

Planning Committee

7 January 2020

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

Installation and Operation of a Soil Washing Facility

Brookhurst Wood, Langhurstwood Road, Horsham, West Sussex, RH12 4QD

Application No: WSCC/051/19

Report by Head of Planning Services

Local Member: Peter Catchpole

District: Horsham

Executive Summary

This report relates to an application for a soil washing facility adjacent to the landfill at Brookhurst Wood in Horsham. The facility would process up to 100,000 tonnes of construction/demolition/excavation waste per year, comprising up to 29,999 tonnes of hazardous waste, and 70,001 tonnes of non-hazardous waste. It would operate alongside a soil heat treatment facility being considered under a separate application (ref. WSCC/050/19).

The 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 along with other material considerations.

There have been no objections from statutory consultees, though WSCC Drainage has sought further clarification, and North Horsham Parish Council has raised concerns about the impact of additional HGV movements.

Horsham District Council has raised concerns over traffic impact, but does not object, subject to the imposition of conditions to control emissions to air, and noise.

Objections were received from 27 residents, as well as the Langhurstwood Road Residents' Group. The main issues raised in objection were the increase in traffic and resulting impact on highway capacity, road safety, and air quality; impact of emissions on air quality; impacts on human health and the environment; proximity to existing and proposed residential development; sustainability of providing regional facility; industrialisation of area; inadequate public consultation; and cumulative impact alongside other development.

Consideration of Key Issues

The main material planning considerations are whether the proposal:

- is needed to manage waste arising in the County;
- accords with the Waste Local Plan, Policy W10 (site allocation as a non-inert landfill extension);
- is acceptable with regard to impacts on highway capacity and road safety;

- is acceptable with regard to impacts on residential amenity; and
- is acceptable with regard to impacts on the environment.

Need for the Facility

Monitoring data confirms that there is an identified need for additional capacity to recycle the construction/demolition waste arising in West Sussex, which this facility would provide. Although the data is less clear in relation to hazardous waste, including contaminated soils, it confirms that the County is currently a net exporter, which suggests that additional capacity in West Sussex is required. Therefore, it is considered that there is a demonstrated need for the additional inert waste recycling capacity, and the new hazardous waste recycling capacity the facility would provide. Furthermore, it would help to move the management of waste up the hierarchy, away from landfill.

Accordance with Waste Local Plan Policy W10

The application seeks to bring forward a soil washing facility on a site allocated in Waste Local Plan (WLP) Policy W10 for non-inert landfill. Therefore, the use does not accord with the site allocation. However, there is no current need for additional non-inert landfill capacity and there is an identified need for additional construction/demolition waste recycling capacity. It is considered that, in principle, the proposed use is acceptable for a temporary period of five years, after which the need for non-inert landfill capacity can be reviewed. The proposal would otherwise accord with the development principles set out in Policy W10 of the WLP as it would protect species and habitats, archaeological features are not detrimentally affected, the water environment would be protected, and conditions would ensure that the impact on residential amenity, including cumulatively with other development, is acceptable. The development would not prejudice the delivery of a strategic waste use on allocated land to the south. Overall, therefore, it is considered that the proposal is acceptable in relation to the development principles that apply to the application site's allocation under WLP Policy W10.

Impact on Highway Capacity and Road Safety

To establish a worst case scenario, the applicant has undertaken an assessment of the impact on the highway network of the proposal, combined with the adjacent soil heat treatment proposal (WSCC/050/19), a total of 75 additional HGV movements/day (38 HGVs travelling to/from the site). This has confirmed that there would be no unacceptable impact on highway safety, or residual cumulative impacts on highway capacity, including in terms of cumulative impact with the wider Brookhurst Wood site and North Horsham development. Therefore, the development is acceptable with regard to impacts on highway capacity and road safety.

Impact on Residential Amenity

The development has the potential to result in increased impacts on residential amenity through increased noise and emissions to air from both the site operations and HGVs travelling to/from the site. There is also the potential for cumulative impacts alongside existing uses, and the proposed soil heat treatment facility on the adjacent site, and the potential impact on future residents of the North Horsham development must also be considered. An Air Quality Impact Assessment has been submitted, confirming that the facility, along with the proposed soil heat treatment facility, would result in negligible impacts on air quality, particularly taking into account the processes in place to treat outputs and monitor emissions. A Noise

Impact Assessment has been submitted, confirming that the facilities would not increase noise for the nearest residential properties, and the number of HGVs travelling to/from the site would not be detrimental to residential amenity.

Impacts on the Environment

The development has the potential to result in impacts on the environment in relation to emissions to air, noise emissions, landscape and visual impact, impact on the water environment, and impact on ecology. Given the measures in place to ensure there is no impact on residential amenity resulting from noise or air emissions, it is concluded the impact on the environment in this regard would also be acceptable. There would be no increase in impermeable surfacing so no increase in flood risk, and water quality would be protected through requiring a detailed drainage scheme by condition. There would be no impact on habitat or species as a result of the development. It is therefore concluded that the proposal's impact on the environment would be acceptable.

Conclusion

Planning permission is sought for a soil washing facility adjacent to the non-inert landfill site at Brookhurst Wood in Horsham. The facility would process up to 100,000 tonnes of construction/demolition/excavation waste per year, comprising up to 29,999 tonnes of hazardous waste, and 70,001 tonnes of non-hazardous waste.

The proposal would provide a facility to move the management of waste away from landfill, making use of construction/demolition waste, including contaminated soils, that would otherwise be disposed of. The proposed development would take place on a site allocated in the West Sussex Waste Local Plan (WLP) for non-inert landfill. Therefore, the development does not accord with the allocated use. However, it is considered that given the lack of immediate demand, the use would be acceptable for a temporary period of time, after which consideration could be given as to whether the land is required for landfill.

The impact on the highway is considered to be acceptable and without detriment to highway capacity or road safety. Emissions from the site would be controlled to ensure there would be no loss of air quality, and noise from the site would be below existing levels. It is not, therefore, considered there would be a detrimental impact on residential amenity. The development would be relatively small in scale so would not affect the surrounding landscape, or visual amenity. There would be no impact on habitat and species as a result of the development, and the water environment would be protected.

Overall, therefore, the development is considered to be acceptable in terms of its impacts on people and the environment, and on balance, to accord with development plan policies.

