

Planning Committee

8 September 2020

Change of use from agricultural land to a construction/demolition/excavation waste recycling facility

Land at Thistleworth Farm, Grinders Lane, Dial Post, Horsham, RH13 8NR

Application No: WSCC/009/20

Report by Head of Planning Services

Local Member: Mr Lionel Barnard

Electoral division/s: Henfield

District: Horsham

Summary

Retrospective planning permission is sought for a construction, demolition and excavation waste recycling facility at Thistleworth Farm, Dial Post, Horsham. The facility would process up to 25,000 tonnes per year of inert construction demolition and excavation waste (CDEW), which would be collected from building sites and taken to the site for sorting and grading to produce recycled soils and aggregates for export/sale.

The application site is within the 'countryside' and is not allocated for built waste management facility uses in the West Sussex Waste Local Plan (2014).

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.

In terms of statutory consultees, Horsham District Council (Planning, Landscape and Environmental Health Officers), the Highway Authority and Environment Agency have raised no objections to the proposals.

West Grinstead Parish Council object to the application noting that the site causes noise, light, dust, and odour problems, and obstruction of a public footpath. They consider that HGV movements would exacerbate a highway safety issue, in particular at the junction of the A24 and Grinders Lane, and that there is no need for construction, demolition and excavation waste recycling capacity.

Twenty eight third-party representations, have been received all raising objections. Key material matters raised are; impact upon amenity and health arising from noise, dust, lighting, odour, burning, and increased HGV movements; impact on highway capacity and safety; impact on public footpaths; potential for pollution and flooding of land and watercourses; cumulative impact with the nearby waste

recycling facility; loss of greenfield agricultural land; disturbance of wildlife; visual/character impact in the countryside; lack of need; and sufficient alternative sites available.

Consideration of Key Issues

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

- need for the development;
- location of the development;
- landscape, character and visual impact;
- impact on local amenity; and
- impact on the highway capacity and road safety.

Need for the Development

Policy W1 of the West Sussex Waste Local Plan (2014)(the WLP) supports inert waste recycling facilities on unallocated sites where there is a demonstrated market need, consistent with the principle of net self-sufficiency. The most recent Annual Monitoring Report for the WLP indicates there is a continued and increasing demand for inert construction, excavation and demolition waste recycling in the County, which this development could help to address. The development would promote the movement of waste up the waste hierarchy.

Location of the Development

Policies W3 and W4 of the Waste Local Plan sets out criteria for locating waste facilities on unallocated sites. With reference to these criteria, the proposed development would be within the 'Area of Search,' as identified in the WLP, and could not likely be delivered on an existing waste site or a site allocated in Policy W10. Although the development is located on a greenfield site, it has been sufficiently demonstrated that no suitable deliverable alternatives are available. The site is well-located to the Strategic Lorry Route Network. The proposed development, therefore, accords with Policies W3 and W4 of the WLP.

Landscape, Character and Visual Impact

The proposed development would introduce an urbanising waste development within a countryside area. However, taking into account the scale and nature of operations proposed, the contained nature of the site, and proximity to the A24 and other urban influences, it is not considered the proposed development would result in an unacceptable impact on the landscape, character or visual qualities of the locality.

Impact on Local Amenity

The proposed development has the potential to give rise to noise, light and dust impacts associated with the sorting and grading of up to 25,000tpa of construction, demolition and excavation waste, and the delivery of waste/export of materials in HGVs. The proximity to the A24 and other urban influences is such that existing ambient noise levels are high during the day, in particular as a result of road traffic. The development proposals include both physical and operational measures to mitigate impacts upon amenity, including bunds, acoustic fencing, dust

suppression, and controls over operational practices. Subject to conditions to secure such measures, restriction of operational practices and hours of working, it is not considered that the proposed development would give rise to unacceptable impacts upon local amenity.

Impact on Highway Capacity and Road Safety

The proposed development would result in a modest volume of vehicular movements, and the site is well located to the Strategic Lorry Route Network. Subject to conditions to secure a wheel wash and Construction Management Plan, and a routing agreement to secure all exiting HGVs turn south onto the A24, the proposed development would not result in any unacceptable impact upon highway capacity or road safety. The proposed access is suitable to accommodate the type and volume of HGV movements likely to result from the proposed development.

Overall Conclusion

Retrospective planning permission is sought for a construction, demolition and excavation waste recycling facility at Thistleworth Farm, Dial Post, Horsham. The facility would process up to 25,000 tonnes per year of inert construction demolition and excavation waste (CDEW), which would be collected from building sites and taken to the site for sorting and grading to produce recycled soils and aggregates for export/sale.

