by the Planning and Legal Officers, as relevant:

Points made – Clarification was sought regarding the applicant's financial viability and the requests for a bond in relation to restoration work that were made, and the following linked points were also made:

- Have any hydrocarbon sites in West Sussex ever required a bond?
- The financial stability of companies exploring mineral resources should be checked.

- Would responsibility for restoration fall back on the County Council in the event of financial failure of the applicant?

Response – The following responses to the above linked points were made:

- Planning Practice Guidance states that bonds are only justified in exceptional circumstances, such as: for long term new projects where progressive reclamation is not practical, e.g. an extremely large limestone quarry; where a novel approach or technique is being used; or where there is reliable evidence of the likelihood of either financial or technical failure. This is not a new long-term project and it does not use novel approaches. The Council has no reliable evidence of a financial failure or technical failure to warrant a bond. Restoration of this site has not previously been the subject of a bond. Other similar sites around the country and recent decisions don't have bonds, albeit they have been used in some circumstances. No hydrocarbon sites in West Sussex have ever required a bond for restoration.
- The North Sea Transition Authority does review the financial capabilities of an applicant when granting a licence. If the applicant could not meet the condition, responsibility for restoration of the site would fall back to the landowner; this is standard practice. Cllr Oakley clarified that the County Council could step in as a last resort using direct action and seek costs back.
- Plugging and abandonment of the well is likely to attract the greatest cost, but otherwise, in this case site restoration should be relatively simple as it is a case of removal of stone and aggregate and structures and then replacing the soil on the site.

Points made – Clarification was sought regarding claims of failures in the construction of the existing borehole.

Response –The construction and design of the well as now suspended is regulated by the Health and Safety Executive and has been reviewed and verified. An Environmental Permit from the Environment Agency covers any emissions.

Points made – In terms of landscape and amenity impacts the following points were made:

- The report states that “the proposals would result in the continued retention of a site, not wholly in keeping with countryside location for a further two years”.
- There have already been four extensions at this site and a fifth extension to this site should not be allowed and seems unreasonable. The planning applications for Wood Barn Farm have now covered a period of over 11 years, meaning the site has been dormant for 6 of them and another 2 years will make that a total of 8 years. The timescale expectation has been badly managed.
- How long must the local residents live their lives in limbo and how is stress on the community measured, which is not addressed in the Committee report?
- Extraction for UK energy independence push and the insignificance of the effect of the site currently on the landscape and on residents appear to be contradictory arguments.

- Residents may feel the site and this application have an impact on the value of their houses, can this be given any weight?

Response – The points about landscape and amenity made by the Committee were noted. Officers clarified that the impact on house values is not a material consideration.

Points made – Cllr Oakley referred to the comments attributed to him by Dr Sutcliffe, and clarified that he has approached this application in its own context on the information available.

Response – None required.

Points made – In terms of the need for the site, the following points were made:

- The justification for need is called into question because although the applicant claims that the site is dependent on the legal outcomes at other sites – Loxley for exploration and testing and Horse Hill for oil production – Wood Barn Farm is an independent site where further need has not been demonstrated. It is also questioned if the Surrey sites are also dependent on Wood Barn Farm.
- Policy M24 of the Joint Minerals Local Plan refers to restoration at the earliest opportunity.
- Policy 26 of the Horsham District Planning Framework states that the proposal must be essential to its countryside location and, additionally, one of the following criteria must apply: 1) support the use of agriculture and forestry; 2) enable the extraction of minerals or the disposal of waste; 3) provide for quiet informal recreational use and 4) enable the sustainable development of rural areas. Numbers 1 and 3 do not apply. Number 2 applies, and the retention of the site/this development would not specifically provide for extraction of minerals, as that would require further permission. As to Number 4, the clear direction of travel from Government policy statements is that in the long term, oil and gas are not sustainable.
- Whilst indigenous oil and gas production is currently needed for transition and because of the tax, onshore oil sites provide only a very negligible contribution to UK production. Therefore, it is questioned whether the continuance of this site can be considered essential.
- If the applicant actually thought there was going to be a good supply of oil or other hydrocarbons they would have got on with production a long time ago.

Response – The outcomes from Loxley and Horse Hill, which include both production and exploration, would give further information on the target geological formation including; best extraction methods; potential productivity; flows, etc, and this is all relevant to the future potential and viability of the application site. This proposal is for further appraisal, albeit at other sites, and is a precursor to extraction (production). The site would be held in stasis and no further exploration would be permitted under this application. Any further development (whether for further exploration and appraisal or production) would require a new application.

Appraisal is given significant weight by Planning Inspectors, as being a precursor in terms of need, linking to oil production.

Points made – Is the site now required to provide for biodiversity net gain in its restoration?

Response – The application was submitted before 12 February 2024, so is not subject to the mandatory biodiversity net gain requirement. It is also a Section 73 application for a variation of a permission granted before this date, and thus is exempt from this requirement.

Points made – Could the Council’s latest standard version of the condition on replacement planting apply in terms of replacement planting?

Response – Conditions require the gapping up of hedgerows, the majority of which was carried out some time ago and has been largely successful. Some further tidying up would be required at the access point onto Adversane Lane. Replacement planting remains a requirement and would be part of the required aftercare scheme/provisions.

36.9 The substantive recommendation for Planning Application WSCC/046/23 including Conditions and Informatives as set out in Appendix 1 of the Committee report was proposed by Cllr Jupp and seconded by Cllr McDonald and voted on by the Committee with four in favour and seven against. On that basis, given the numbers, the substantive recommendation fell.

36.10 Resolved:

That Planning Application WSCC/046/23 be refused.

36.11 The substantive recommendation for Planning Application WSCC/047/23 including Conditions and Informatives as set out in Appendix 2 of the Committee report was proposed by Cllr Jupp and seconded by Cllr McDonald and voted on by the Committee with four in favour and seven against. On that basis, given the numbers, the substantive recommendation fell.

36.12 Resolved:

That Planning Application WSCC/047/23 be refused.

36.13 Cllr Oakley proposed that a motion be laid before the Committee providing reasons for refusal of both Planning Applications WSCC/046/23 and WSCC/047/23 on the basis that neither application accords with Policies M23 and M24 of the West Sussex Joint Minerals Local Plan (July 2018 - Partial review), Paragraph 217 of the National Planning Policy Framework and Policy 26 of the Horsham District Planning Framework (2015).

36.14 The Committee paused at 12.36 pm for a break in order to allow officers to formulate the correct form of wording for the reasons for refusal in support of Cllr Oakley’s proposal. The Committee reconvened at 12.37 pm.

36.15 Cllr Oakley proposed the following motion in relation to both Planning Applications WSCC/046/23 and WSCC/047/23:

That planning permission be refused for the following reasons, with the final form of words to be delegated to the Head of Planning Services, in consultation with the Chairman of the Planning and Rights of Way Committee.

There is no demonstrable need to retain [the site/security fencing, gates, and cabins] for the appraisal of hydrocarbons.

The significant period of time that has elapsed since active exploration and testing on the site, and the lack of justification for a further extension of time.

The retention of the site is not essential to its countryside location and the application does not enable the extraction of minerals.

The proposals are therefore contrary to Policies M23 and M24 of the West Sussex Joint Minerals Local Plan (July 2018 - Partial review), Paragraph 217 of the National Planning Policy Framework, and Policy 26 of the Horsham District Planning Framework (2015).

36.16 In relation to Planning Application WSCC/046/23, the motion laid out in Minute 36.15 above was proposed by Cllr Oakley and seconded by Cllr Patel, and voted on by the Committee, and approved with 7 in favour and 4 against.

36.17 In relation to Planning Application WSCC/047/23, the motion laid out in Minute 36.15 above was proposed by Cllr Oakley and seconded by Cllr Patel, and voted on by the Committee, and approved with 7 in favour and 4 against.

36.18 The Committee recessed at 12.39 pm for a short break and reconvened at 12.44 pm.

37. Town or Village Green Application

Application under S.15 of the Commons Act 2006 for the registration of land claimed to have become a town or village green.

Land known as Collingwood Road Green, Horsham.

37.1 The Committee considered a report by the Director of Law and Assurance, as amended by the information provided in the Agenda Update Sheet (copies appended to the signed minutes). The report was introduced by Laura Floodgate, Senior Solicitor, who outlined the application and the key points including the evidence and legal tests, and clarified the following:

- The Agenda Update Sheet contains comments from the Horsham Society. The representation does not change the substantive recommendation.
- Signatures to the plans submitted with the application (Appendices 3a and 3b) have been redacted for the purposes of data protection.
- A letter has been received this week from Jeremy Quin, MP, supporting the application [this was tabled for the Committee members].

37.2 Felicity Harrington, the applicant, spoke in support of the application. This matter has been hanging over the residents for two years. Residents did not know that the land was privately owned, but since finding out did try to buy it; however, at auction it was sold to a developer who has threatened to put fences round the green, which has caused a lot of concern. Residents' children play on the green because it is an area of family housing. The closest park is a 10 minute walk away for a small child and across a busy road. Open spaces where children can play are needed. Without town or village green status, the developer may apply to have the highways status removed and the land blocked up so that she can develop it. There would be nowhere for the children to play and families would also not be able to come together for community events. It is questioned how Orbis [the County Council's Legal Services] conducted their inquiries because a barrister's opinion has had to be sought twice. Two other TVG applications went through in virtually identical circumstances; although it has been stated records have been lost in a flood, they must have been signed off by Council officers and there may still be staff who can comment. Natural justice is asked for because it is a slight legal technicality that says there can't be village green status. Whether or not the amenities have been enjoyed by right or as of right for the last 60 years, it was always intended that that green should be a green, it was never intended that it should be built on. Town or village green status is the only way to secure this, including for future generations.

37.3 A statement, submitted by Rhoda Hatton on behalf of the Horsham Trafalgar Neighbourhood Council in support of the Collingwood Road residents, was read out by the Clerk to the Committee. The green has, in the past, been used as an open green space for recreational and community activities and is valued by immediate residents and those local to the ward. It should be extended to future generations, rather than risk seeing it lost and developed by a subsequent landowner. The space has been recognised in the Horsham Neighbourhood Plan which lists the area as an asset of community value.

37.4 A statement on behalf of Cllr Dr Nigel Dennis, County Councillor for Horsham Hurst for over 30 years, was read out by the Chairman. The area known as the Collingwood Road Green has been valued and used by residents as an open green space for recreational and community activities for many years. It provides a pleasant vista for the houses. The Horsham Neighbourhood Plan lists it as an asset of community value. Residents' evidence documents its use as a public open space ever since these houses were built. It is very similar to a town or village green application that was successful for Cootes Green, which also had highway rights over it. It would be inconsistent not to grant similar status to the Collingwood

Road Green. The Committee was urged to use its discretion and preserve this green space as it was intended to be for future generations rather than risk it being stopped up and developed by a current or future landowner.

37.5 In responses to points made by speakers, the Legal Officer clarified the following:

- The landowner has been informed that they cannot fence highway land.
- Regarding historical inconsistency of registration of highways land as TVGs, it should be noted that in determining these applications the law is not akin to planning legislation and does not require a consistency of application of planning policy, rather an application of the statutory tests to the facts of the case. In relation to the decisions made for Birch Green in September 2006 and Cootes Green in May 2008, the officer concerned is no longer with the Council and the papers for one application were lost in the recent flooding of Durban House. The decisions may have been made in error. Common law has moved on since the decisions were made, especially in relation to an 'as of right' decision made by the House of Lords *R v Barkas*, as noted in paragraph 4.5.3 of the Committee report.
- The Committee is required to apply the legal tests for TVG applications to the facts of the case.