In considering the application, the County Council has, through consultation with the appropriate statutory bodies and having regard to the development plan and all other material considerations, considered the objectives of protection of human health and the environment and self-sufficiency and proximity as required by Article 18 of the Waste (England and Wales) Regulations 2011.

Recommendation

That planning permission be granted subject to the conditions and informatives set out in **Appendix 1** of this report.

1. Introduction

- 1.1 This report relates to an application for a soil washing facility adjacent to the landfill at Brookhurst Wood in Horsham. The facility would process up to 100,000 tonnes of construction/demolition/excavation waste per year, comprising up to 29,999 tonnes of hazardous waste, and 70,001 tonnes of non-hazardous waste.
- 1.2 It would operate alongside, and share an access road with, a soil heat treatment facility being considered under a separate application (ref. WSCC/050/19).

2. Site and Description

- 2.1 The application site comprises an area located at the southern end of the Brookhurst Wood landfill site, bounded by the railway corridor to the west, the former Wealden Brickworks to the south (subject of an appeal against refusal for an energy-from-waste plant (ref. WSCC/015/18/NH), the aggregate treatment and recycling facility to the north, and the proposed soil heat treatment facility to the east (see **Appendix 2 – Site Location Plan**). The site extends to some 1.8 hectares in area, but this includes a long access road extending in a loop to the north, east, then south, making use of the existing access road and weighbridge also used by vehicles accessing the landfill gas/leachate plant, and an aggregate treatment and recycling facility. The road links to the landfill access road, which adjoins Langhurstwood Road some 750m north of the A264.
- 2.2 The site is in the parish of North Horsham, in Horsham District.
- 2.3 The site is within an area allocated in the West Sussex Waste Local Plan (2014), for an extension to the Brookhurst Wood non-inert landfill site. The landfill site is no longer receiving non-inert waste and is currently being restored.
- 2.4 The site contained kilns and other buildings which were previously used as part of the wider Wealden Brickworks. Following prior notification approval (ref. WSCC/018/18/NH/PNO), these buildings have now been removed and the site cleared.
- 2.5 To the east of the site is a site the subject of a separate application for soil heat treatment (ref. WSCC/050/19).
- 2.6 The application site is located outside of the defined built-up area of Horsham which is 900m south-east of the site, beyond the A264. The village of Warnham lies approximately 1.3km to the south-west. The Horsham to Dorking railway line abuts the western boundary of the site.
- 2.7 To the west, south, and east of the wider Brookhurst Wood site are small groups of dwellings and open countryside. To the north, beyond the landfill site, are large industrial and commercial developments including Fisher

Scientific Services and Broadlands Business Park. To the north-east is the active Warnham Clay Pit. A cluster of commercial/industrial companies is located around Warnham Railway Station, some 350m south-west of the site.

- 2.8 The closest residential properties to the main site are at Graylands Lodge, some 250m to the east on Langhurstwood Road; adjacent to the Brookhurst Wood site entrance on Langhurstwood Road, some 450m to the south-east; and along Station Road, approximately 600m to the south.
- 2.9 In addition to existing properties, a large development to the east of Langhurstwood Road was granted outline planning permission by Horsham District Council (HDC) on 1 March 2018 for "*a mixed use strategic development to include housing (up to 2,750 dwellings), business park (up to 46,450 m²), retail, community centre, leisure facilities, education facilities, public open space, landscaping and related infrastructure*" (HDC ref. DC/16/1677 - see **Appendix 3 - Approved North Horsham Allocation Illustrative Masterplan**).
- 2.10 If the development comes forward in accordance with the approved masterplan, the closest residential properties would be 630m south-east of the application site, with open space 425m and a school 850m to the south-east. The junction of Langhurstwood Road with the A264 will be closed and replaced with a new roundabout on the A264 and new access road serving the wider Brookhurst Wood site and other industrial and commercial developments.
- 2.11 There are several historic features in the vicinity of the site, including Graylands Moat Scheduled Monument (480m south-east of the main site) and Warnham Conservation Area (1.3km south-west). There are listed buildings at Westons Place and the Granary some 750m south-west of the site, and at Holbrook Park 1.25km to the south-east.
- 2.12 On the eastern side of Langhurstwood Road, some 260m east of the main site, is a strip of Ancient Woodland, with another east of Graylands, some 730m east of the main site. The access to Graylands extending east from Langhurstwood Road is shared with a public right of way (footpath 1573), linking with a north-south route (footpath 1421) extending along a ridgeline parallel to Langhurstwood Road.
- 2.13 The application site is 3.3km north-west of the High Weald Area of Outstanding Natural Beauty (AONB); 6.4km south-east of the Surrey Hills AONB; and 15km north-east of the South Downs National Park.

3. **Relevant Planning History**

- 3.1 Prior approval was given for the demolition of seven former brickworks buildings on the site (ref. WSCC/018/18/NH/PNO).
- 3.2 Otherwise the application site has no planning history, but as part of the wider Brookhurst Wood site, it has been in use for brick making since 1914. The surrounding land has extensive planning history for a range of waste development, of which the key relevant decisions are as follows:

Former Wealden Brickworks (to south)

- WSCC/015/18/NH: Recycling, Recovery and Renewable Energy Facility and Ancillary Infrastructure (refused 11 July 2018; refusal appealed, decision pending);
- WSCC/021/15/NH: Amendment of conditions 22 and 29 of planning permission WSCC/018/14/NH to increase site throughput from 200,000 tonnes per annum to 230,000 tonnes per annum, and increase associated HGV movements (granted 03 June 2015);
- WSCC/018/14/NH: Proposed Waste Transfer Facility to handle inert and non-inert waste with associated open air inert waste recycling operations, landscape improvements and vehicle parking (granted 01 July 2014);

Aggregate Facility (to west)

- WSCC/003/14/NH: Installation and operation of aggregate treatment and recycling facility (granted 17 April 2014);

MBT (to south-east)

- WSCC/055/09/NH: Construction and operation of a mechanical and biological treatment facility, including offices and visitor centre and ancillary plant and infrastructure (granted 1 April 2010);

MBT / Landfill

- DC/2919/06(NH): 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 (granted 14 January 2009).