The proposed development would meet an identified market need consistent with increasing arisings of CDEW. The proposal is therefore consistent with the principle of net self-sufficiency. The development would promote the movement of waste up the waste hierarchy in accordance with both local and national policy, a benefit which must be considered in the planning balance.

The site is located within an 'Area of Search' identified in the WLP, and is well-located to the Strategic Lorry Route Network, a key constraint to development of this nature. Although located on a 'greenfield' site, it could not likely be delivered on an existing waste site, or a site allocated in the WLP, and it has been sufficiently demonstrated that no suitable deliverable alternatives are available. As a result, the proposed development accords with the relevant locational criteria as set out in the WLP.

Given the generally well-contained nature of the site, its location adjacent to the A24 and other urban influences, and the limited throughput of material proposed, the development would not result in a significant increase in the level of activity in the countryside. The contained nature of the site coupled with mitigation of visual impacts principally provided by the proposed bunds and landscaping, are such that the proposed development would not result in an unacceptable impact on the landscape, character or visual qualities of the locality.

Noting the high ambient noise levels that result from the proximity to the A24, and proposed physical and operational measures to mitigate impacts upon amenity, subject to appropriate conditions, the proposed development would not be likely to give rise to an unacceptable impact on the amenities of occupiers of nearby property/land or users of public footpaths.

The proposal would result in modest volume of HGV movements on a site well-located to the Strategic Lorry Route Network (A24) and with a suitable access to

accommodate the type and volume of vehicles proposed. The Highway Authority do not raise any highway capacity or road safety concerns subject to appropriate conditions and a routing agreement requiring all exiting HGVs turn south onto the A24.

Overall, the proposed development would meet an identified need, contribute towards managing CDEW arising within the County, and promote the movement of waste up the hierarchy. These are benefits that weigh favourably for the proposal. Although located on a 'greenfield' site, suitable deliverable alternative sites are not considered likely to be available. It is well-located to the Lorry Route Network and its contained nature is such that the development would not give rise to unacceptable impacts upon the landscape, character, visual qualities, or amenities of the locality. Accordingly, the proposed development accords with the development plan and all other material considerations.

Recommendation

That planning permission be granted subject to:

- (a) the conditions and informatives set out in Appendix 1; and
- (b) the applicant entering into a legal agreement under section 106 of the Town and Country Planning Act 1990 requiring all exiting HGVs from the site to turn south onto the A24.

1. Introduction

- 1.1 Retrospective planning permission is sought for a construction, demolition and excavation waste recycling facility at Thistleworth Farm, Dial Post, Horsham.
- 1.2 The facility would process up to 25,000 tonnes per year of inert construction demolition and excavation waste (CDEW), which would be collected from building sites and taken to the site for sorting and grading to produce recycled soils and aggregates for export/sale.

2. Site and Description

- 2.1 The application site falls in a countryside location, some 300m to the south-east of Dial Post. The site is located on agricultural land west of Thistleworth Farm immediately to the east of the A24 (see **Appendix 2 – Site Location**).
- 2.2 The application site occupies an area of some 0.9 hectares, sandwiched between the A24 and a large grassed bund, which is understood to have been created as part of the construction of the A24 (see **Appendix 3 – Application Site**). Historic aerial photography indicates the site was formally an open field in agricultural use. Although the site is currently occupied by the proposed waste use, hence the retrospective application, the lawful use of the land is agriculture because the waste use does not have planning permission. A green palisade gate/fence has been erected at the site entrance and bunds some 3m in height have been erected around the south and west of site. Some areas have been laid to hard surfacing, with a number of stockpiles, plant and a modular site office currently on site (see **Appendix 4 – Site Photos**).