37.6 The Committee made comments including those that follow and responses were provided by the Legal Officer, as relevant:

Points made – How does somebody apply for a stopping up order and what would be the likelihood of success on this type of land?

Response – The application would be made to the Highways Department. It is not possible to comment on the likelihood of success. Any activity that might conceivably cause an obstruction to someone using a highway verge to pass and repass is not allowed.

Points made – An explanation of the trigger event and the terminating event was requested, noting that Horsham District Council stated on 20 December 2022 that a trigger event and a corresponding terminating event had both occurred.

Response – The Growth and Infrastructure Act 2013 sets these out in detail. One trigger event might be an application for planning permission in relation to the land which would be determined under Section 70 of the Town and Country Planning Act 1990. This means there couldn't be an application for registration of a TVG. A corresponding terminating event could be that the application is withdrawn or a decision to decline the application is made. Regarding this application it is not known what the trigger event or corresponding terminating event were, only that they occurred.

Points made – Clarification was sought regarding the details of Collingwood Road Green being an Asset of Community Value, which would

need to be recorded by Horsham District Council in a register and be renewed on a five-year basis with a case presented. It also means that there is a moratorium period in any sale and the organisation which has registered it would have the first refusal on any purchase.

Response – The land is understood to be registered as an Asset of Community Value; however, the sale of the land is not relevant to the legal tests for registration as a TVG.

Points made – Clarification was sought regarding whether the land is in the Horsham District Council's Neighbourhood Plan. It is possible to designate green spaces in the labelled plan, which then gives them some protection against future development.

Response – Unfortunately, matters relating to whether or not a planning application might be submitted by the landowner and also the designating of green spaces are not relevant to the statutory tests in the Commons Act that must be applied in this application for a TVG.

Points made – It was suggested that a non-statutory public enquiry be held.

Response – The purpose of such an inquiry would be to hear and test oral evidence. Counsel's clear opinion is that because there is no dispute of fact on the evidence of use of the land here, that there would be no purpose served by having oral evidence at a non-statutory public inquiry tested. Under the Commons Act 2006 the facts of the case regarding the user evidence are not disputed, it has been used. Because the land is highway people have the ability to use it 'by right' and have not done so 'as of right'. The evidence of use does not meet the test of 'as of right for lawful sports and pastimes'.

Points made – Clarification was sought on the highway status of the land and whether the Highways Authority has been maintaining the land since the 1960s.

Response – Counsel stated that she had not seen any evidence than an actual adoption of the land as public highway took place - see the supplementary note that is at Appendix 7, Paragraph 2 of the Committee report. The Adoption Agreement set out the agreement between the developer and the Council to construct the highway to the requisite standard so that the Council could adopt the relevant area of land, amongst other areas, as 'Highway to be maintainable thereafter at the public expense'. The Agreement is not the actual evidence of adoption, which would take the form of a minute or other record. However, together with the fact that the land has since been maintained at public expense, the agreement represents clear evidence that the adoption did take place.

Points made – How can highways land be owned privately and what does this mean, including whether residents could be excluded under civil law for trespass? Also, how many TVGs in West Sussex are privately owned?

Response – The details of the number of TVGs in West Sussex was not to hand, but most are probably privately owned, some of them by parish councils or district councils. Collingwood Green is maintained by the County Council as highway land (it is highway verge); this is not uncommon. Land can be privately owned but also have highway access rights over it. As already mentioned, there is a right to pass and re-pass on highway land.

Points made – The Committee made it clear that it empathised with the residents, but understood the need to apply the legal tests. The Committee sought to understand if it is possible for the Committee to make a statement about how it would wish to see this highway land used in the future, or at least that it would wish to see it protected. Also, if the Council is able to do something to avoid similar circumstances occurring in the future?

Response – There is nothing in legislation that precludes highway land from being registered as a TVG, rather it must meet the statutory tests for registration. The Committee must determine whether the land should be registered and was not advised to make a statement on how the highway should be used in the future.

37.7 The substantive recommendation, as set out in the Committee report, was proposed by Cllr Atkins and seconded by Cllr Patel, and voted on by the Committee and approved with seven in favour and two against and one abstention. On that basis, given the numbers, the substantive recommendation was approved.

37.8 Resolved:

That the land known as Collingwood Road Green, Horsham and as shown cross-hatched black on the application plan attached at Appendix 1a of the Committee report be not registered as a town or village green.

37.9 The Committee recessed for lunch at 1.43 pm. During the break Cllr Quinn gave his apologies for the afternoon session and left.

37.10 The Committee reconvened at 2.17 pm.

38. Definitive Map Modification Order

DMMO 4/21 Definitive Map Modification Order Application for the addition of a footpath from Mouse Lane to footpath 2715 with an extension to bridleway 2714 and an extension to the historic Rifle Range Targets in the Parish of Steyning CP to the Definitive Map for Chanctonbury.

38.1 The Committee considered a report by the Director of Law and Assurance (copy appended to the signed minutes). The report was introduced by Gemma Penfold, Legal Assistant, who outlined the application and the key points.

38.2 Cllr Christine Young, representing Steyning Parish Council, the applicant, and a Steyning resident of 39 years and a user of the Rifle

Range area along with her family since the 1990s for activities including walking and sledging, spoke in support of the application. Steyning Parish Council's Community Committee unanimously approved an updated resolution of support for this application on 5 September 2023. The Rifle Range is a very important historical area of natural countryside for the local community as demonstrated by the user forms in support of this application for the years between 1989 - 2009. The Rifle Range continues to be well used by people and walkers today, especially evidenced in 2020 during lockdown when many people and families could be seen walking there each day. The Rifle Range is easily accessible both from the Memorial Playing Field in the centre of Steyning and from Mouse Lane via the Nightingale Lane path, which also gives flat access and caters for those with limited mobility. The Steyning Downland Scheme Charity (SDS) has established a Community Orchard at the far end of Nightingale Lane where it meets the first field, ensuring future unrestricted access to this area. The stated aims of the SDS include "to enable and encourage conservation of the natural resources and habitants for the benefit of the public" and "to educate and encourage the public, and young people, in particular, to understand the natural environment". The historical nature of the Target area was cited. Work is currently underway to further improve this area for visitors. The application includes two links to already established Public Rights of Way (FP 2715 and the Beeches bridleway 2714) on opposite sides of the Rifle Range area. These two link paths are shown to have been well trodden over the Rifle Range, during the relevant years (1989 - 2009) by the aerial views of Google Maps. Establishing these links as Public Rights of Way will improve the access to other footpaths across the South Downs. Evidence provided in the user forms and the aerial views strongly support the fact that the Rifle Range appears to have been used "as of right" from 1989, and in many cases, before this.

38.3 Gill Muncey, a local resident and a Steyning Parish Councillor from 2013 to 2019, spoke in support of the application. This application is based on the period 1989 to 2009. During the 1980s the land fell into disuse. In the 1990s Nightingale Lane, leading from Mouse Lane up to the Range was falling into disrepair and becoming very overgrown. In the late 1980s use as an active rifle range became more and more sporadic. The land was available for public use for the vast majority of the time. Mrs Muncey recalls in 1990 discovering the Rifle Range for dog walking and cannot recall any notices or signs, although there were old firing warning signs and flags on poles that were not used or any noise of shots. Flags may have raised for the final use of the range on 30 December 1989, but would not have covered a 24 hour period and walkers would most likely have used the paths on that day before and after the Gun Club booking. Reminiscences about ongoing public use of the Rifle Range are published in the book Reflections by Mark Emery include his father collecting used shells there dropped in World War II and the author using the area for sledging, as did Mrs Muncey's children in the early 1990s. It is 'the place to go' for sledging for local families. The 2001 and 2008 Google Earth images clearly show worn and defined paths following the claimed route. There are 30 completed evidence statements, where none of the individuals recall any signs being in place on the paths in question during the period 1989 to 2009. The popularity of the paths dating back to 1989 and earlier, when the range was not in use, means the landowners must have been aware of public use of the land for walking and yet took no

action to restrict this. Mrs Muncey attended and has photos of a Live Lounge music event held in the Rifle Range on 31 May 2008 and has no recollection of receiving any literature or maps being handed out. This event did not prevent walkers from accessing the paths claimed because the event was free to enter and there are several entrances to the Rifle Range. Signage was not in place until 2016.

38.4 Mr Richard John Goring, one of the landowners, spoke in objection to the application. The Wiston Estate's long term strategy for public rights of way is set out in their Whole Estate Plan, approved by the South Downs National Park in 2017. It shows 52km of public rights of way and other paths with permissive access. The Estate is fully supportive of public access on agreed routes where they do not come into conflict with nature, habitat or livestock management. The proposed routes are over an area of chalk grassland, a highly important rare habitat, requiring grazing to be kept in good condition. Approval of the application may cause conflict with the Estate and SDS's ability to manage the land, grazing and livestock, which at times requires changing routes and this is not possible if they are permanent public rights of way. There is insufficient evidence to establish that the claimed routes have been used continuously for a 20 year period. Regarding Common Law, the onus of proof is on the claimant to show the landowner intended to dedicate, and also that the use must be shown to be as of right and long enough to infer an intention to dedicate. The land has long been occupied by tenants of the Wiston Estate who do not have the right to dedicate public rights of way. The 1987 AHA tenancy agreement stated that the tenant must "do his best to prevent trespass on any part of the holding... and not allow any footpaths to be created". Courts have been reluctant to draw inference of an intention to dedicate in these circumstances. The submission of the 2013 public rights of way statement and map shows that the landowner had no intention to dedicate because these routes are not shown. From 2007 residents were invited to take part in activities on the land by permission. In 2009 a formal permissive route and permissive areas of access were granted by the Rural Payments Agency to the landlord for the period to 2019. The Wiston Estate has been happy to allow SDS to grant permissive access, but this must remain by permission rather than as of right.