4. The Proposal

- 4.1 Planning permission is sought to develop land within the Brookhurst Wood estate as a soil washing facility. It would operate alongside, and share an access road with, a soil heat treatment facility being considered under a separate application (ref. WSCC/050/19)(see **Appendix 5: Proposed Site Plan**; and **Appendix 6: Elevations**). Although both facilities would operate independently of each other, the applicant has assessed the impact on people and the environment of both developments coming forward
- 4.2 The soil washing facility would treat up to 100,000 tonnes of waste each year, comprising up to 29,999 tonnes of hazardous, and 70,001 tonnes of non-hazardous material. The two waste streams would be processed separately. The waste would primarily be material from construction / demolition / excavation sites, with the hazardous stream contaminated with metals and hydrocarbons.
- 4.3 Material would be separated into batches and loaded into a hopper, from which it would fall onto a conveyor along which ferrous metals would be removed using a suspended magnet. The material would then be screened into sizes, separating gravel, sands and fines. The separated gravel would move to a 'log washer' to remove clays and other material such as wood, paper, plastics and fibre which would be separated into a storage bay. The clean 'oversized' (aggregate) product would travel by conveyor to a stockpile, while the washwater and fine material would enter a series of cyclones where particles

would be separated by size using centrifugal force. Coarser sand would be discharged by conveyor into a stockpile, while the finest material would be processed further to remove organic material.

- 4.4 Water used in the process would be collected and cleaned before being recirculated back into the system for use.
- 4.5 The development would include seven material bays for stockpiling of outputs from the process. It is expected that around 60% of the outputs would be sand and aggregate which could be used in place of 'virgin' material; 20% would be 'fines' for use in landfill restoration; 10% contaminated fines which would be taken for further treatment; 5% organic material for use in landfill restoration/further treatment; and 5% metals which would be recycled.
- 4.6 The proposal is expected to result in approximately 60 HGV movements (30 HGVs travelling to/from the site each day). Vehicles would access the site using an existing haul roads and weighbridge used by the aggregates treatment and recycling facility.
- 4.7 The hours of operation sought are 0730 to 1800 Monday to Friday; and 0730 to 1300 on Saturdays, with no operations on Sundays or public/bank holidays.

5. **Environmental Impact Assessment (EIA)**

- 5.1 The proposal is considered to fall within Part 9 of Schedule 1 to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 as it involves *'Waste disposal installations for the incineration, chemical treatment... or landfill of hazardous waste'*. Soil contaminated with hydrocarbons is considered to fall within the definition of hazardous waste, and the process is considered to involve incineration/chemical treatment, as defined in the EIA Regulations. For this reason, the proposal is, therefore, considered capable of having a significant environmental effect on the environment and so was required to be supported by an EIA.
- 5.2 On 1 April 2019, the County Council issued a Screening Opinion confirming the information to be considered in the EIA for the previous application.

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 ('the NPPF')). For the purposes of the application, the following approved or adopted planning policy documents form the statutory development plan: the Horsham District Planning Framework (2015)('HDPF') and the West Sussex Waste Local Plan (2014)('WLP').
- 6.2 The key policies in the development plan that are material to the determination of the application are summarised below, and their conformity or otherwise with the NPPF considered. In addition, reference is made to relevant national planning policy guidance and other policies that guide the decision-making process and which are material to the determination of the application.

Horsham District Planning Framework (2015)(the HDPF).

- 6.3 The HDPF was adopted in November 2015 and forms part of the 'development plan'. The application site is identified on the proposals map as being within the 'Brookhurst Wood Site (allocated in 2014 Waste Local Plan)', as well as under Policy AL14 of the HDPF (see below).
- 6.4 The relevant policies are: 1 (Sustainable Development), 3 (Development Hierarchy), 7 (Economic Growth), 9 (Employment Development), 24 (Environmental Protection), 25 (Natural Environment and Landscape Character), 26 (Countryside Protection), 32 (Quality of New Development), 33 (Development Principles), and 39 (Infrastructure Provision). There are also a suite of policies relating to the strategic allocation of land North Horsham (east of Langhurstwood Road and north of the A264) to bring forward 2500 homes and associated facilities, namely Policy SD1 (Land North Horsham), SD2 (Employment and Business Opportunities), SD3 (Local Centre), SD5 (Open Space, Sport and Recreation), SD6 (Landscape Buffer, Landscape Character, Biodiversity and Green Infrastructure), SD7 (Design) and SD9 (Transport Infrastructure).

Horsham District Local Development Framework: Site Specific Allocations of Land (2007)

- 6.5 The site is allocated under Policy AL14 of the Site Specific Allocations of Land (2007) for a 'comprehensive redevelopment mixed use scheme' to include the retention of brick making and power generation from the landfill along with a new waste management facility, and various employment uses. Supporting text notes that around 14 hectares of land at the site are underused or vacant, so it was considered appropriate to 'examine the future use of this site' (paragraph 3.45).

West Sussex Waste Local Plan (April 2014)

- 6.6 The WLP was adopted by the County Council on 11 April 2014 and forms part of the 'development plan'. The WLP 2014 was subject to a five year review in 2019, as required by national policy, to consider whether it remains relevant and effective. The plan is still considered to be consistent with national policy, relevant and effective, and working to achieve the vision and strategic objectives of the Plan.
- 6.7 Policy W10 allocates strategic sites, including an 'extension to Brookhurst Wood Landfill Site' to meet an identified shortfall in non-inert landfill capacity. The area identified includes the application site.

"(c) The development of a site ... must take place in accordance with the policies of this Plan and satisfactorily address the 'development principles' for that site identified in the supporting text to this policy";

"(d) The sites allocated...will be safeguarded from any development either on or adjoining the sites that would prevent or prejudice their development (in whole or part) for the allocated waste management use or uses."

- 6.8 The supporting text to Policy W10 sets out the development principles for each allocated site including:

Non-Inert Landfill

7.3.18 Extension to Brookhurst Wood Landfill Site (Inset Map 4): In keeping with the aspiration of 'zero waste to landfill', the Plan only allocates an extension (approximately 3.5 hectares) to the existing non-inert landfill site at Brookhurst Wood, near Horsham. The extension site is currently used (in part) for site offices and gas plant and is allocated in Policy AL14 of the Horsham Local Development Framework for mixed-use development including waste management. Permitted capacity at the site (approximately 1.02mt at June 2012) is due to be used up by the end of 2015. Therefore, the allocation of an extension to the site of approximately 1,000,000m³ (and which could accommodate approximately 0.86mt, subject to the actual compaction densities achieved) provides for a period of transition in the medium-term during which new recycling and treatment facilities can come forward on the sites allocated under Policy W10(a) and on other suitable sites.