- 2.3 To the east, beyond the bund, is a group of agricultural style buildings including a large barn (formerly part of the listed Thistleworth Farm buildings) and a mobile home. The barn has previously been granted planning permission by Horsham District Council for residential conversion (DC/16/0584). Alongside this is Thistleworth Farm which includes the Grade II Listed Thistleworth Farmhouse.
- 2.4 To the west, the site shares a boundary with the A24 demarked by a low fence and mature vegetation/trees of a considerable height. Beyond the A24, and at the closet point some 90m from the site, are a small number of residential properties, including Hurst Cottage, Moat Cottage and Woodmans Stud (the latter being a Grade II Listed Property).
- 2.5 To the north is agricultural land, which includes a part implemented (groundworks only) planning permission for a large barn (DC/14/2039 – allowed on appeal). Some areas immediately north of the site appear as bare earth, having been the subject of a recent increase in ground levels through the importation of inert waste/soils (purported as an agricultural improvement). These works are considered unauthorised development and are the subject of a current investigation by the County Council, however, this is not material to the determination of the application being considered.
- 2.6 To the south and south-east are open grassed fields used for a mixture of grazing and recreational uses. In part, this was historically called the Sussex Showground where periodic events took place under the '28 days' permitted development rights rule. Further south is a large garden centre complex and commercial premises, beyond which is a caravan park. Also accessed via the A24 and Grinders Lane, some 250m to the south, is an established inert construction waste transfer and recycling site (Penfold Verrall Ltd site – WSCC planning reference: WSCC/008/15/WG).
- 2.7 Access to the site is via an existing asphalt road from Grinders Lane, which includes a 9.8m wide kerbed bell-mouth adjacent to the A24. This private road is shared with a public footpath that runs from Grinders Lane before turning east and along the southern boundary of the site. It then connects with a public footpath running parallel to the east of the site, before tapering towards the A24 to the north.
- 2.8 The application site is outside of the built-up area defined in the Horsham District Planning Framework and so is considered to be 'countryside'. It is not within an area designated for landscape, heritage or ecological reasons. However, it falls in relatively close proximity to the Grade II Listed Thistleworth Farmhouse. The site is in not within an identified flood risk zone.

3. Relevant Planning History

- 3.1 None relevant within the site.

4. The Proposal

- 4.1 Retrospective planning permission is sought for an inert construction, excavation and demolition waste recycling facility on land at Thistleworth Farm, Grinders Lane, Dial Post, Horsham. At present, the site is operational

with the majority of physical development already in place and activities ongoing. The following sets out the full extent of development for which permission is now sought, some of which would require additional works on site and/or reconfiguration of activities within the site (see **Appendix 5 – Proposed Site Layout Plan**).

- 4.2 The proposed facility would process up to 25,000 tonnes per annum (tpa) of inert construction, excavation and demolition waste (CDEW), which would be sorted and screened to produce recycled materials (e.g. soils, aggregates, fill material) for export/sale or further processing.
- 4.3 Waste material would be imported into the site by the applicant's vehicles and unloaded onto a concrete pad. Thereafter, materials would be loaded into screening plant where it would be sorted and graded into separate stockpiles of soil, hardcore and stone. Any imported materials unsuitable for construction uses would be stored in containers to the south of the site for onward export to specialist recycling facilities (e.g. timber and metals). In addition to screening plant, the facility would also result in the use of various other plant including 360° excavators, tipper and a loading shovel. The applicant advises the site would require three staff members.
- 4.4 The proposals include grassed bunds of some 3m in height that largely enclose the site and tie into the large existing bund to the east. These have been created from inert materials/soils processed on site (some 3,500m³ of material). Additional planting is also proposed in two main areas of the bunds (see Appendices 6 & 7 –Proposed Site Sections & Landscaping Plan).
- 4.5 Bunds to the west and north of the site would have a 1m acoustic fence erected on top to assist with noise attenuation. Alongside the inner edge of bunds, adjacent to the proposed stockpile area, a 2m high concrete retaining wall would also be erected. At the site's entrance (approximately 100m up the access from its junction with Grinders Lane), the proposals include 2.4m metal fencing and gates.
- 4.6 The entire site would be hard surfaced with a mixture of concrete, compacted material and the existing asphalt driveway to its junction with Grinders Lane retained. A significantly updated surface water drainage scheme is also proposed that would include pollution prevention control measures, filter drains, attenuation, and a balancing pond to the north (outside of the bunded area).
- 4.7 To the south-east, the site would contain a prefabricated office/welfare building and also a maintenance cabin, alongside which would be a parking area for the applicant's HGVs (grab/tipper lorries) and staff vans/cars.
- 4.8 The proposed main hours of operation are 08:00 to 17:00 Monday to Friday, with vehicles entering the site from 07:00. The applicant also seeks hours to allow for occasional use of the site between 08:00 to 13:00 on Saturdays to service and maintain equipment.
- 4.9 The applicant advises that at the full proposed capacity, the development would result in an average of approximately 12 HGV movements per day (six in and six out).