38.5 A statement on behalf of Cllr Paul Linehan, local Member for Bramber Castle, was read out by the Chairman. The Committee report notes in paragraph 4.1 that "Cllr Linehan stated he was happy to support the application in its current form", but at the time of being asked to support the application no access to the results of the consultation was available. No discussion had taken place between Steyning Parish Council and the Wiston Estate. In only addressing the period from 1991 to 2007, the report overlooks legal and practical developments impacting the application during the last 17 years. Regarding the 20-year period, in *R (on the application of Trail Riders Fellowship) v Dorset County Council* [2015] EWCA Civ 175, the Court of Appeal emphasised the importance of considering all relevant evidence up to the date of the application or the relevant event. Such an approach ensures that decisions are made on the most complete information base possible, reflecting both historical use and current circumstances. It cannot be seen that this has been done. Significant actions taken by the landowner, as detailed in his evidence and that of the Steyning Downland Scheme, such as the granting of permissive

use under a Higher Level Stewardship Agreement or the posting of signs indicating permission only access have served to interrupt the continuity of public use as of right, and clearly communicate his lack of intention to dedicate the route as a public right of way. The depositing of a statement and map acknowledging existing public rights of way can be seen as a clear intention from the landowner that no further rights of way have been dedicated, effectively resetting the 20-year clock from the date of deposit. Mr. Goring's submission in April 2013 does not recognise the claimed route and effectively indicates his intention that no additional public rights of way have been dedicated across his land beyond those already recorded. It introduces a formal challenge to the presumption of dedication based on use "as of right" for the 20-year period leading up to the deposit of the statement. If the Committee relies solely on the period of 1991 – 2007, in relation to the Committee, it is considered that the report does not fully address the following:

1. Assumption of Continuous Use: The report assumes that user evidence from 1991 to 2007 demonstrates continuous, uninterrupted use "as of right" without critically examining the nature of this use or the possibility of interruptions.
2. Quality and Interpretation of User Evidence: The report relies heavily on user evidence forms but does not critically assess the credibility, consistency, or objectivity of these forms.
3. Overlooking Permissions Granted: The period in question includes times when the landowner had given permissions for access, which is important to establish whether use was "as of right".
4. Evidence of Landowner's Intent: The report insufficiently considers actions by the landowner, such as signage and the formation of the SDS, that indicate a lack of intent to dedicate the path for public use.
5. Lack of Context for User Claims: The report's analysis does not deeply engage with any legal implications of the users' claims of access "as of right." It does not critically evaluate how these claims stand up to scrutiny when considering the requirements for establishing a right of way at Common Law, particularly the need for the landowner's acquiescence to such use being understood as an intention to dedicate.
6. Misinterpretation of the "As of Right" Concept: the potential misinterpretation or oversimplification of what constitutes use "as of right." The presence of any permissions granted by the landowner, directly communicated or implied, challenges the premise that the use was "as of right" and without the landowner's consent. The report does not seem to fully address this.

This application covers an area of chalk grassland, a highly important habitat and requires grazing to be kept in good condition. There is only 3% of this habitat left in the world. It can interfere with the ability of the land stewards.

38.6 In responses to points made by speakers, the Legal Officers clarified the following:

- The landowner's evidence infers that the route has been used by permission only since 2007, therefore, the relevant period must be taken back retrospectively prior to 2007. This is the relevant legal event that brought the public's use of the path into question.

- Prior to 1991, the land was used as an active rifle range, which suggests that the claimed route would not have been accessible to the public until after the last shooting on 30 December 1990.
- Any concerns of nature restoration and suitability are irrelevant to the legal tests.

38.7 The Committee made comments including those that follow and responses were provided by the Legal Officers, as relevant:

Points made – It is clear that the situation means the legal tests are limited to the Common Law grounds.

Response – None required.

Points made – It was mentioned that the tenants were not able to dedicate land, but irrespective of a tenant's compliance or not with their tenancy agreement, the freeholder should be monitoring what a tenant is doing, and a freeholder can still dedicate the land.

Response – On whether land is leased and whether there is still a capacity for the freeholder to be able to dedicate, which is a requirement for Common Law dedication, case law is conflicting. However, the general gist is that it depends on what is in the lease/tenancy agreement. Despite asking, the Council was not provided with any evidence of the tenancy agreements for the period 1991 to 2007, however, the Council's position is that a freeholder would still have the capacity to dedicate.

Points made – Is there any evidence of the landowner or any other party proactively giving permission or taking actions that would have interrupted that relevant period?

Response – The relevant period is 1991 to 2007. There is no evidence with regards to permission during the period, but there were two users who claimed to have permission in the 1980 and 1990s, and one user who claimed to have been given permission by Mr Richard Goring; clarification was sought on the date of when that permission was given but no response was received.

Points made – Can the actual lines of the claimed routes be evidenced? This is an open space and it is likely that many users have wandered all over the area. The evidence from Google Maps and aerial photography available on the County Council's Corporate Map system show an inconsistency over the period in the lines of the proposed routes; for example, on the southern side, at the eastern end of Path 2715 there is an indication that the proposed route has previously cut the corner of the field. How much weight should be given to the user statement when there are clear seasonal fluctuations?

Response – Each witness will have filled out a witness evidence form and attached a plan. These plans have marked exactly where the user claims to have walked, which then supports the application overall. The lines on maps are part of the background evidence. Seasonal fluctuations may not show exactly where the witnesses claimed to have walked but that doesn't

undermine their evidence completely. All evidence would be tested at a public inquiry.

Points made – How many times per year has the usage been for the whole proposal? The proposal makes sense for Extension 1, which leads to another route, but Extension 2 does not lead anywhere. What is the level of claimed use for the proposed extensions?

Response – The number of users and times used for the whole can be seen in Paragraphs 11.2 to 11.7 of the Committee report. Thirteen users claim to have used Extension One over 100 times a year, ten users claim between 15 and 100 times a year, six users under 15 times a year and one user claims not to have used this extension. Eleven users claim to have used Extension Two over 100 times a year, ten users claim between 15 and 100 times a year, eight users under 15 times a year and one user claims not to have used this extension.

Points made – SDS is a licensee of the Wiston Estate that came into being in 2009, as stated on their website. What weight should be given to the evidence of the SDS stewards, since that organisation has not been in existence for the full period in question?

Response – It is understood by the Council that SDS have promoted the land for conservation and the permissive paths on the land since 2007, through an informal consultation starting then. So that is when it was first brought to the attention of the public and is considered to be the challenge to as of right use in 2007.

Points made – Confirmation was sought that when dealing with a dedication at Common Law there is not a 20 year period.

Response – The 20 year period is set out under Section 31 of the Highways Act. For Common Law dedication, the period can be less; it is the quality and quantity of the user evidence and whether there has been an inference of dedication by the landowner who has the capacity to dedicate. That inference can be express or it can be implied, and the inference of dedication can be through actions or the absence of actions. The use needs to be of a sufficient quality and quantity that to the reasonable mind of a landowner it is as of right.

38.8 The substantive recommendation, as set out in the Committee report, was proposed by Cllr Mercer and seconded by Cllr Wild, and voted on by the Committee with seven in favour and one against and one abstention. On that basis, given the numbers, the substantive recommendation was approved.

38.9 Resolved:-

That a Definitive Map Modification Order, under Section 53(2) in consequence of an event specified in sub-section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add a footpath from Mouse Lane to footpath 2715 with an extension to bridleway 2714 and an extension to the historic Rifle Range Targets in the Parish of Steyning be made.

39. Date of Next Meeting

39.1 The Committee noted that its next scheduled meeting would be held at 10.30 am on 24 April 2024 at County Hall, Chichester.

39.2 Members noted the report on 'Current Planning Applications, Current Definitive Map Modification Orders (DMMOs), Town and Village Green Applications (TVGs) and Public Path Orders (PPOs) under investigation' circulated via the Agenda Update Sheet but were advised that it contained an incomplete list of Planning Applications. A corrected list would be circulated to members after the meeting and a correct list made available at the next meeting. Items that may be scheduled for consideration at the next meeting of the Planning and Rights of Way Committee include Planning Application WSCC/045/23. All scheduling of items is subject to change.

The meeting ended at 3 pm.

Chairman

**Key decision: Not applicable
Unrestricted**

Planning and Rights of Way Committee

24 April 2024

Minerals Planning Application (County Matter)

WSCC/045/23 - Erection of a rail fed concrete batching plant, with associated ancillary structures and facilities, including HGV and car parking (Variation of condition No. 6 of Planning Permission WSCC/052/19 to allow 24 hour operations at the site, Monday to Friday, for a period of five years) at Land at Crawley Goods Yard, Brett, Gatwick Road, Crawley, West Sussex, RH10 9RE

Report by Head of Planning Services

Local Member: Brenda Burgess

Electoral division: Three Bridges

District: Crawley Borough

Summary

In April 2020, planning permission (ref. WSCC/052/19) was granted to allow Brett Concrete at the Crawley Goods Yard, Crawley to operate between 19:00 and 07:00, Monday to Friday, for 12 days per calendar month for a temporary period of three years. This report concerns a new application to allow 24-hour operation of the concrete batching facility at Brett Concrete, Crawley Goods Yard, Crawley under the same restrictions for a temporary period of five years. The proposal would be subject to the same controls as the extant planning permission, including those relating to lighting, noise, and dust management.

This report provides a generalised description of the site and a detailed account of the proposed development and appraises it against the relevant policy framework from national to local level.

The main development plan policies of relevance to this application are Policies M8, M10, M15, M18 and M22 of the West Sussex Joint Minerals Local Plan 2018 and Policies SD1, EC1, EC3, EC4, ENV11, and ENV12 of the Crawley Borough Local Plan 2015-2030.

Although there have been no objections from statutory consultees, 15 third party representations have been received objecting to the application; concerns include dust, light and noise pollution, impacts on physical and mental health, road safety and impacts on the highway, and cumulative impacts.

Consideration of Key Issues

The main material planning considerations in relation to the application are:

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- need for the development; and
- impacts on public health and amenity.

Need for the Development

The principle of temporary overnight operations has previously been accepted on the application site and at another site in the Goods Yard. It is considered that the need for such operations to take place for a temporary five-year period has been justified due to the economic benefits. Accordingly, the acceptability of the proposal is about whether there would be any significant adverse impacts on the health or amenity of nearby sensitive receptors, which is addressed below. Therefore, it is considered that there is a need for the development in accordance with national and local policy, which attracts great positive weight in the planning balance.

Impacts on Public Amenity and Health

Although the proposal is acceptable in principle, there is a need to determine whether there would be any significant adverse impacts on the health or amenity of nearby sensitive receptors. This includes taking account of the changed context since the granting of planning permission WSCC/052/19 in April 2020, primarily the construction of houses as part of the Forge Wood development to the east of the railway corridor. No changes are proposed to the permitted lighting on the development site and there would be no changes to the dust management controls permitted under the current permission. An updated Noise Assessment Report has considered potential impacts on both existing and proposed residential receptors and concluded that there would be no significant impacts on amenity of surrounding residential receptors. The findings have been agreed by the EHO, who raises no objection to the application subject to the imposition of the previously-approved controls. A temporary period of five years would allow the acceptability of the noise impacts of overnight working on the amenity and health of local residents to be assessed. Overall, it is considered that the proposals accord with national and local policy and that the potential for adverse impacts on public amenity and health attracts little negative weight in the planning balance.

Overall Conclusion

In April 2020, planning permission WSCC/052/19 was granted to allow the site to operate between 19:00 and 07:00, Monday to Friday, for 12 days per calendar month for a temporary period of three years. The permission introduced limitations during overnight operations and was permitted subject to the provision of an acoustic fence along the northern site boundary. Due to the cost of the works during the Covid pandemic, the operator did not subsequently implement or progress with the approved temporary extended operating hours.

The acceptability in principle of night-time operations at the site was established under planning permission WSCC/052/19. The only material change in the current application is the request for a temporary five-year period, rather than the previously-approved temporary three-year period. The controls and operative restrictions as detailed within the extant permission would be retained.

The applicant has demonstrated that there is an economic need for the proposal, which includes ensuring the long-term sustainability of the business, which supplies material required for the long-term development of Crawley and the wider surrounding area.

Even though the proposal is acceptable in principle, there is a need to ensure that there are no significant adverse impacts on the health or amenity of nearby sensitive receptors. Since the granting of planning permission WSCC/052/19 in April 2020, build out of the Forge Wood development to the east of the railway corridor has continued. Therefore, the context at the application site has changed and there are potentially more residents in the area that could be affected by the proposed temporary nighttime operations.