7.3.19 The development principles for the Extension to Brookhurst Wood Landfill Site are as follows:

- assessment of protected species and possible mitigation required;*
- industrial archaeological impact assessment and possible mitigation required;*
- assessment of impacts on the water environment and possible mitigation required;*
- assessment of impact (e.g. traffic, noise, odour) on the amenity of nearby dwellings and businesses and possible mitigation required;*
- the cumulative impacts of traffic, noise, and odour within the wider area to satisfactorily addressed;*
- development to comply with Aerodrome Safeguarding requirements to ensure that the operational integrity and safety of the airport are not compromised. This may result in restrictions on height, on the detailed design of buildings or on development which might create a bird hazard. A bird hazard management plan may be required;*
- assessment of impact of any additional HGV movements on highway capacity and road safety, including at the Langhurstwood Road/A264 junction and on the A264, A24, A23/M23, and possible mitigation required;*
- phased restoration to an appropriate after-use, such as meadowland and woodland; and*
- development must not prejudice the delivery of the site to the south allocated in Policy W10(a)."*

- 6.9 The following policies are also relevant in determining the application: Need for Waste Management Facilities (Policy W1); Hazardous and low Level Radioactive Waste (Policy W7); Character (Policy W11); High Quality Developments (Policy W12); Biodiversity and Geodiversity (Policy W14), Historic Environment (Policy W15), Air, Soil and Water (Policy W16), Flooding (Policy W17), Transport (Policy W18), Public Health and Amenity (Policy W19), Cumulative Impact (Policy W21) and Aviation (Policy W22).

National Planning Policy Framework (2019)

- 6.9 The NPPF sets out the Government's planning policies for England and outlines how these are expected to be applied. The Framework is a material consideration in determining planning applications. The relevant paragraphs in the NPPF are:

11 (approving development that accords with the development plan without delay), 38 (approaching decisions on development in a positive and creative way, approving sustainable development where possible), 47 (decisions on applications made as soon as possible), 54 (use of conditions/obligations to make otherwise unacceptable development acceptable), 55 (use of conditions, including the '6 tests'), 80 (significant weight placed on need to support economic growth and productivity), 83 - 84 (supporting a prosperous rural economy), 102 - 103 (impacts of development on transport networks), 108 (ensuring sustainable transport modes, safe/suitable access, and mitigation of congestion/highway safety impacts), 109 (development only refused on highway grounds if impact on highway safety unacceptable, or residual cumulative impacts on road network would be severe), 111 (development generating significant movements should be required to provide a travel plan and supported by a transport statement/assessment), 117/118 (making effective use of land), 127 (development achieving well-designed places), 130 (development of poor design should be refused), 131 (great weight given to outstanding/innovative design), 148 (planning system should support the transition to a low carbon future), 150 (development should avoid vulnerability to climate change and reduce greenhouse gas emissions), 170 (development should contribute to and enhance the natural and local environment), 175 (impacts on biodiversity), 178 (ground stability/contamination), 180 (effects on health, living conditions and the natural environment), 182 (reverse sensitivity), 183 (planning decisions should focus on land use, and not control of processes or emissions where subject to separate regimes which should be assumed to operate effectively), 189 - 199 (impact on heritage assets).

Planning Practice Guidance (PPG)

- 6.11 The PPGs set out the Government's planning guidance to be read in conjunction with the NPPF. They do not form part of the development plan but are a material consideration in determining planning applications.

PPG: Waste (October 2015)

- 6.12 Paragraph 5 notes that local planning authorities can ensure that human health and the environment are protected through the appropriate handling of waste, in considering individual planning applications against the criteria in Appendix B of the National Planning Policy for Waste (2014),

- 6.13 Paragraph 6 notes the obligation to consider the principles of self-sufficiency and proximity in relation to waste management. Paragraph 9 notes that driving waste up the waste hierarchy, away from disposal such as landfill, is an integral part of national policy for waste and a material consideration in decisions on waste applications.
- 6.14 Paragraphs 50 and 51 note that the planning system often needs to work with other regulatory regimes. With waste planning matters, waste planning authorities usually work with the Environment Agency and the Environmental Permitting regime, which they implement and regulate.

PPG: Natural Environment (updated July 2019)

- 6.15 Paragraph 1 notes that planning should recognise the intrinsic character and beauty of the countryside, while paragraph 4 notes that planning decisions should be based on up-to-date information about the natural environment and characteristics of the area. Paragraph 7 notes the statutory duty to have regard to the purpose of conserving biodiversity, while paragraph 17 seeks to include biodiversity enhancement in and around development, including improved links between existing sites.

National Planning Policy for Waste (2014)

- 6.16 This national policy guidance document promotes, wherever possible, the use of waste as a resource and the movement of waste management up the 'waste hierarchy', thereby only supporting the disposal of waste as a last resort. It also sets out the approach waste authorities should take to determining applications.
- 6.17 At paragraph 7 it notes "*When determining waste planning application, waste planning authorities should ... consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed health assessment of epidemiological and other health studies*".
- 6.18 At paragraph 7 it also notes "*When determining waste planning application, waste planning authorities should ... ensure that waste management facilities are well-designed, so they contribute positively to the character and quality of the area in which they are located*".
- 6.19 Appendix B sets out key criteria for testing the suitability of waste management sites, in particular; protection of water resources, land instability, landscape and visual impacts, nature conservation, conserving the historic environment, traffic and access, air emissions including dust, odours, vermin and birds, noise, light and vibration, litter, and potential land use conflict.

EU Council Directive 2008/98/EC

- 6.23 By virtue of the Waste (England and Wales) Regulations 2011, when determining any application for planning permission that relates to waste management (regulation 18), the County Council is required to take into account EU Council Directive 2008/98/EC, which sets out the objectives of the protection of human health and the environment (article 13) and self-sufficiency

and proximity (first paragraph of article 16(1), article 16(2) and (3)). Case law has confirmed that these articles are objectives at which to aim. As objectives, they must be kept in mind whilst assessing the application and provided this is done, any decision in which the furtherance of the objectives are not achieved, may stand.