5. Environmental Impact Assessment (EIA)

- 5.1 The development falls within Part 11(b) of Schedule 2 to the EIA Regulations as it relates to an 'installation for the disposal of waste' and relates to a development area of more than 0.5 hectare. Accordingly, a Screening Opinion must be carried out to determine whether the development has the potential to result in 'significant environmental effects' which require an EIA'.
- 5.2 Following submission of application, the County Planning Authority issued a Screening Opinion dated 11 May 2020, confirming its view that the development would not be considered to have the potential for significant effects on the environment within the meaning of the EIA Regulations 2017, and that no EIA is required.

6. Policy

- 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. For the purposes of this application, the statutory development plan is considered to comprise the West Sussex Waste Local Plan (2014) and the Horsham District Planning Framework (2015).
- 6.2 In terms of emerging development plan documents, both the Horsham District Local Plan 2019-2036, and the West Grinstead Neighbourhood Plan (2019-2031- Draft Plan) are at draft stages. As emerging plans that have not been subject to independent examination, they cannot be given any great weight.
- 6.3 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 planning policy guidance and other policies that guide the decision-making process and which are material to the determination of the application.

West Sussex Waste Local Plan 2014

- 6.4 The following policies are of relevance to this planning application:
- Policy W1: Need for Waste Management Facilities;
 - Policy W3: Location of Built Waste Management Facilities;
 - Policy W4: Inert Waste Recycling
 - Policy W11: Character;
 - Policy W12: High Quality Developments;
 - Policy W14: Biodiversity and Geodiversity;
 - Policy W16: Air, Soil and Water;
 - Policy W15: Historic Environment;
 - Policy W17: Flooding;
 - Policy W18: Transport;
 - Policy W19: Public Health and Amenity;

- Policy W20: Restoration and Aftercare; and
- Policy W21: Cumulative Impact.

Horsham District Planning Framework 2015

6.5 The following policies are of relevance to this planning application:

- Policy 1: Sustainable Development;
- Policy 10: Rural Economic Development;
- Policy 24: Environmental Protection;
- Policy 25: Natural Environment and Landscape Character;
- Policy 26: Countryside Protection;
- Policy 31: Green Infrastructure and Biodiversity;
- Policy 32: The Quality of New Development;
- Policy 33: Development Principles;
- Policy 34: Cultural and Heritage Assets;
- Policy 38: Flooding;
- Policy 40: Sustainable Transport; and
- Policy 41: Parking.

National Planning Policy Framework (2019)

6.6 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.

6.7 The paragraphs of the NPPF of key relevance to this application are: 8 (roles of the planning system), 11 (presumption in favour of sustainable development), 47 (determining applications in accordance with the development plan), 80-84 (supporting economy), 102 (consideration of transport issues), 108-109 (unacceptable impact on the road safety or a severe impact on the road network), 117 (making effective use of land), 127-132 (achieving well-designed places in decision making), 163 (ensuring flood risk is not increased elsewhere), 170 (conserving and enhancing the natural environment), 175 (protection and enhancement of biodiversity and geodiversity), 178 (avoiding pollution and contamination), 180 (minimising impacts of noise, light and health), 183 (assuming pollution control regimes operate effectively) and 194 (Heritage Assets).

National Planning Policy for Waste (October 2014)

6.8 The NPPW sets out detailed waste planning policies to reflect the Waste Management Plan for England. The NPPW does not form part of the development plan but is a material consideration in determining planning applications. The NPPW seeks a sustainable and efficient approach to drive the management of waste up the waste hierarchy.

- 6.9 At paragraphs 3-5 the NPPW seeks waste planning authorities to meet the identified needs of their area for the management of waste streams, and identify suitable sites and areas for new or enhanced waste management facilities.
- 6.10 Paragraph 7 notes that in determining planning applications, waste planning authorities should, among other things; consider the likely impact on the environment and amenity against identified criteria; make sure facilities are well designed so they contribute positively to the character and quality of the area; and not control processes which are a matter for other pollution control authorities.

National Planning Practice Guidance: Waste

- 6.11 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.
- 6.12 Paragraph 8 promotes the movement of waste up the hierarchy. Paragraph 46 relates to the use of unallocated sites. Applicants should be able to demonstrate that the envisaged facility will not undermine the waste planning strategy through prejudicing movement of waste up the Waste Hierarchy. Paragraphs 50 & 51 sets out the relationship between planning and other regulatory regimes.