No changes are proposed to the lighting and there would be no changes to the dust management controls permitted under the current permission. An updated Noise Assessment Report has considered potential impacts on both existing and proposed residential receptors and concluded that there would be no significant impacts on the amenity of surrounding residential receptors. No changes are proposed to HGV numbers.

A temporary period of five years would support the applicant's investment in the acoustic barrier and allow the noise impacts of overnight working on the amenity and health of local residents to be assessed.

Overall, it is considered that the proposed development accords with the statutory development plan when read as a whole. Furthermore, there are no material considerations in this case that indicate a decision other than in line with the statutory development plan. In favour of the proposal, the need for the development carries great weight. Against the scheme, the potential for adverse impacts on public amenity and health attracts little negative weight in the planning balance. Therefore, on balance, it is considered that the benefits of the proposal outweigh the disbenefits and, as such, the proposed development constitutes sustainable development (as defined in paragraphs 7 and 8 of the NPPF).

Recommendation

That planning permission be granted for planning application ref. WSCC/045/23 subject to the conditions and informatives set out at **Appendix 1**.

1. Introduction

- 1.1 Planning permission was granted in 2016 for the use of land at the Crawley Goods Yard, Crawley for the "*Erection of a rail-fed concrete batching plant, with associated ancillary structures and facilities, including HGV and car parking*" (ref. WSCC/053/16/CR). Condition 7 controlled hours of operation, limiting them to between 07:00 and 19:00 Monday to Friday and 07:00 and 13:00 on Saturdays.
- 1.2 In April 2020, planning permission (ref. WSCC/052/19) was granted to allow the site to operate between 19:00 and 07:00, Monday to Friday, for 12 days per calendar month for a temporary period of three years. The revised condition introduced limitations during overnight operations and was permitted subject to the provision of an acoustic fence along the northern site boundary.
- 1.3 This report concerns an application to allow 24-hour operation of the concrete batching facility at Brett Concrete, Crawley Goods Yard, Crawley under the same restrictions for a temporary period of five years.

2. Site and Description

- 2.1 The application site extends to approximately 0.31 hectares in area and is located on the eastern side of Gatwick Road, within the Crawley Goods Yard industrial site. Crawley Goods Yard comprises an area of rail-fed aggregate processing and handling facilities and is safeguarded for this use in the Joint West Sussex Minerals Local Plan (2018) (JMLP). The safeguarded use is also recognised in the Crawley Borough Local Plan (2015) (CBLP) and the emerging Crawley Local Plan (2024).
- 2.2 Crawley Goods Yard is located 2.8km to the north-east of Crawley Town Centre. Gatwick Airport is located 1.5km to the north of Crawley Goods Yard and the railway line between Three Bridges and Gatwick Airport runs north-south immediately adjacent to the eastern boundary of the industrial site. It forms part of the wider Manor Royal Employment Area, as identified in the CBLP, which extends to the north and west of the Goods Yard (see **Appendix 2: Site Location Plan**).
- 2.3 The application site is situated centrally within the Goods Yard and comprises three cement silos, a batch control cabin and mixer tower, a batch conveyor with aggregate storage bins running east to west across the site (see **Appendix 3: Site Layout Plan**). There is a washout pit, washout bay and drying bay located along the eastern boundary, while the southern end of the site plant comprises an aggregate fed hopper. The remainder of the site comprises the service yard and parking/access areas and the office/mess facility, which is located on the northern boundary. The entire site is laid down to hardstanding and fed by train via the rail sidings to the east of the site. The site is accessed via a shared access along the northern boundary of Crawley Goods Yard.
- 2.4 The wider area is characterised by the industrial and employment land uses to the north and west, which form the Manor Royal industrial site located between Crawley Town Centre and Gatwick Airport. Residential areas are located to the east of the site, beyond the railway line, at Forge Wood, and to the south along Tinsley Lane.
- 2.5 The nearest residential property to the site, Bowthorpe House, is 65m north of the site entrance and approximately 200m north-west of the main operational area (see **Appendix 4: Noise Assessment - Survey Locations** and **Appendix 5: Noise Assessment - Bowthorpe House**). The use of Bowthorpe House was changed to residential under 'permitted development' rights (CBC Ref. CR/2014/0543/PA3, issued 3 October 2014), without requiring consideration of whether measures were needed to mitigate noise, transport, flooding or contamination impacts being considered. The property is likely to be affected by noise from the railway corridor located 230m to the east (albeit it is separated from the railway by large industrial buildings) and noise from Gatwick Airport located 2km to the north.
- 2.6 The Forge Wood development is located to the east of the railway corridor (see **Appendix 4: Noise Assessment Survey Locations**). It comprises housing units primarily along its northern boundary and within the central western part of the site, while the land uses along the western boundary of the estate parallel to the railway corridor are characterised by industrial and employment buildings and landscaping. The closest dwellings to the application site are those located on Honour Way, 200m to the north-east and Moore Road, 230m to the east. They are separated from the application site by the railway line

and industrial units serving Sterling Park, another industrial estate located immediately to the north-east of the Goods Yard, and by the landscaping and vegetation on the western boundary of the Forge Wood Estate and the railway line.

- 2.7 There are also residential properties on Tinsley Lane, 360m to the south-west, beyond large industrial buildings (see **Appendix 4: Noise Assessment Survey Locations**). In addition, a planning application is currently being considered by Crawley Borough Council for 138 residential units on land east of Tinsley Lane, 500m directly south of the site (Ref. CR/2021/0355/OUT). This area is separated from the application site by the southern part of Crawley Goods Yard, and an area of Ancient Woodland (Summerveres Wood) which lies 380m south of the site.
- 2.8 The application site is not located within any area subject to landscape, ecological or historic designations, and is not within an area at increased flood risk.
- 2.9 An Air Quality Management Area (AQMA) is located 850m to the southwest of the application site, at the southern end of Gatwick Road. The AQMA has been designated because of increased nitrogen dioxide (NO₂) levels associated with road transport; vehicles from the application site pass through the AQMA.

3. Relevant Planning History

- 3.1 The wider Goods Yard has a long history as a rail-fed aggregate depot, separated into a number of sites operating under various permissions.
- 3.2 Planning permission was granted in 2016 for the "*Erection of a rail-fed concrete batching plant, with associated ancillary structures and facilities, including HGV and car parking*" on the application site (Ref. WSCC/053/16/CR). The permission was approved subject to 11 conditions relating to dust management, cycle parking, air quality (AQMA) mitigation, noise surveying and mitigation (if required), lighting, and surface and foul water drainage. Condition 7 controlled the hours of operation, limiting them to between 07:00 and 19:00 Monday to Friday and 07:00 and 13:00 on Saturdays.
- 3.3 In April 2020, planning permission (ref. WSCC/052/19) was granted to allow the site to operate between 19:00 and 07:00, Monday to Friday, for 12 days per calendar month for a temporary period of three years. The revised condition was permitted subject to the provision of a 6m high acoustic fence along the northern site boundary and restrictions on movement types and plant operational restrictions.
- 3.4 The applicant did not subsequently implement or progress with the approved extended operating hours, citing the cost of the acoustic fence as the reason for not doing so (due to the Covid 19 pandemic).
- 3.5 It should be noted that Cemex submitted a similar application in relation to the concrete batching plant located immediately to the north of the application site, to allow a variation of Condition No. 5 (hours of operation) of Planning Permission Ref. CR/22/81 to allow extended hours of operation of the site between 18:00 and 07:00 on Mondays to Fridays, up to a maximum of 12 times per calendar month, for three years. The application was approved under delegated powers in July 2018 (Ref. WSCC/043/18/CR).

4. The Proposal

- 4.1 The current application seeks to vary Condition 6 of planning permission WSCC/052/19 to allow 24-hour operation of the concrete batching facility, Monday to Friday, for a temporary period of five years. The proposed wording is as follows:

6 - Overnight Operations (Temporary)

*For a period of **five** years from the date of this permission, on a maximum of 12 nights per calendar month, the site may operate between 1900 and 0700, Monday to Friday inclusive. During these periods, the site will be subject to the following controls:*

- *no more than 18 HGV movements each night (9 HGVs entering/leaving the site);*
- *no more than 4 HGV movements per hour (2 HGVs travelling to/from the site);*
- *no material being fed into the concrete batching plant;*
- *no deliveries of cement;*
- *no audible alarms/sirens being used; and*
- *A record shall be kept of the occasions on which overnight operations take place, and the number of HGV movements during these operations. The records shall be made available to the County Council on request.*

Reason: to minimise the off-site noise impact of the overnight operations, for a temporary period only to test the acceptability of the additional hours in terms of impacts on local residents.

- 4.2 Accordingly, the restrictions and limitations on night-time working set out in planning permission WSCC/052/19 would be retained. Furthermore, a 6m close-board wooden acoustic fence, extending 29.2m across the northern site boundary, would also be provided as per Condition 9 of that permission.
- 4.3 A temporary period of five years has been proposed to justify the expense of the investment in the acoustic barrier and to test the acceptability of the impacts of overnight working on the amenity and health of local residents.
- 4.4 An updated noise assessment was submitted with the application. It included new survey locations, for example, to take account of the build out of the Forge Wood development since the granting of the extant planning permission.

5. Environmental Impact Assessment (EIA)

- 5.1 The need for EIA has been considered in relation to this application in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations').
- 5.2 The proposal is not of a type or scale that falls within either Schedule 1 or Schedule 2 of the EIA Regulations and is not considered to have the potential for significant effects on the environment within the meaning of the EIA Regulations. Therefore, EIA is not considered necessary.

6. Policy

Statutory Development Plan

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the statutory 'development plan' unless material considerations indicate otherwise (as confirmed in paragraph 2 of the National Planning Policy Framework (NPPF)). For the purposes of this application, the following documents form the statutory development plan: the West Sussex Joint Minerals Local Plan (2018), and the Crawley Borough Local Plan (2015).
- 6.2 The key policies in the development plan, which are material to the determination of the application, are summarised below. In addition, reference is made to relevant national policy and Planning Practice Guidance, which guide the decision-making process and are material to the determination of the application.

West Sussex Joint Minerals Local Plan (July 2018, Partial Review March 2021) ('JMLP')

- 6.3 The JMLP was adopted in July 2018 and covers the period up to 2033. Following a Soft Sand Review of the plan, formal revisions were adopted in March 2021. It is the most up-to-date statement of the County Council's land-use planning policy for minerals. It accords with the approach taken in the NPPF and should be given significant weight when considering this application.
- 6.4 Policy M8 relates to the processing of minerals at mineral sites and Policy M10 relates to the safeguard of mineral supply infrastructure, including existing permitted mineral processing sites and the infrastructure, such as wharves and railheads, that serves them.
- 6.5 The following Development Management policies are relevant in that they seek to support the Strategic Objectives of the JMLP and ensure that there is no unacceptable harm to the amenity, character, and the environment or any other material considerations as a result of minerals development: Policy M15 relates to the impacts of development on air and soil; Policy M18 seeks to protect and, where possible, enhance the health and amenity of residents, businesses and visitors; and Policy M22 seeks to ensure that the cumulative impact(s) of successive and/or concurrent developments on the environment and communities (e.g. through noise, dust, increased traffic, and landscape impacts) are addressed.