7. Consultations

- 7.1 **Environment Agency:** No objection. Note that the development may require an Environmental Permit.
- 7.2 **Horsham District Council Planning:** Acknowledges the site is allocated for the proposed use, but have reservations over the impact in terms of air quality and traffic impact, particularly on the North Horsham development. Do not consider these are sufficient to formally object but consider it essential the issues are addressed by condition or through Environmental Permitting.
- 7.3 **Horsham District Council Environmental Health Officer - Air Quality:** No formal objection but raise queries in relation to the soil pile being covered at the top but not the sides [which is not the case], and seek an emissions mitigation plan in relation to the additional traffic resulting.
- 7.4 **Horsham District Council Environmental Health Officer - Noise:** No objection subject to condition requiring a Noise Management Plan and operational compliance noise monitoring.
- 7.5 **WSCC Highways:** No objection subject to conditions seeking construction management plan, and creation and retention of parking.
- 7.6 **WSCC Archaeology:** no objection; archaeological assessment/mitigation not required.
- 7.7 **WSCC Ecology:** no objection subject to informative noting need to avoid risk of harm to nesting birds.
- 7.8 **WSCC Flooding:** Consider insufficient information has been provided to accord with WSCC Lead Local Flood Authority Policy, particularly in relation to the increase in impermeable surfacing on the site, and in relation to run-off rates on the redevelopment of brownfield land.
- 7.9 **North Horsham Parish Council:** No objection to use, but raise concerns over increase in HGV movements and impacts on Langhurstwood Road and wider road network.
- 7.10 **Warnham Parish Council:** No objection.
- 7.11 **Network Rail:** No comments.
- 7.2 **Natural England:** No objection; generic environmental impact and opportunity advice provided.
- 7.3 **WSCC Councillor Peter Catchpole:** Objection due to increase in HGV traffic, particularly as remaining 'headroom' to use HGV movements within MBT permission; understands source of waste will be southern part of the UK, not

West Sussex alone, with increased pollution, and hazardous content posing risk to health and safety.

8. **Representations**

8.1 The application was publicised in accordance with The Town and Country Planning (General Development Procedure) Order (England) 2015). This involved the erection of site notices located around the application site, an advertisement in the local newspaper, and neighbour notification letters being sent out. A further round of consultation was also undertaken in response to additional information being provided.

8.2 In response, objections were received from 27 people, as well as the Langhurstwood Road Residents' Group. The main concerns raised related to:

- Increased traffic – resulting congestion and road safety hazard, need for road improvements, should use rail;
- Query why need for more HGV movements, given MBT facility is not operating at capacity;
- Need to see the 'big picture' in relation to impact of developments, rather than each application in isolation;
- Increased noise pollution;
- Increased air pollution;
- Impact on water and water supply;
- Health concerns;
- Proximity to existing and proposed residential development, including schools and residential care home;
- Ongoing impact after years of landfill;
- Industrialising rural nature of Horsham town;
- Management of waste from all over southern England, not just West Sussex – concerns over sustainability;
- Potential for emissions and spillage from transportation of hazardous material on roads;
- Unclear what inputs would be - whether include incinerator bottom ash;
- Perception and fear of increased risk to environment;
- Inadequate public consultation/engagement;
- Cumulative impact with existing waste plants.

9. **Consideration of Key Issues**

9.1 The main material planning considerations are whether the proposal:

- is needed to manage waste arising in the County;
- accords with the Waste Local Plan, Policy W10 (site allocation as an inert landfill extension);
- is acceptable with regard to impacts on highway capacity and road safety;
- is acceptable with regard to impacts on residential amenity; and

- is acceptable with regard to impacts on the environment.

Need for the Facility

- 9.2 The application seeks to process up to 100,000 tonnes of inert construction and demolition waste, including up to 29,999 tonnes of hazardous material, to divert it from landfill. It is necessary, in accordance with the WLP, to consider whether there is a need for a facility to manage these waste streams.
- 9.3 Policy W1(c) of the WLP states that *"proposals on unallocated sites for the recycling of inert waste will be permitted where it can be demonstrated that there is a market need, consistent with the principle of net self-sufficiency"*. The site is allocated, but for non-inert landfill, so it is necessary to demonstrate a market need.
- 9.4 The West Sussex Annual Monitoring Report for the WLP notes that there were 1.295 million tonnes of inert construction/demolition waste produced in the County in 2017/18, an increase over the previous year (paragraph 5.4.5). It also notes that West Sussex was a net exporter of construction/demolition waste (paragraph 5.4.6), and that there was a decrease in construction/demolition waste recycling facilities in the County, leading to an under-provision (Table 10). Therefore, there is an identified need for additional inert construction/demolition waste capacity in the County, which this facility would help to meet, in accordance with Policy W1 of the WLP.
- 9.5 In relation to the provision of capacity for the management of hazardous waste, Policy W7 of the WLP supports proposals for the management of hazardous waste *"providing it can be demonstrated that they make a substantial contribution to meeting the needs of West Sussex for the treatment of the relevant waste stream(s)"*. Supporting paragraph 6.8.4 notes that *"Due to the specific requirements for the management of hazardous wastes, the relatively small amounts generated, and the costs of establishing specialist facilities (which are likely to serve a national or regional need), there are currently no major facilities in West Sussex"*.
- 9.6 The Annual Monitoring Report for the WLP does not include separate figures relating to hazardous waste arisings or management because these are included within the commercial/industrial or construction/demolition waste streams. Further, as noted in the WLP, hazardous wastes often require small, specialist facilities, so the aggregated data may not be relevant to the type of facility proposed.
- 9.7 Nonetheless, officers have interrogated the limited data held by the Environment Agency and confirmed the following, albeit it is noted that is unlikely to represent the full picture:

Hazardous Waste Management in West Sussex (tonnes)

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

- 9.8 Therefore, this confirms that there is a general need for additional hazardous waste management capacity in the County.