EU Council Directive 2008/98/EC

- 6.13 By virtue of the Waste (England and Wales) Regulations 2011 when determining any application for planning permission that relates to waste management (article 18) the planning authority 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 **Horsham District Council (HDC Planning):** Advice. Note that any development within the rural area must be essential to its countryside location, which can allow for waste proposals. Any development must also be of a scale appropriate to its countryside character and location, which does not lead to a significant level of increase in the overall level of activities, whether individually or cumulatively. The key characteristics and features of the landscape character area are expected to be maintained. Highlight the need to consider the comments of the HDC EHO, Landscape Officer, Parish Council and local residents.
- 7.2 **Horsham District Council (Environmental Health Officer EHO):** Advice. The site lies adjacent to the A24 and therefore experiences high levels of ambient noise during the day. As such the contribution from the limited scale of site activities is not expected to be significant, subject to conditions.

- 7.3 In response to further information provided by the applicant, notes that the provision of acoustic fencing is beneficial, but the principal mechanism for controlling noise will be through hours of operation and limiting plant, machinery and equipment operated at the site.
- 7.4 The currently submitted noise management and dust management plans lack detail and clear lines of responsibility. Conditions are recommended to secure; no importation of hazardous waste, only plant and vehicles as set out in planning statement to be used; no crushing; no burning; a detailed dust management plan (to include wheel wash); broadband reversing alarms, and; hours of operations Monday – Friday 08:00-17:00.
- 7.5 **Horsham District Council (Landscape Officer):** Advice. The site sits between the busy A24 a large earth bund and has therefore lacks original landscape features. Furthermore, there are other urban influences in the area and therefore the proposals are not considered to cause unacceptable harm to the character of the area. Public rights of way cross the area but the users experience is already affected by the road and other detractors and therefore the proposals would not result in unacceptable visual harm. The appearance of the office and cabins in green will be sufficient to mitigate any landscape harm. Additional acoustic fencing, in principle, raises no concerns. Proposed retaining walls will be screened by bunds. Given the countryside location, mixed native hedging and appropriate landscaping must be sought.
- 7.6 **Horsham District Council (Heritage Officer):** Disappointed with lack of reference to potential impacts to heritage assets. However, agree less than substantial harm to heritage assets caused, which should be outweighed by benefits.
- 7.7 **West Grinstead Parish Council:** Objection. This is a retrospective application for an major industrial activity on a greenfield site that has been occurring unlawfully for at least two years. Existing operations involve long working hours and weekends, and cause noise, light, dust, and odour problems. Obstructions have been caused to PROW and signs removed. The development results in HGV movements in a congested area and onto the A24. The A24 junction (in particular the crossing of the carriageway through the central reservation) is dangerous and has resulted in serious/fatal accidents which will be exacerbated by this development (in combination with the expansion for the neighbouring Garden Centre). WSCC is a net importer of waste and there is no need for construction, demolition and excavation waste recycling capacity. If approved, recommend a S106 agreement to direct traffic south onto the A24.
- 7.8 **Environment Agency:** No objection. Note the proposals may require an Environmental Permit.
- 7.9 **Historic England:** Do not consider the proposals meet the relevant criteria that require formal comments to be made.
- 7.10 **WSCC Highways:** No objection. The access is sufficient to allow HGV's to access the site. No concerns would be raised with the parking and servicing arrangements. In light of the limited volume of vehicular movements generated, satisfied the proposals would not have a 'severe' impact on the adjoining highway network, and that there is no transport grounds to resist

the proposal. Recommend conditions to secure a Construction Management Plan (CMP) and details of wheel washing. Also require a Routing Agreement to ensure all HGVs exiting the site turn South onto the A24.

- 7.11 **WSSC PRoW:** No objection. The applicant recognises the driveway carries public footpath 1860 and had agreed to exercise a speed limit of 10mph for vehicular movements.
- 7.12 **WSSC Drainage & Flood Risk:** No objection subject to a condition to secure verification of drainage installation and operation in accordance with the submitted drainage strategy.
- 7.13 **WSSC Archaeology & Built Heritage:** No objection subject to conditions to secure archaeological investigation during any new groundwork. New noise and visual impacts upon the settings of the adjacent Grade II Listed Thistleworth Farm and nearby Woodmans Stud are expected to involve less than substantial harm to or loss of significance of these designated heritage assets.
- 7.14 **WSSC Ecology:** No objection subject to conditions to secure a native species landscaping and planting scheme.
- 7.15 **WSSC Arboriculture:** No objection subject to conditions to secure landscaping and subsequent maintenance. Trees on western and southern boundaries may suffer from long term adverse impact, since bunds have been created within or very near the root protection areas. Bunds on the western boundary should provide space for maintenance access and roots of trees. Soft landscaping should be secured by condition, including new planting on the southern bund to help compensate any impacts should the condition of existing trees deteriorate, and a long term maintenance scheme.
- 7.16 **Councillor Lionel Barnard:** No response received.