Crawley Borough Local Plan 2015-2030 (December 2015) ('CBLP')

- 6.6 The CBLP was adopted in December 2015. The key relevant policies include: SD1 (Sustainable Development), which sets out the presumption in favour of sustainable development; EC1 (Sustainable Economic Growth), which seeks to ensure that Crawley's recognised economic role and function is maintained and enhanced; EC3 (Manor Royal), which supports development that is compatible with the area's economic function; EC4 (Employment Development and Residential Amenity), which notes, among other things, that "*Where residential development is proposed within or adjacent to Main Employment Areas, the principal concern will be to ensure that the economic function of the area is not constrained.*"; and ENV11 (Development and Noise), which notes that people's quality of life must be protected from unacceptable noise impacts by managing

the relationship between noise sensitive development and noise sources. Policy ENV12 (Air Quality) seeks to ensure that development proposals do not result in a material negative impact on air quality.

Crawley Local Plan Review (2024-2040) (May 2023)

- 6.7 A draft revision of the Crawley Local Plan was formally submitted to the Secretary of State for independent examination in July 2023 and is at the Proposed Modifications stage. The following policies from the draft revision are considered to be relevant to the proposal: Policy EC2 (Economic Growth in Main Employment Areas), Policy EC3 (Manor Royal), Policy EC11 (Employment Development and Amenity Sensitive Users), Policy H2 (Key Housing Sites), Policy EP4 (Development and Noise), and Policy EP5 (Air Quality). As the Local Plan Review has not adopted, full weight cannot be attributed to it.

Tinsley Lane Development Brief (Adopted April 2017)

- 6.8 Land at Tinsley Lane, Crawley has been allocated for residential, sports and open space use in the adopted Crawley Local Plan (Policy H2). The Development Brief forms an adopted non-statutory planning guidance document and is a material planning consideration against which decisions can be made in relation to proposals for development of this site. It seeks to address the issue of noise and ensuring the housing allocation does not prejudice or constrain the economic function of the wider employment area and the safeguarded minerals operations of the Crawley Goods Yard. Key Policy Direction 5: Noise (page 31) expressly states that development proposals will be required to protect future residents from unacceptable exposure to noise from road, rail, aircraft, and industry sources, including Crawley Goods Yard. Proposals should seek effective mitigation to ensure that the noise impact for future users is made acceptable.

National Planning Policy Framework (December 2023) ('NPPF')

- 6.9 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The NPPF does not form part of the development plan but is a material consideration in determining planning applications.
- 6.10 The key relevant paragraphs of the NPPF relevant to the proposed development include: 11 (presumption in favour of sustainable development), 47 (determining applications in accordance with the development plan), 55-58 (planning conditions and obligations), 85-87 (building a strong competitive economy), 191 (ensuring development is suitable for its location with regards to health, living conditions and the natural environment), 192-194 (control and processing of emissions being subject to separate pollution control regimes), and 215-218 (facilitating the sustainable use of minerals).

Planning Practice Guidance (PPG)

- 6.11 PPG is a web-based resource that sets out the Government's planning guidance to be read in conjunction with the NPPF. Although it does not form part of the development plan, it is a material consideration in determining planning applications. The most relevant sections of the PPG to this application are Noise (July 2019) and Conditions (2014).

7. Consultations

- 7.1 **Crawley Borough Council Planning:** No comments received.
- 7.2 **Crawley Borough Council Environmental Health Officer (EHO):** No objection. Their consultation response details the subsequent development at Forge Wood since the previous 2019 application, and identifies the layout of the Forge Wood estate, namely the row of employment buildings along the western boundary of the estate as a buffer for the residential areas of the High Wood development. This, in conjunction with good operational practices at the Crawley Goods Yard and the installation of the acoustic fence, leads the EHO to concur with the findings of the acoustic report submitted with the application that the proposal would not lead to any significant noise impacts on surrounding residential receptors. Consequently, they offer no objection subject to the retention of existing conditions being imposed for both day and night-time operations, including the provision of an acoustic fence along the northern site boundary to the benefit of residents at Bowthorpe House.
- 7.3 **Environment Agency:** No comments received.
- 7.4 **NATS (National Air Traffic Services) Safeguarding:** No objection, as proposal does not conflict with safeguarding criteria.
- 7.5 **Naturespace:** No objection.
- 7.6 **Network Rail:** No comments received.
- 7.7 **WSSC Highway Authority:** No objection. The proposal would result in one two-way movement every 30 minutes or one two-way movement every 90 mins, which would not which generate any issues from a highway capacity or safety point of view. The site access is suitable for use by the additional HGVs. Although the site is located near to an AQMA, the increase in overnight HGVs is not considered to have any air quality impact.
- 7.8 **WSSC Councillor Brenda Burgess:** No comments received.

8. Representations

- 8.1 The applications were publicised in accordance with The Town and Country Planning (General Development Procedure) (England) Order 2015. This involved the erection of site notices located at the application site, advertisement in the local newspaper, and forty neighbour notification letters.
- 8.2 Representations were received from 15 third parties, all of which object to the development. In summary, the main material issues raised are:
- Existing dust, light and noise pollution from aggregate yard;
 - Concern that emissions from site have both mental and physical impact on the health of surrounding residences (noting silicosis etc. from concrete batching operations) and nearby community facilities;
 - Cumulative impact of emissions when combined with the adjacent highway M23;
 - Highways safety issues around increase in HGVs and their impact on the road network (damaging roads etc.);
 - Negative impact on local wildlife; and

- Visual impact of a large facility.

9. Consideration of Key Issues

9.1 The main material planning considerations in relation to the application are:

- need for the development; and
- impacts on public health and amenity.

Need for the Development

- 9.2 The National Planning Policy Framework (NPPF) identifies the importance of minerals infrastructure and states that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Of particular relevance is Paragraph 216(e), which states that policy makers should safeguard existing, planned and potential sites for the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material.
- 9.3 Consistent with these aims, Strategic Objective 4 of the West Sussex Joint Minerals Local Plan (JMLP) seeks to protect and maintain existing mineral development sites and infrastructure, including capacity for the import of minerals via the ports of Littlehampton and Shoreham and the railheads at Chichester, Crawley and Ardingly. Accordingly, the site is safeguarded for its minerals transportation and operations under Policy M10 of the JMLP.
- 9.4 In addition to this, Crawley Goods Yards and the minerals operations there are safeguarded under Policy EC3 of the adopted Crawley Borough Local Plan (2015).
- 9.5 Given the extant planning permission for the mineral processing use on the application site, which is located within an area allocated for that use, it is established that the existing operations at the site are acceptable in principle.
- 9.6 The acceptability in principle of night-time operations at the site was established under planning permission WSCC/052/19. It was noted at that time that the use of the site for the production of concrete over an additional period of time accorded with Policy M8 of the JMLP, which supports mineral processing at minerals sites, including rail depots, to ensure a steady and adequate supply, subject to there being no significant adverse impacts on residents.
- 9.7 The only material change is the request for a temporary five-year period, rather than the temporary three-year period granted under planning permission WSCC/052/19. The controls and operative restrictions as detailed within the extant permission would be retained.
- 9.8 The applicant provides justification for the increase from three to five years in that the additional capital expenditure associated with the installation of the acoustic fence (deemed a necessary addition to the site in order to mitigate any amenity impacts arising from night-time operations) would be offset by the revenue generated by the additional temporary timeframe.
- 9.9 The site benefits from being rail-fed by a safeguarded railhead and is strategically located within the main industrial and employment area of Crawley. It is understood that the additional revenue generated by nighttime

operations at the site would promote its long-term sustainability as a business, which in turn would allow the continued supply of material required for the long-term development goals of Crawley and the wider surrounding area.

- 9.10 It is noted that temporary night-time working hours have previously been approved on another site in the Goods Yard (the Cemex site to the north under Ref. WSCC/043/18/CR) as the impacts on residents were deemed to be acceptable.
- 9.11 In conclusion, the principle of temporary overnight operations has previously been accepted on the application site and on another site in the Goods Yard. It is considered that the need for such operations to take place for a temporary five-year period has been justified due to the economic benefits. Accordingly, the acceptability of the proposal requires consideration of whether there would be any significant adverse impacts on the health or amenity of nearby sensitive receptors, which is addressed below. Therefore, it is considered that there is a need for the development in accordance with national and local policy, which attracts great positive weight in the planning balance.

Impacts on Public Amenity and Health

- 9.12 The concrete batching plant and associated ancillary structures and facilities is safeguarded for that purpose under the NPPF and Policy M10 of the JMLP. In general, the nature of industrial activities in relation to mineral processing is such that they have the potential to give rise to disturbance to neighbouring amenity through noise, dust, and lighting emissions.
- 9.13 In accordance with Policy M18 of the JMLP, proposals for mineral development should only be permitted when lighting, noise, dust, odours, vibration, and other emissions, including those arising from traffic, are controlled to the extent that there will not be an unacceptable impact on public health and amenity. Policy ENV11 of the CBLP states that noise generating development will only be permitted where it can be demonstrated that nearby noise sensitive uses (as existing or planned uses or development) will not be exposed to noise impact that will adversely affect the amenity of existing and future users. Policy ENV12 of the CBLP states that proposal should not result in a material negative impact on air quality.
- 9.14 Third parties have highlighted that the proposed development would result in an established mineral use operating during night-time hours with the potential to exacerbate or increase impacts on neighbouring amenity.
- 9.15 As identified above, even though the proposal is acceptable in principle, there is a need to ensure that there are no significant adverse impacts on the health or amenity of nearby sensitive receptors. Since the granting of planning permission WSCC/052/19 in April 2020, build out of the Forge Wood development to the east of the railway corridor has continued. Therefore, the context has changed at the application site and there are potentially more residents in the area that could be affected by the proposed temporary nighttime operations. Accordingly, there is a need to assess the impact of the proposal based on the current context, rather than that existed when the current permission was granted.

Lighting

- 9.16 The lighting at the site is already controlled under Condition 9 of planning permission WSCC/053/16/CR, which seeks to ensure that the lighting is orientated so as to ensure that there is no light spill above the horizontal, and no detrimental impact on the safe operation of the adjacent railway network. The current application does not propose any changes to the permitted lighting and it is not considered that there has been any contextual change with regard to potential adverse impacts from lighting on nearby sensitive receptors since the granting of planning permission WSCC/052/19. Therefore, it is considered that the proposed temporary nighttime operations would not have any unacceptable impacts on public amenity and health due to lighting.

Noise

- 9.17 Planning permission WSCC/052/19, which this application seeks to vary, includes conditions to limit and monitor noise from the operation of the application site. These include Condition 4: Plant/Machinery Noise and Dust Control; Condition 6: Overnight Operations (temporary), which this application seeks to vary; Condition 7: Noise Management (complaints); Condition 8: Noise Management and Condition 9: Acoustic Fence.
- 9.18 The applicant has submitted an updated Noise Assessment Report, which includes an updated BS 4142 assessment of the overnight operations on site. The report considered both existing and proposed residential receptors (see **Appendix 4: Noise Assessment – Survey Locations**) and concluded that there would be no significant impact upon the amenity of surrounding residential receptors with regards to noise.
- 9.19 A temporary period of five years would allow the acceptability of the noise impacts of overnight working on the amenity and health of local residents to be assessed. As per the extant permission, noise complaints would be monitored under Condition 7 and a noise survey would be undertaken within three months of nighttime operations commencing under Condition 8.
- 9.20 The CBC EHO has reviewed the report and raises no objection to the proposed five-year temporary overnight operations subject to the provision of the acoustic fence along the northern boundary of the site, the retention of operational restrictions during the overnight operations, and the retention of existing conditions to control and monitor noise. Furthermore, the EHO notes that the layout of the Forge Wood estate, namely the row of employment buildings along the western boundary of the estate, acts as a buffer for the residential areas that have been built since the granting of the extant planning permission.
- 9.21 Therefore, subject to the retention of existing noise management and monitoring conditions and provision of the acoustic fence along the northern boundary, it is considered that the proposed temporary nighttime operations would not have any unacceptable noise impacts on public amenity and health.