- 9.9 Given the scale of construction/demolition waste arisings in West Sussex (1.295 million tonnes in 2017/18), it is likely that a proportion of this is contaminated soil that could be recycled if facilities were available (which they are currently not in West Sussex). Further, officers have no information to suggest that the facility would not make a 'substantial contribution' to meeting the needs for the treatment of contaminated soils in the County, and that the operator is best placed to understand the market – and unlikely to bring forward a facility if the market dictated otherwise.
- 9.10 On the basis of the above, it is considered that there is a demonstrated need for the additional inert waste recycling capacity, and the new hazardous waste recycling capacity the facility would provide. Therefore, it would help to move the management of waste up the hierarchy, away from landfill.
- 9.11 *Monitoring data confirms that there is an identified need for additional capacity to recycle the construction/demolition waste arising in West Sussex, which this facility would provide. Although the data is less clear in relation to hazardous waste, including contaminated soils, it confirms that the County is currently a net exporter, which suggests that additional capacity in West Sussex is required. Therefore, it is considered that there is a demonstrated need for the additional inert waste recycling capacity, and the new hazardous waste recycling capacity the facility would provide. Furthermore, it would help to move the management of waste up the hierarchy, away from landfill.*

Policy W10 of the West Sussex Waste Local Plan (April 2014)

- 9.12 Although the application site is generally well-located for a waste management facility, it falls within the site allocated in Policy W10(b) of the WLP to meet an identified shortfall in non-inert landfill capacity. The allocated site extends to some 3.5 hectares, encompassing the application site along with land to the north and west, including the landfill's site offices and gas/leachate plant. The application site's access road effectively loops around the perimeter of the site allocation.
- 9.13 Policy W1 of the WLP notes that there is the need for 0.605 million tonnes of non-inert landfill capacity over the Plan period to 2031, to be delivered through the allocation of the non-inert landfill extension at Brookhurst Wood under Policy W10. Paragraph 7.3.18 of the WLP notes that the site is allocated to provide up to 1,000,000m³ (0.86 million tonnes) of non-inert landfill capacity for the transitional period to zero waste to landfill.
- 9.14 The existing landfill stopped taking waste in 2018 and is now being restored, and the Lidsey Landfill site near Bognor Regis ceased operations in 2015. Therefore, there are no operational non-inert landfill sites in the County. Any non-inert waste requiring disposal to landfill is, because of a commercial decision by the operator, being taken out of the County to Redhill in Surrey, where the landfill site is expected to cease operation in 2028.
- 9.15 The applicant has confirmed that it is not currently economically viable to use the site allocation for landfill due to engineering/accommodation costs when compared to the size of the void, and the fact that mineral extraction would be required. They note that should the economic situation change and there be a

need to use the allocated site for non-inert waste disposal, the proposed soil heat treatment facility could be removed because it is of a modular design.

- 9.16 Although there is no need at this time for non-inert landfill capacity, there may be a need in the longer-term (that is, towards the end of the WLP period) and, therefore, it is not considered appropriate to permit development that would prevent the allocated site coming forward in perpetuity. However, it is considered beneficial to enable the site to be used for a development that would facilitate the movement of waste 'up the hierarchy', away from disposal. On this basis, it is considered that, for a short period of time, the use of the site for soil heat treatment, rather than non-inert landfill, is considered acceptable.
- 9.17 Accordingly, it is proposed that a condition is imposed allowing a temporary, five year permission from first operation, after which the need for non-inert landfill can be reviewed. It is considered this is necessary to ensure that the need for non-inert landfill capacity in the County is considered in the public interest, even if it is not necessarily wanted at this time by the operator for economic reasons. PPG: Use of Conditions states that temporary permissions may be appropriate "*where it is expected that the planning circumstances will change in a particular way at the end of that period.*" (paragraph 014). This is considered to be the case with this proposal, where the need for non-inert landfill capacity can be assessed after a period of time.
- 9.18 On balance, therefore, it is not considered appropriate to require the site to be retained for non-inert landfill when there is no demand for it, at least over the short-medium term that a temporary permission would encompass. Further, it is considered beneficial to enable the site to be used for a development which would facilitate the movement of waste 'up the hierarchy', away from disposal. On this basis, it is considered that for a short period of time, the use of the site for soil washing, rather than non-inert landfill, is considered acceptable.
- 9.19 Policy W10 requires that development on allocated sites must satisfactorily address the 'development principles' for that site identified in the supporting text. Although the proposed use is not for non-inert landfill, it is considered appropriate to consider the proposal against each of the nine development principles relating to the site allocation.
- *assessment of protected species and possible mitigation required;*
- 9.20 No impact on protected species is anticipated as a result of the development and no objection has been raised by WSCC Ecology. This is discussed below (see 'Key Issue: Impacts on the Environment').
- *industrial archaeological impact assessment and possible mitigation required;*
- 9.21 The former kiln buildings that were on the site and of archaeological interest have been demolished following prior notification approval and archaeological recording (ref. WSCC/018/18/NH/PNO). No objection has been raised by WSCC Archaeology so this principle is therefore met.
- *assessment of impacts on the water environment and possible mitigation required;*
- 9.22 The site is in flood zone 1 so at the lowest risk of flooding. Appropriate drainage measures would be put in place to ensure the water environment is protected,

as set out in further detail below (see 'Key Issue: Impacts on the Environment'). This principle is therefore considered to be met.

- *assessment of impact (e.g. traffic, noise, odour) on the amenity of nearby dwellings and businesses and possible mitigation required;*

9.23 It is considered that the impact of the development on amenity would be acceptable, subject to conditions being imposed to control vehicle numbers, noise and emissions, and the additional controls imposed through the Environmental Permitting process, as is discussed in detail below (see 'Key Issue: Impact on Residential Amenity').

- *the cumulative impacts of traffic, noise, and odour within the wider area to satisfactorily addressed;*

9.24 The development of the application site has the potential to result in significant cumulative impacts alongside existing uses, particularly within the wider Brookhurst Wood site, as well as proposed uses including the soil heat treatment facility to the immediate east (subject of planning application WSCC/050/19), and potentially, an energy-from-waste plant to the south (subject of appeal against refusal for planning permission WSCC/015/18/NH). The cumulative impact of, and upon, the North Horsham development approved to the east of Langhurstwood Road must also be taken into account.

9.25 This is discussed in detail below (see 'Key Issue: Impacts on Highway Capacity and Road Safety'; and Key Issue: Impact on Residential Amenity').

- *development to comply with Aerodrome Safeguarding requirements to ensure that the operational integrity and safety of the airport are not compromised. This may result in restrictions on height, on the detailed design of buildings or on development which might create a bird hazard. A bird hazard management plan may be required;*

9.26 The proposal does not fall within development which may create a bird hazard or otherwise affect aerodrome operational requirements by virtue particularly of height. It is therefore considered to meet this principle.

- *assessment of impact of any additional HGV movements on highway capacity and road safety, including at the Langhurstwood Road/A264 junction and on the A264, A24, A23/M23, and possible mitigation required;*

9.27 Discussed in detail below (see 'Key Issue: Impacts on Highway Capacity and Road Safety').

- *phased restoration to an appropriate after-use, such as meadowland and woodland; and*

9.28 No waste infill is proposed, so site restoration is not a material consideration in relation to this application.

- *development must not prejudice the delivery of the site to the south allocated in Policy W10(a)."*

9.29 The proposal would not prejudice the delivery of development at Wealden Brickworks to the south, or the adjacent land within the allocated site. The development is relatively small in scale, both physically and in terms of on-site activity.