8. Representations

- 8.1 The application was advertised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). This involved the erection of four site notices on land located at and around the application site, an advertisement in the local newspaper and the issue of seven neighbour notification letters. In response, twenty eight representations were received, all objecting to the proposals.
- 8.2 The main reasons for objection can be summarised as follows:
- Impact upon amenity and health arising from noise, dust, lighting, odour, burning, and increased HGV movements;
 - Insufficient Noise Assessment;
 - Impact on highway capacity and safety, in particular at the A24 junction;
 - The only access to the site is a shared drive also used by the Sussex Showground, which seasonally produces considerable traffic.
 - Applicant operates without the necessary consents which is cause for concern as any controls will not be adhered to;

- Obstruction of Public Footpaths and impact on their use/safety and enjoyment;
- Potential for waste to pollute the land and watercourses (both that imported/processed and contained in bunds) and no environmental impact assessment;
- Risk of expansion;
- Potential to cause flooding;
- Cumulative impact with nearby waste recycling facility;
- Loss of agricultural land;
- Disturbance of habitat, nature and wildlife in the locality;
- Unacceptable impact upon the countryside and its rural character, contrary to national, local and waste planning policy;
- Visual impacts;
- No need for construction demolition and excavation waste (CDEW) recycling capacity in West Sussex;
- Loss of greenfield land;
- Not an allocated waste site, sufficient alternatives sites available; and
- Doesn't accord with the Waste Local Plan;

9. Consideration of Key Issues

- 9.1 Although waste management operations are currently taking place on the site, hence retrospective planning permission being sought to regularise them, this fact is not material to the determination of the current application. Therefore, the application must be treated on its merits as a proposed waste management facility on a greenfield site.
- 9.2 Accordingly, the main planning considerations relevant to this planning application are the:
- need for the development;
 - location of the development;
 - landscape, character and visual impact;
 - impact on local amenity; and
 - impact on the highway capacity and road safety.

Need for the Development

- 9.3 The site is not allocated for waste management uses in the West Sussex Waste Local Plan (2014) (the WLP). Policy W1 of the WLP deals with the need for waste management facilities on unallocated sites. In relation to inert recycling facilities, policy W1(c) 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'.

- 9.4 The applicant has an established client base with a steady and increasing throughput of waste being processed at the site. This is verified by the existing (albeit unlawful) operations which have taken place on site since circa spring 2018.
- 9.5 The applicant suggests that the majority of waste materials processed by the site arises from domestic and small commercial developments, for which they have witnessed a market need, and for which they state nearby facilities do not specifically provide for. The applicant advises that waste collections mainly come from Horsham, Worthing, Burgess Hill, Haywards Heath and Brighton, but due to its geographical location, the site is well-located to serve many residents and small business within short travel distances.
- 9.6 The site is located centrally within the County, alongside the A24 (part of the Strategic Lorry Route Network), with good access to major towns to both the north and south which are obvious sources of construction, demolition and excavation waste (CDEW). Further, the most recent West Sussex Joint Minerals Local Plan and Waste Local Plan Annual Monitoring Report (2018/2019)(the 'AMR') identifies continued and increasing arisings of CDEW within West Sussex, a reduction in capacity of permitted CDEW sites, and thus a continued need for facilities of this kind to manage this waste to achieve net self-sufficiency.
- 9.7 The applicant has identified a market need for a 25,000tpa capacity facility consistent with an increasing capacity demand reported in the most recent AMR. As a result, the development would meet an identified need and is consistent with the principle of net self-sufficiency. Further, the development would promote the movement of waste up the waste hierarchy in accordance with National Planning Policy for Waste and WLP.
- 9.8 Policy W1 of the WLP supports inert waste recycling facilities on unallocated sites where there is a demonstrated market need, consistent with the principle of net self-sufficiency. The most recent Annual Monitoring Report for the WLP indicates there is a continued and increasing demand for inert construction, excavation and demolition waste recycling in the County, which this development could help to address. The development would promote the movement of waste up the waste hierarchy.