Dust

- 9.22 Third party representatives have also raised concerns about the potential health impacts associated with the concrete batching operations that are currently undertaken on site, as well as the additional operations that will be introduced

during overnight working hours, which would introduce up to 18 HGV movements each night, with up to four HGV movements per hour.

- 9.23 Given the nature of the proposed activities, the operations on the site have the potential to give rise to dust, arising from the deposit and storage of materials in stockpiles, operation of the concrete batching plant and the disturbance of dust by moving plant and vehicles.
- 9.24 The potential for dust generation is controlled via the approved plans as detailed in Condition 1 of planning permission WSCC/052/19, which include an approved Dust Management Plan and Air Quality Mitigation Statement and Strategy. The requirements of these plans would continue to be implemented during overnight operation for the temporary five-year period.
- 9.25 The principle for the introduction of additional vehicle movements was established under planning permission WSCC/052/19 and no changes to the previously-approved HGV numbers are proposed.
- 9.26 Accordingly, the operations within the site, including at nighttime, would continue to be managed in accordance with the conditions of the existing permission and it is not considered that there has been any contextual change with regard to potential adverse impacts from dust on nearby sensitive receptors since the granting of planning permission WSCC/052/19. Furthermore, the site is subject to an Environmental Permit, the requirements of which would also apply to the overnight operations.
- 9.27 Therefore, subject to the retention of the existing dust management controls, it is considered that the proposed temporary nighttime operations would not have any unacceptable impacts on public amenity and health due to dust.

Summary

- 9.28 Although the proposal is acceptable in principle, there is a need to determine whether there would be any significant adverse impacts on the health or amenity of nearby sensitive receptors. This includes taking account of the changed context since the granting of planning permission WSCC/052/19 in April 2020, primarily the construction of houses as part of the Forge Wood development to the east of the railway corridor. No changes are proposed to the permitted lighting on the development site and there would be no changes to the dust management controls permitted under the current permission. An updated Noise Assessment Report has considered potential impacts on both existing and proposed residential receptors and concluded that there would be no significant impacts on the amenity of surrounding residential receptors. The findings have been agreed by the EHO, who raises no objection to the application subject to the imposition of the previously-approved controls. A temporary period of five years would allow the acceptability of the noise impacts of overnight working on the amenity and health of local residents to be assessed. Overall, it is considered that the proposal accords with national and local policy and that the potential for adverse impacts on public amenity and health attracts little negative weight in the planning balance.

Other Material Matters

- 9.29 The following material matters are considered to be neutral factors in the planning balance.

- 9.30 **Highway Capacity and Road Safety:** the proposal would not result in any changes to the number of HGV movements previously permitted at the application site under planning permission WSCC/052/19. The Highway Authority raises no objection to the proposals. As a result, it is not considered that the proposed development would give rise to any unacceptable impact on highway capacity or road safety.
- 9.31 **Cumulative Impacts:** Third party representations have raised concerns about potential cumulative impacts at the site when combined with other operations at Crawley Goods Yard. These include impacts arising from noise, dust, and light emissions.
- 9.32 Policy M22 of the JMLP states that proposals for minerals development, including the intensification of use, will be permitted provided that an unreasonable level of disturbance to the environment and/or to residents, businesses and visitors will not result, either individually or as a cumulative effect (simultaneously and/or successively) alongside other development and allocations.
- 9.33 Although planning permission has previously been granted for temporary overnight operations at another minerals site within the Goods Yard, it has expired and no overnight activity is currently permitted. That notwithstanding, the applicant's Noise Assessment Report notes that during the June 2023 survey, there was overnight activity at other operators' sites in the Goods Yard, including a delivery of materials by train and operation of some plant.
- 9.34 As noted in paragraphs 9.18 and 9.20 of this report, the Noise Assessment Report concluded that there would be no significant impact upon the amenity of surrounding residential receptors with regards to noise and the EHO has raised no objection subject to the imposition of the same controls as per the extant permission.
- 9.35 Therefore, it is not considered that permitting operations on a temporary basis at the application site would result in any cumulative impacts at nighttime that would cause disturbance to the environment or residents.

10. Overall Conclusion and Recommendation

- 10.1 In April 2020, planning permission WSCC/052/19 was granted to allow the site to operate between 19:00 and 07:00, Monday to Friday, for 12 days per calendar month for a temporary period of three years. The permission introduced limitations during overnight operations and was permitted subject to the provision of an acoustic fence along the northern site boundary. Due to the cost of the works during the Covid pandemic, the operator did not subsequently implement or progress with the approved temporary extended operating hours.
- 10.2 The acceptability in principle of night-time operations at the site was established under planning permission WSCC/052/19. The only material change in the current application is the request for a temporary five-year period, rather than the previously-approved temporary three-year period. The controls and operative restrictions as detailed within the extant permission would be retained.
- 10.3 The applicant has demonstrated that there is an economic need for the proposal, which includes ensuring the long-term sustainability of the business,

which supplies material required for the long-term development of Crawley and the wider surrounding area.

- 10.4 Even though the proposal is acceptable in principle, there is a need to ensure that there are no significant adverse impacts on the health or amenity of nearby sensitive receptors. Since the granting of planning permission WSCC/052/19 in April 2020, build out of the Forge Wood development to the east of the railway corridor has continued. Therefore, the context at the application site has changed and there are potentially more residents in the area that could be affected by the proposed temporary nighttime operations.
- 10.5 No changes are proposed to the lighting and there would be no changes to the dust management controls permitted under the current permission. An updated Noise Assessment Report has considered potential impacts on both existing and proposed residential receptors and concluded that there would be no significant impacts on the amenity of surrounding residential receptors. No changes are proposed to HGV numbers.
- 10.6 A temporary period of five years would support the applicant's investment in the acoustic barrier and allow the noise impacts of overnight working on the amenity and health of local residents to be assessed.
- 10.7 Overall, it is considered that the proposed development accords with the statutory development plan when read as a whole. Furthermore, there are no material considerations in this case that indicate a decision other than in line with the statutory development plan. In favour of the proposal, the need for the development carries great weight. Against the scheme, the potential for adverse impacts on public amenity and health attracts little negative weight in the planning balance. Therefore, on balance, it is considered that the benefits of the proposal outweigh the disbenefits and, as such, the proposed development constitutes sustainable development (as defined in paragraphs 7 and 8 of the NPPF).
- 10.8 Therefore, it is **recommended** that planning permission be granted for planning application WSCC/045/23 subject to the conditions and informatives set out at **Appendix 1**.

Factors taken into account

11. Consultations

- 11.1 See Sections 7 and 8.

12. Resource Implications and Value for Money

- 12.1 Not applicable.

13. Equality and Human Rights Assessment

- 13.1 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposals would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposals were required to make them acceptable in this regard.

- 13.2 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the County Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 13.3 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. The applications have been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 13.4 The Committee should also be aware of Article 6, the focus of which (for the purpose of this committee) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision-making process as a whole, which includes the right of review by the High Court, complies with Article 6.

14. Risk Management Implications

- 14.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the determination of planning applications must be made in accordance with the policies of the development plan unless material considerations indicate otherwise. If this is not done, any decision could be susceptible to an application for Judicial Review.

15. Crime and Disorder Reduction Assessment

- 15.1 Not applicable.

16. Social Value and Sustainability Assessment

- 16.1 Not applicable.

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Appendices

Appendix 1: Conditions and Informatives

Appendix 2: Site Location Plan

Appendix 3: Site Layout Plan

Appendix 4: Noise Assessment – Survey Locations

Appendix 5: Noise Assessment – Bowthorpe House

Background papers

See Section 6.

Appendix 1: Conditions and Informatives

Approved Plans and Documents

1. The development hereby permitted shall not take place other than in accordance with the particulars of the application, the approved plans and documents:
 - Planning Application Boundary (ref. CRW/006 Rev. A);
 - Site Layout Plan (ref. CRW/005 rev. H);
 - Elevations of Proposed Concrete Batching Plant (ref. CRW/008 Rev. A);
 - Indicative Plan and Elevations of Office, Mess Room/WC and Store (ref. CRW/011 Rev. A);
 - High Level Lighting Plan (ref. CRW/012);
 - Dust Management Plan (Brett Concrete Ltd., December 2016
 - Proposed 6m High Acoustic Fence (ref. CRW/41 Rev. A);
 - Plan Showing Position of Cycle Parking (ref. CRW/034);
 - Air Quality Mitigation Statement and Strategy (Brett Concrete Limited, January 2017);
 - Surface and Foul Water Drainage Details and Strategy (Brett Concrete Limited, 18 July 2017);

save as varied by the conditions hereafter.

Reason: to secure a satisfactory development.

Cycle Parking

2. The cycle parking shown on 'Plan Showing Position of Cycle Parking (drawing CRW/034) shall be maintained in a useable state throughout the operation of the development hereby approved.

Reason: to provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

OPERATIONAL CONDITIONS

Hours of use

3. With the exception of the overnight operations permitted by Condition 6, there shall be no operations associated with the development hereby permitted, which shall include the use of plant, vehicles and machinery, outside the hours of:
 - 07:00 and 19:00 on Monday to Friday inclusive; and
 - 07:00 and 13:00 on Saturdays

No operations shall take place on Sundays, Bank Holidays or Public Holidays.

Reason: in the interests of the amenity of the locality and of local residents.

Plant/Machinery Noise and Dust Control

4. All plant and machinery operated within the development hereby permitted, including during construction, shall be fitted with noise reduction/silencing equipment and dust control measures to a standard not less than the manufacturer's standard UK specification for the equipment and operated with that equipment in good working order at all times.

Reason: to avoid noise and dust giving rise to significant adverse impacts on the health and quality of life of the local population and visitors to the locality.

Lighting

5. No external lighting other than that approved (ref. High Level Lighting Plan (ref. CRW/012)) shall be installed at the site without the prior approval in writing of the Minerals Planning Authority. All lighting shall be directed to ensure that there is no light spill above the horizontal, and no detrimental impact on the safe operation of the adjacent railway network.

Reason: to maintain the safe operation of London Gatwick Airport and the railway network, and to protect residential amenity.

TEMPORARY OVERNIGHT OPERATIONS

Overnight Operations (temporary)

6. For a period of five years from the date of this permission, on a maximum of 12 nights per calendar month, the site may operate between 19:00 and 07:00, Monday to Friday inclusive. During these periods, the site will be subject to the following controls:
 - no more than 18 HGV movements each night (nine HGVs entering/leaving the site);
 - no more than four HGV movements per hour (two HGVs travelling to/from the site);
 - no material being fed into the concrete batching plant;
 - no deliveries of cement;
 - no audible alarms/sirens being used; and
 - a record shall be kept of the occasions on which overnight operations take place, and the number of HGV movements during these operations. The records shall be made available to the County Council on request.

Reason: to minimise the off-site noise impact of the overnight operations, for a temporary period only to test the acceptability of the additional hours in terms of impacts on local residents.