Overall Conclusion

- 9.30 *The application seeks to bring forward a soil washing facility on a site allocated in Waste Local Plan (WLP) Policy W10 for non-inert landfill. Therefore, the use does not accord with the site allocation. However, there is no current need for additional non-inert landfill capacity and there is an identified need for additional construction/demolition waste recycling capacity. It is considered that in principle, the proposed use is acceptable for a temporary period of five years, after which the need for non-inert landfill capacity can be reviewed. The proposed use would move the management of waste 'up the waste hierarchy', by providing recycling of material which would otherwise be disposed of to landfill. The proposal would otherwise accord with the development principles set out in Policy W10 of the WLP as it would protect species and habitats, archaeological features are not detrimentally affected, the water environment would be protected, and conditions would ensure that the impact on residential amenity, including cumulatively with other development, is acceptable. The development would not prejudice the delivery of a strategic waste use on allocated land to the south. Overall, therefore, it is considered that the proposal is acceptable in relation to the development principles that apply to the application site's allocation under WLP Policy W10.*

Impacts on Highway Capacity and Road Safety

- 9.31 The development has the potential to result in adverse impacts on highway capacity and road safety due to the increase in HGVs travelling to/from the site, anticipated to be a maximum of 30 HGV movements each day (15 HGVs travelling to/from the site).
- 9.32 Given the large scale uses on the wider Brookhurst Wood site and the resulting significant HGV numbers, there is also the potential for cumulative highway impacts. The former Wealden Brickworks has permission for up to 284 HGV movements/weekday (142 HGVs travelling to/from the site)(ref. WSCC/021/15/NH); the landfill and MBT which has a combined maximum daily limit of 392 HGV movements/weekday (196 HGVs travelling to/from the site)(refs. WSCC/055/09/NH (MBT) and WSCC/005/16/NH (landfill)); and the current application for a soil heat treatment facility is expected to result in 15 HGVs/day (8 HGVs travelling to/from the site).
- 9.33 In addition, the potential impact of and on the North Horsham residential development to the east is also relevant, particularly as when it comes forward, the Langhurstwood Road link with the A264 would be closed and HGVs would travel east along the southern edge of the new development.
- 9.34 A Traffic Survey was undertaken in September 2018 on Langhurstwood Road, south of the site, to feed in to a Transport Assessment relating to the combined impact of the proposed soil washing facility along with the proposed soil heat treatment development (application ref. WSCC/050/19). This concluded that together, the two developments would result in an increase of 13% in HGVs travelling on Langhurstwood Road, and an increase of 2.6% in total traffic. It is not considered that this increase would pose a risk to either road safety or highway capacity.

- 9.35 WSCC Highways agrees with the applicant's conclusion that once the North Horsham development comes forward, the revised road layout would have the capacity to manage the additional vehicle trips the developments would result in, along with those which may come forward if the adjacent energy-from-waste facility is approved on appeal. Officers also note that the proposals would not make traffic conditions on Langhurstwood Road less acceptable in terms of road capacity, concluding that *"the network has sufficient current and future capacity for both uses."*
- 9.36 Further, Horsham District Council, in their response to the application, notes that the infrastructure to facilitate the North Horsham development has been designed for a number of trips far outweighing the current scheme, even if the energy-from-waste facility on the adjacent site also comes forward. They note that the highway network *'is currently accommodating fewer trips than its theoretical capacity'*.
- 9.37 It is therefore concluded that the development would accord with the NPPF which notes that development should only be refused on highway grounds if the impact on highway safety would be unacceptable or residual cumulative impacts on highway capacity severe, which is not the case in the view of WSCC Highways.
- 9.38 WSCC Highways has sought a condition requiring the provision of vehicle parking and turning spaces prior to occupation of the development. However, no vehicle parking has been shown on submitted plans, and it is considered unreasonable to require that it is provided, given there is parking within the applicant's control on land to the north, beside the landfill gas/leachate compound. It is considered the existing parking is sufficient to cater to the new facility, particularly as only two new staff would be employed on the site.
- 9.39 *To establish a worst case scenario, the applicant has undertaken an assessment of the impact on the highway network of the proposal, combined with the adjacent soil heat treatment proposal (WSCC/050/19), a total of 75 additional HGV movements/day (38 HGVs travelling to/from the site). This has confirmed that there would be no unacceptable impact on highway safety, or residual cumulative impacts on highway capacity, including in terms of cumulative impact with the wider Brookhurst Wood site and North Horsham development. Therefore the development is acceptable with regards to impacts on highway capacity and road safety.*

Impact on Residential Amenity

- 9.40 The development has the potential to result in adverse impacts on residential amenity through increased noise and emissions to air from both the site operations and HGVs travelling to/from the site. There is also the potential for cumulative impacts alongside existing uses, and the proposed soil heat treatment use on the adjacent site, and the potential impact on future residents of the North Horsham development must also be considered.
- 9.41 An Air Quality Impact Assessment has been submitted with the application in relation to the combined emissions from both the soil washing facility and the proposed soil heat treatment facility (ref. WSCC/050/19), noting emissions to air have the potential to affect both human health and ecosystems. The main emissions from the facilities would result from operations on the heat treatment

site, but the impact of emissions from increased vehicle numbers resulting from operations has also been taken into account.