Location of the Development

- 9.9 The application site is not allocated in the WLP to meet identified shortfalls in waste transfer, recycling and recovery capacity. Accordingly, the proposal must be assessed against Policy W4 (Inert Waste Recycling), which requires that such facilities be located in accordance with Policy W3.
- 9.10 Policy W3 sets out considerations for locating waste development on unallocated sites, as follows:
- "(a) Proposals for built waste management facilities, on unallocated sites, to enable the transfer, recycling, and recovery of waste will be permitted provided that:*
- (i) it can be demonstrated that they cannot be delivered on permitted sites for built waste management facilities or on the sites allocated for that purpose in Policy W10; and*

- (ii) *they are located in the Areas of Search along the coast and in the north and east of the County as identified on the Key Diagram; or*
 - (iii) *outside the Areas of Search identified on the Key Diagram, they are only small-scale facilities to serve a local need.*
- (b) *Proposals that accord with part (a) must:*
- (i) *be located within built-up areas, or on suitable previously-developed land outside built-up areas; or*
 - (ii) *be located on a site in agricultural use where it involves the treatment of waste for reuse within that unit; or*
 - (iii) *only be located on a greenfield site, if it can be demonstrated that no suitable alternative sites are available; and*
 - (iv) *where transportation by rail or water is not practicable or viable, be well-related to the Lorry Route Network; large-scale facilities must have good access to the Strategic Lorry Route.*
- (c) *Proposals for new facilities within the boundaries of existing waste management sites to enable the transfer, recycling, and recovery of waste, will be permitted unless:*
- (i) *the current use is temporary and the site is unsuitable for continued waste use; or*
 - (ii) *continued use of the site for waste management purposes would be unacceptable in terms of its impact on local communities and/or the environment."*

9.11 With regard to W3(a)(i), the applicant operates an established groundworks business and suggests that there is a lack of suitable existing permitted waste management sites in the area where construction and demolition waste arisings can be processed. In particular, the applicant identifies a lack of sites that serve small scale construction sites/residential scale developments, which make up the applicant's customer base.

9.12 It is noted that a similar (authorised) inert construction waste transfer and recycling site is also located in close proximity (the Penfold Verrall Ltd site to the south), and that there are similar facilities that operate in the applicant's wide catchment area. The type of waste generated by the applicant's business could, in theory, be managed at these sites. However, it is accepted that such sites would unlikely be commercially available to the applicant, whose business has an established client base, and which itself both generates construction and demolition waste and utilises the recycled products. Further, the applicant claims that the Penfold Verrall Ltd site serves a different customer base (large scale sites and contracts) and that discussions have identified no conflict of interest. It is further noted that processed materials (e.g. secondary aggregates/soils) produced at the site could also serve the applicant's groundworks business, for which there is an obvious commercial benefit.

9.13 The applicant has provided limited consideration of the availability of allocated sites (W10). Nonetheless, as identified in the latest AMR, Goddards Green, near Burgess Hill, is the only WLP allocated site where development

proposals have yet to be proposed or come forward. The lack of suitable allocated sites is, therefore, acknowledged.

- 9.14 With regard to W3(a)(ii), owing to its central location in the County adjacent to the Lorry Route Network and proximate to major towns where waste is generated, the site is within the 'Area of Search' identified as being suitable 'in principle' for facilities outside of built up areas. Taking this into account, and noting it is unlikely the proposed development could be delivered on an existing waste site or a site allocated in Policy W10, the proposed development is considered consistent with Policy W3(a).
- 9.15 Proposals that accord with W3(a) must then meet the criteria set out in W3(b). In this case the W3(b)(iii) is applicable, as the proposals relate to a greenfield site. As a result, the applicant is required to demonstrate that no suitable alternative sites are available.
- 9.16 The applicant claims that over a period of two years he has been unable to identify a suitable site to serve their existing customer base, and which would be compatible with planning constraints (e.g. access/landscape/amenity). Whilst carrying out groundworks on adjacent land, the applicant identified the application site as a suitable site and implemented the facility, which is now the subject of this retrospective planning application.
- 9.17 The applicant has provided an assessment of alternative sites investigated, which includes evidence of registration with various estate agents over a period of several years, and correspondence with landowners, all of which has failed to identify a suitable site to accommodate the applicant's waste recycling operations.
- 9.18 Taking into account the above, the limited availability of suitable sites to accommodate a waste facility of this kind, and noting the need to manage waste/provide recycled construction materials generated by their business in the locality, it is considered unlikely the development could be delivered on an existing permitted built waste management site.
- 9.19 Finally, Policy W3(b)(iv) requires that sites are well-related to the Strategic Lorry Route Network. This is supplemented by Policy W18(c)(i) which also requires it be demonstrated that "materials are capable of being transported using the Lorry Route Network with minimal use of local roads, unless special justification can be shown". The site is located off Grinders Lane, immediately adjacent to its junction with the A24. Accordingly, the site is well-located in relation to the Strategic Lorry Route Network, with access to major towns to both the north and south.
- 9.20 Overall, although the development is located on a greenfield site, it is within the 'Area of Search' and well-located to the Strategic Lorry Route Network, a key constraint to development of this nature. The facility could unlikely be delivered on an existing permitted waste site or a site allocated in Policy W10, and no suitable alternative sites have been identified. Taking this into account, and noting the continued and increasing demand for construction and demolition recycling capacity, the development is considered to accord with the criteria set out in Policy W3 for the location of waste management facilities on unallocated sites