Noise Management (Complaints)

7. Prior to the first overnight operation, as approved on a temporary basis by Condition 6, the applicant will submit to, and have approved in writing by the Minerals Planning Authority, detailed procedures for recording and responding to complaints. Once approved, the procedures shall be implemented in full throughout the overnight operations approved under Condition 6.

Reason: to ensure local residents have a mechanism by which to raise concerns about noise impacts directly with the operator, and for these to be responded to, to protect residential amenity from noise impacts.

Noise Management (Noise Survey)

8. Within three months of the first overnight operation, as approved on a temporary basis by Condition 6, a Noise Survey shall be undertaken by the developer in accordance with BS 4142:2014 between the hours of 19:00 and 07:00 at the boundary to Bowthorpe House and be submitted to the Minerals Planning Authority. The Survey shall also measure all L_{Amax} events associated with arriving and departing vehicles associated with the site. The Survey shall:
 - a. demonstrate that the rating level (L_{A,r}, Tr) of the concrete batching plant does not exceed the background sound level when higher than 48 dB L_{A90}, T and does not exceed 48 dB L_{A,r}, Tr when the background sound level is 48 dB L_{A90}, T or lower.
 - b. If the Survey does not demonstrate such compliance, then the report must include measures to reduce noise, and a timescale for implementing them, which shall be agreed in writing by the Minerals Planning Authority. Compliance shall be demonstrated by a follow-up Survey, undertaken in accordance with the above details, which must be submitted to the Minerals Planning Authority within three months of the measures being implemented.
 - c. If subsequent monitoring demonstrates operations do not comply with the requirements of part (a) of this condition, then the report shall identify corrective actions and/or additional measures to reduce noise, the monitoring to be repeated, and the associated timescales, which shall be agreed in writing with the Minerals Planning Authority.
 - d. From the point at which compliance is demonstrated, monitoring of noise at the boundary of Bowthorpe House shall thereafter be undertaken at regular intervals of no less than six months throughout the temporary operations approved under Condition 6, and the results submitted to the Minerals Planning Authority within one month of the survey being completed.

Reason: to ensure noise emissions are within acceptable limits, to protect the living conditions of local residents.

Acoustic Fence

9. Prior to the operation of the site overnight permitted by Condition 6, the acoustic fence shown on drawing CRW/41 Rev. A shall be installed as approved and maintained throughout the duration of such operations.

Reason: to protect residents of Bowthorpe House from noise emissions from the overnight operations and the resulting detriment to residential amenity.


INFORMATIVES

- A. In accordance with the National Planning Policy Framework, the Minerals Planning Authority has approached the determination of this application in a positive and creative way, and has worked proactively with the applicant, consultees, and local residents to negotiate an acceptable scheme. As a result, the Minerals Planning Authority has been able to recommend the grant planning

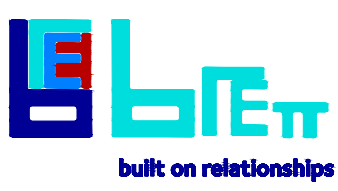
permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development.

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Notes	
	Planning Application Boundary [Area - 0.31 Ha]

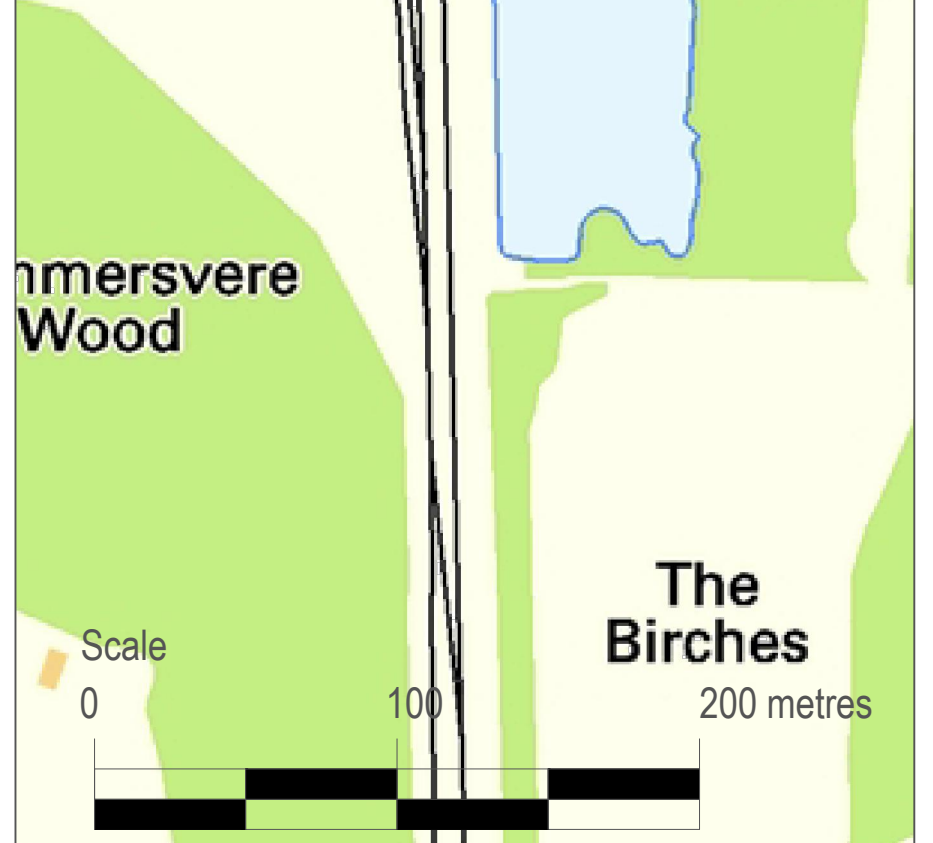
Revisions	



Brett
built on relationships

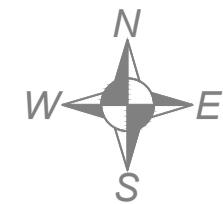
Brett Aggregates Limited
Brett House, Bysing Wood Rd
Faversham, Kent, Me13 7UD
Tel: 01795 594000 - Fax: 01795 594027
Info@brett.co.uk

Company/ Site Location				Brett Concrete - Crawley	
Drawing Title				Site Location Plan	
Drawn By	NCA	Verified By		Paper Size	A3
Control Status	CONTROLLED	Scale	1:2500	Date Created	20/07/16
Drawing Number				CRW/009	



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Appendix 3 - Site Layout Plan



Revision/ Date	Revision Notes
26/04/2016	Plant oriented square to Site Boundary. Additional Area required for Radial Conveyor shown shaded Green
9/05/2016	Single hopper shown - 20t capacity.
06/07/2016	Aggregate bin capacity increased. Plant move forward 2.3m
07/07/2016	Aggregate bin capacity increased. Feed Hopper move back 2.3m to maximise plant area. (DRAFT for Discussion only)
15/07/2016	Lease Boundary revised.
20/07/2016	Scale bar & North Point added. O/H Power cable removed.
10/08/2016	View direction arrows added. Position of lights added.

General Notes

To be read in conjunction with CRW/008.

Planning Application Boundary

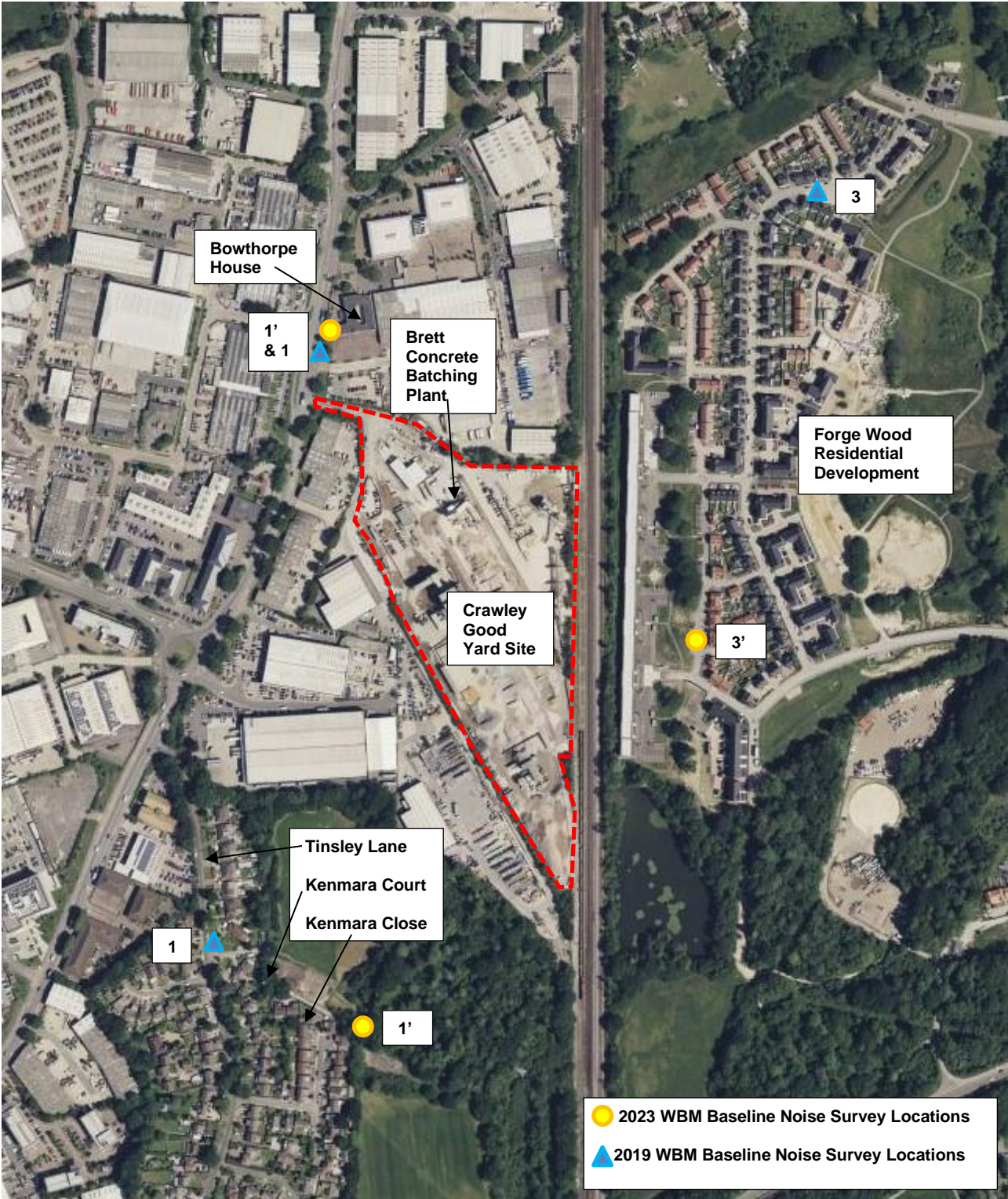
Company/ Site Location				Brett Concrete - Crawley	
Drawing Title				Site Layout Plan	
Drawn By	NCA	Verified By	Verified By	Paper Size	A2
Control Status	Controlled	Scale	1:250	Date Created	24/03/2016
Revision	H	Revision Date	10/08/2016		
Drawing Number				CRW/005	

built on relationships

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Appendix 4: Noise Assessment - Survey Locations



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Appendix 4: Noise Assessment - Bowthorpe House



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**Key decision: Not applicable
Unrestricted**

Planning and Rights of Way Committee

24 April 2024

Current Planning Applications, Current Definitive Map Modification Orders (DMMOs), Town and Village Green applications (TVGs) and Public Path Orders (PPOs) under investigation