- 9.42 The assessment has concluded that the facilities would have a negligible impact on air quality.
- 9.43 Horsham District Council's Environmental Health Officer (EHO) does not object to the proposal on air quality grounds, but note that a mitigation plan has not been provided in relation to the additional traffic emissions. It is considered that this can satisfactorily be addressed by a condition requiring such a plan. Additional information has been provided setting out the monitoring that would be undertaken under the Environmental Permit. It is considered this is sufficient to overcome the concerns raised, particularly as the Environmental Permitting Regime will be the primary mechanism to control emissions to air and ensure they are monitored appropriately.
- 9.44 In relation to noise, a Noise Impact Assessment has been submitted with the application, again identifying potential impacts from both the soil washing and heat treatment facilities. This confirms that the facilities would result in noise impacts below existing background levels, albeit the existing levels include landfill operations that will soon cease. Nonetheless, predicted levels are at most 42dB at the nearest sensitive receptors (in this case, all residential properties) which is below the 55dB level considered to be acceptable. When combined with noise from the soil washing facility, the noise levels are still expected to be below background levels, and at most 47dB so considered acceptable. It is concluded that there is a low likelihood of the facilities resulting in any increase in noise for the closest properties.
- 9.45 Horsham District Council's EHO agrees with the conclusion that the noise impact would be acceptable and cumulative noise impacts would be below background noise levels. They have, however, asked that to ensure this is the case, a Noise Management Plan is required by condition, which it would be.
- 9.46 Horsham District Council note in their response that once it comes forward, the main access to the site would be through housing in the North Horsham development. However, the impact of vehicles travelling along this route, including HGVs, would have been taken into account when considering that development. While the present proposal would result in an increase in HGV numbers on the new road, as previously noted it has been designed for a capacity in excess of that resulting from this development, including in accumulation with that proposed on adjacent sites.
- 9.47 On the basis of the above, it is considered that the development would be acceptable in relation to its impact on residential amenity.
- 9.48 *The development has the potential to result in increased impacts on residential amenity through increased noise and emissions to air from both the site operations and HGVs travelling to/from the site. There is also the potential for cumulative impacts alongside existing uses, and the proposed soil washing use on the adjacent site, and the potential impact on future residents of the North Horsham development must also be considered. An Air Quality Impact Assessment has been submitted, confirming that the facility, along with the proposed soil heat treatment facility, would result in negligible impacts on air quality. A Noise Impact Assessment has been submitted, confirming that the*

facilities would not increase noise for the nearest residential properties, and the number of HGVs travelling to/from the site would not be detrimental to residential amenity.

Impacts on the Environment

- 9.49 Given the controls in place to contain and monitor emissions to air, and the limited impact on the noise environment, it is concluded that the impact on the environment resulting from air and noise emissions would not be significant.
- 9.50 The proposed soil washing plant would have a maximum height of some 8.4 metres, and it would be some 50.6m in length, so it would be a relatively large facility. However, it is not considered to result in significant landscape or visual impacts, given its location next to other waste facilities and large scale uses such as the former Wealden Brickworks and Warnham Brickworks to the south, the MBT to the south-east, and the aggregate treatment facility and landfill compound to the north. The site abuts the railway corridor to the west, beyond which the land slopes up towards the A24. Views into the site from this area would be limited, particularly given the mature woodland west of the railway line, and would be seen in the context of the dome of the landfill to the east, and the large buildings to the south. There would therefore be limited impact on the surrounding landscape, and little visual impact, as confirmed in Horsham District Council's response to the application. They also note that less than substantial harm would result to the setting of surrounding heritage assets, so the proposal is considered acceptable in this regard.
- 9.51 The development would be undertaken entirely on impermeable brownfield land, so there would be no increase in flood risk as a result. A detailed drainage scheme has been sought by condition to ensure that greenfield rates of run-off are achieved, and that water quality is protected.
- 9.52 A Preliminary Ecological Assessment was submitted with the application, and confirmed that buildings and scrub within the site have the potential to support common nesting bird species, and some areas of habitat may support reptiles. An informative is proposed noting the requirements of the Wildlife and Countryside Act 1981 to avoid impact on nesting birds, while the potential reptile habitat is beyond the boundary of this application, and separated from the site by buildings, hardstanding and hoardings. No objection has been raised by WSCC Ecology and in planning terms, therefore, it is not considered any mitigation is required and that this principle is met.
- 9.53 *The development has the potential to result in impacts on the environment in relation to emissions to air, noise emissions, landscape and visual impact, impact on the water environment, and impact on ecology. Given the measures in place to ensure there is no impact on residential amenity resulting from noise or air emissions, it is concluded the impact on the environment in this regard would also be acceptable. There would be no increase in impermeable surfacing so no increase in flood risk, and water quality would be protected through requiring a detailed drainage scheme by condition. There would be no impact on habitat or species as a result of the development. It is therefore concluded that the proposal's impact on the environment would be acceptable.*

10. Overall Conclusion and Recommendation

- 10.1 Planning permission is sought for a soil washing facility adjacent to the non-inert landfill site at Brookhurst Wood in Horsham. The facility would process up to 100,000 tonnes of construction/demolition/excavation waste per annum, comprising up to 29,999 tonnes of hazardous waste, and 70,001 tonnes of non-hazardous waste.
- 10.2 The proposal would provide a facility to move the management of waste away from landfill, making use of contaminated soils that would otherwise be disposed of. The proposed development would take place on a site allocated in the West Sussex Waste Local Plan (WLP) for non-inert landfill. Therefore, the development does not accord with the allocated use. However, it is considered that given the lack of immediate demand, the use would be acceptable for a temporary period of time, after which consideration could be given as to whether the land is required for landfill.
- 10.3 The impact on the highway is considered to be acceptable and without detriment to highway capacity or road safety. Emissions from the site would be controlled to ensure there would be no loss of air quality, and noise from the site would be below existing levels. It is not, therefore, considered there would be a detrimental impact on residential amenity. The development would be relatively small in scale so would not affect the surrounding landscape, or visual amenity. There would be no impact on habitat and species as a result of the development, and the water environment would be protected.
- 10.4 Overall, therefore, the development is considered to be acceptable in terms of its impacts on people and the environment, and on balance, to accord with development plan policies.
- 10.5 In considering the application, the County Council has, through consultation with the appropriate statutory bodies and having regard to the development plan and all other material considerations, considered the objectives of protection of human health and the environment and self-sufficiency and proximity as required by Article 18 of the Waste (England and Wales) Regulations 2011.
- 10.6 It is **recommended**, therefore, that planning permission be granted subject to the conditions and informatives set out in **Appendix 1** of this report.

11. Equality Duty

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 2010. Officers considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

12. Risk Management Implications

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.

13. **Crime and Disorder Act Implications**

This decision has no implications in relation to crime and disorder.

14. **Human Rights Act Implications**

- 14.1 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 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.
- 14.2 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. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 14.3 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, complied with Article 6.

Michael Elkington

Head of Planning Services

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Background Papers

As set out in Section 6.

List of Appendices

Appendix 1 - Conditions and Informatives

Appendix 2 - Site Location Plan

Appendix 3 - Approved North Horsham Allocation Illustrative Masterplan

Appendix 4 - Proposed Site Plan

Appendix 5 - Elevations