Report by Head of Planning Services, Director of Law and Assurance and Assistant Director (Highways Transport and Planning)

Table 1 - Minerals and Waste (County Matter) Planning Applications

Reference (Case Officer)	Applicant	Proposal	Location
WSCC/040/09/DIS1 (James Neave)	Ricky Vincent	Discharge of conditions 8 (Working and Restoration Scheme), 16 (Management of Waste from Dewatering and Discharges), 19 (Woodland Management and Maintenance Scheme), 20 (Detailed Restoration Scheme), and 21 (Aftercare Scheme) of Planning Permission WSCC/040/09/NH.	Langhurstwood Quarry, Langhurstwood Road, Horsham, West Sussex, RH12 4ZL
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, RH10 9NT

Reference (Case Officer)	Applicant	Proposal	Location
WSCC/001/20 (Chris Bartlett)	Mr C Foss	approved restoration planting plan).	"Washington Sand Pit Hampers Lane Sullington West Sussex RH20 3EX"
WSCC/028/21 (Chris Bartlett)	Dudman (Rock Common) Limited and The Wiston Estate	The continued winning, working and processing of sand from the existing Rock Common Quarry, the importation of inert classified engineering and restoration material, the stockpiling and treating of the imported material, the placement of the imported material within the quarry void and the restoration and landscaping of the quarry	Rock Common Quarry, The Hollow, Washington, Pulborough, RH20 3DA
WSCC/047/21/DIS2 (Edward Anderson)	WSCC Assistant Director of Property & Assets	Discharge of Condition 5 (Landscape Maintenance Plan) of Planning Permission WSCC/047/21.	"The Forest School Comptons Lane Horsham RH13 5NT"
WSCC/008/23 (Chris Bartlett)	Jeremy Pearce	Installation of an Anaerobic Digestion (AD) plant to treat liquid biological waste stream from manufacturing plant	Modern Moulds Business Centre, Unit A1 – A3, Harwood Road, Littlehampton, West Sussex, BN17 7AU
WSCC/013/23 (Chris Bartlett)	Mr Colin Huckwell	Variation of condition 2 to allow the continuing of processing and recycling of waste and final restoration of the site until December 2024.	"Bridgers Farm Langton Lane Hassocks BN6 9HA"
WSCC/036/23 (Edward Anderson)	Phil Jamerson	A change of use of land to operational land to enable an extension of the wastewater treatment works; construction and operation of a Final Settlement Tank and associated above ground plant, equipment and areas of hardstanding within the extension area; a 2.4m high security fence around the extended area and an equipment kiosk.	Horstead Keynes WTW, Cinder Hill Lane, Horstead Keynes, West Sussex, RH17 7BD.

Reference (Case Officer)	Applicant	Proposal	Location
WSCC/037/23 (James Neave)	Mr James Stewart-Irvine	Construction and Operation of an Open Windrow Composting (OWC) Facility	Brookhurst Wood Landfill Site, Langhurstwood Road, Horsham, West Sussex, RH12 4QD
WSCC/044/23 (Edward Anderson)	Southern Water Services Ltd	Construction and operation of a motor control centre (MCC) kiosk.	Billingshurst Waste Water Treatment Works, Stane Street, Billingshurst, West Sussex, RH14 9JU
WSCC/045/23 (Edward Anderson)	Firstplan	Erection of a rail fed concrete batching plant, with associated ancillary structures and facilities, including HGV and car parking (Variation of condition No. 6 of Planning Permission WSCC/052/19 to allow 24 hour operations at the site, Monday to Friday, for a period of five years).	Land at Crawley Goods Yard, Brett, Gatwick Road, Crawley, West Sussex, RH10 9RE
WSCC/001/24 (Andrew Sierakowski)	Mark Weil	"Amendment of conditions to allow extension of time for restoration of quarry with inert material to 31 December 2021; and reconfiguration of approved restoration scheme (Application under s.73 to Variation of Condition No. 2 of Planning Permission WSCC/025/20 to alter the	Boxgrove Quarry, Tinwood Lane, Boxgrove, Chichester, PO18 0LH
WSCC/002/24 (James Neave)	Mr James Stewart-Irvine	Construction and operation of a materials recycling facility, including offices and visitor centre, an anaerobic digestion plant, and extension to an existing landfill site, and ancillary infrastructure (Variation of Condition 2 of planning permission WSCC/067/19 for a 12-month extension to the end date to complete restoration of the landfill)	Brookhurst Wood Landfill Site, Langhurst Wood Road, Horsham, West Sussex, RH12 4QD

Reference (Case Officer)	Applicant	Proposal	Location
WSCC/003/24 (Chris Bartlett)	Andrew Scott	Siting of a replacement office unit (ancillary to planning permission WSCC/044/18/SR)	Sandgate Park Quarry, Water Lane, Washington, Pulborough, RH20 4AS
WSCC/006/24 (Chris Bartlett)	Simon James	Erection of a replacement portal framed building for the repair, maintenance and storage of vehicles, plant and equipment, along with the installation of a sealed tank.	Burleigh Oaks Farm Waste Transfer& Recycling Centre, East Street, Turners Hill, Crawley, RH10 4PZ
WSCC/007/24 (Edward Anderson)	Southern Water	Installation of Integrated Constructed Wetland (ICW) and associated infrastructure at land adjacent to Staplefield Wastewater Treatment Works.	Staplefield Wastewater Treatment Works, Cuckfield Road, Staplefield, West Sussex, RH17 6ES
WSCC/012/24 (Edward Anderson)	Amy Malla	Proposed Installation of a Motor Control Centre (MCC) Kiosk	Blackstone Waste Water Treatment Works, Blackstone Lane, Blackstone, BN5 9SZ
WSCC/013/24 (Chris Bartlett)	W Hextall	Land raising and regrading of agricultural land to alleviate noise, air and light pollution from the A24	Hooklands Farmhouse, London Road, Ashington, West Sussex, RH20 3AT
WSCC/015/24 (James Neave)	Daniel Barritt	Development of a household waste recycling site and transfer station (Variation of Condition 2 of planning permission WSCC/026/22 to allow for the acceptance and handling of dog waste from Horsham District Council)	Crawley Household Waste Recycling Site and Transfer Station, Metcalf Way, Crawley, RH11 7XN

Table 2 - Regulation 3 Planning Applications:

Reference (Case Officer)	Applicant	Proposal	Location
WSCC/047/21/DIS2 (Edward Anderson)	WSCC Assistant Director of Property & Assets	Discharge of Condition 5 (Landscape Maintenance Plan) of Planning Permission WSCC/047/21.	"The Forest School Comptons Lane Horsham RH13 5NT"
WSCC/010/22/NMA1 (Tyra Money)	WSCC Assistant Director of Property & Assets	Non-material amendment to planning permission ref. WSCC/010/22 (2 no. SEN extensions to the existing school building with associated landscaping and other works) to allow changes to windows and the drainage scheme.	West Park Church of England Primary School, Marlborough Road, Worthing, West Sussex, BN12 4HD
WSCC/019/22/NMA1 (Tyra Money)	WSCC Assistant Director of Property & Assets	Non material amendment to planning permission ref. WSCC/019/22 (Demolition of existing caretakers lodge and erection of new single- storey building with external landscaping and associated works) to allow for 1.8m and 1.2m high fence and gate.	Felpham Community College, Felpham Way, West Sussex, PO22 8EL
WSCC/023/22 (Tyra Money)	WSCC Assistant Director of Property & Assets	Change of use from D1 to C2 residential home. Demolition of existing and erection of new single storey extension on same building footprint.	40 Teasel Close, Crawley, RH11 9DZ
WSCC/020/23/DIS1 (Tyra Money)	WSCC Assistant Director of Property & Assets	Discharge of Conditions 4 (Construction Management Plan), 5 (Written Scheme of Archaeological, and 7 (Tree Planting and Maintenance Plan) of planning permission WSCC/020/23/DIS1	Edward Bryant Junior and Infants School, London Road, Bognor Regis
WSCC/005/24 (Chris Bartlett)	WSCC Assistant Director of Property & Assets	Erection of two temporary classroom blocks on existing playground with access from existing site compound	Buckingham Park Primary School, Buckingham Road, Shoreham- By-Sea BN45 5UD

Reference (Case Officer)	Applicant	Proposal	Location
WSCC/010/24 (Tyra Money)	WSCC Assistant Director of Property & Assets	Retrospective application for the siting and use of 1 temporary classroom unit (Variation of Condition No.1 of planning permission WSCC/005/19/WB to allow continued siting and use of temporary classroom for an additional two years.)	Lyndhurst Infant School, Lyndhurst Road, Selden, Worthing, West Sussex, BN11 2DG
WSCC/011/24 (Tyra Money)	WSCC Assistant Director of Property & Assets	Retrospective application for the siting and use of 1 temporary classroom unit (Variation of Condition No.1 of planning permission WSCC/007/19 to allow continued siting and use of temporary classroom for an additional two years).	"Vale School 88 Vale Avenue Worthing BN14 0DB"

Table 3 - Current DMMOs under investigation:

App. No.	Application Details	Date received	Status and notes
DMMO 8/19 Archive & User	Addition of a Bridleway from Sedgwick Lane to BW1713, Horsham	14/10/19	Investigation commenced October 2023.
DMMO 7/19	Upgrade of FP's 146, 147 and part of 153 to BW and addition of a BW, Barnham	01/08/19	Investigation commenced March 2024
DMMO 1/20	Addition of a FP east of Yapton Lane – Walberton/Yapton	15/01/20	Investigation commenced March 2024
DMMO 3/20	Addition of a BW and upgrade part of FPs 3403 & 361-1 to BW – Arundel and Ford	14/07/20	Investigation commenced March 2024
DMMO 15/21	Addition of a BW at Ferry Barn, Bosham	16/11/21	PINS direction to determine not later than 6 months from 19 December 2023 (by 19 June 2024). Investigation commenced March 2024
DMMO 34/22	Addition of a FP from New England Road to Woodlands Road, Haywards Heath	07/06/22	PINS direction to determine within 12 months of 12 December 2023 (by 12 December 2024) Investigation commenced April 2024.

Table 4 - Current Town and Village Green (TVG) applications under investigation:

App. No.	Application Details	Date received	Status and notes
TVG 31/52	Application to register TVG at Nutham Lane, Cedar Drive and Easteds Lane, Southwater	August 2022	Investigation commenced November 2022. Report possible for May 2024 Committee

Table 5 - Public Path Orders (PPOs):

Reference	Application Details	Date received	Status and notes
PPO_2023(1)	Itchingfield: diversion of part of FP 1913	02.10.2023	Delegated decision dated 14.12.2023 to divert part of FP 1913 – Order to be confirmed once works complete.
PPO_2023 (2)	Loxwood: diversion of part of FP 814	29.02.2024	Application formally accepted – awaiting investigation.

Michael Elkington
Head of Planning Services

Tony Kershaw
Director of Law
Assurance

Matt Davey
Assistant Director
(Highways and Transport)

Contact Officers: Andrew Sierakowski, Acting County Planning Team Manager, Ext. 22762 for Planning; Laura Floodgate, Senior Solicitor, Legal Services, Ext. 24720 for DMMOs and TVGs and Ami Dye, Senior Rights of Way Officer, Highway Operations, Ext. 22687 for PPOs

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