- 9.21 It would also, therefore, be in accordance with Policy W4 relating to proposals for inert waste recycling which requires that such facilities are located in accordance with Policy W3.
- 9.22 Policies W3 and W4 of the Waste Local Plan sets out criteria for locating waste facilities on unallocated sites. With reference to these criteria, the proposed development would be within the 'Area of Search,' as identified in the WLP, and could not likely be delivered on an existing waste site or a site allocated in Policy W10. Although the development is located on a greenfield site, it has been sufficiently demonstrated that no suitable deliverable alternatives are available. The site is well-located to the Strategic Lorry Route Network. The proposed development, therefore, accords with Policies W3 and W4 of the WLP.

Landscape, Character and Visual Impact

- 9.23 Although the application site exhibits some rural characteristics, it sits between the A24 (a well-trafficked major road) and a large earth bund. As a result, it has been largely stripped of its original landscape features and forms part of a well-contained narrow 'wedge' of land alongside the A24. Further, urban influences in the immediate vicinity (including a large garden centre complex, the A24, similar waste facilities etc.) already significantly diminish the rural character and tranquillity of the locality.
- 9.24 Given the open-air nature of the proposed activities and required hard standing, structures, stockpiles of materials, and associated plant/paraphernalia, there would inevitably be some impact on any remaining rural character of the site. However, taking into account its self-contained nature (accentuated by the proposed additional bunds/planting to further enclose operations), and presence of existing urban influences, in particular the proximity to the A24, it is not considered the development would significantly increase the overall level of activity in the locality, or result in a harmful effect on its character, distinctiveness or tranquillity.
- 9.25 In terms of visual impacts, existing mature boundary trees/vegetation, combined with the pre-existing bund, provide a good degree of enclosure that generally screens the site from wider views. Additional bunds and fencing, for which permission is now sought (including a further 'return' bund to the north of the site), would provide substantive additional screening of the site, and further assist in mitigating visual impacts from agricultural land and public footpaths. In order to ensure that any stockpile would not give rise to unacceptable visual impacts, conditions are proposed to limit their height. The proposed site offices and fencing/gates are finished in a dark green colour, appropriate to the setting, and reducing their visual impact.
- 9.26 It is proposed that bunds would be complemented by the provision of further landscaping on top (see **Appendix 7 –Proposed Landscaping Plan**) further reducing visual impacts. However, it is considered that a more comprehensive native planting scheme should be sought by condition to ensure any visual impact of the site is further softened, biodiversity opportunities are maximised, and to compensate for potential impacts on the condition of existing trees close to bunds.

- 9.27 The application site forms a well-contained narrow strip of agricultural land sandwiched between the A24 and a large bund, generally separated from neighbouring land/properties. The proposed activities and physical development would inevitably give rise to some impact on the limited remaining rural character of the site and have some visual impact on the locality. However, taking into account the proximity to other urban influences, in particular the A24, and mitigation of visual impacts provided by the proposed bunds and landscaping, it is not considered the proposed development would result in an unacceptable impact on the landscape, character or visual qualities of the locality.
- 9.28 Therefore, the development accords with Policies W11 and W12 of the West Sussex Waste Local Plan (2014), Policies 25 and 26 of the Horsham District Planning Framework (2015), and paragraphs 127 and 170 of the National Planning Policy Framework (2019).
- 9.29 The proposed development would introduce an urbanising waste development within a countryside area. However, taking into account the scale and nature of operations proposed, the contained nature of the site, and proximity to the A24 and other urban influences, it is not considered the proposed development would result in an unacceptable impact on the landscape, character or visual qualities of the locality.

Local Amenity

- 9.30 The proposed development has the potential to give rise to noise, light and dust impacts associated with the sorting and grading of construction and demolition waste in the open. These activities would require the use of a screener, heavy plant such as an excavator and loading shovel, and the delivery of waste/export of materials in HGVs. The applicant proposes normal hours of operation of 08:00 to 17:00 Monday to Friday, and 08:00 to 13:00 Saturday to service and maintain equipment. No operations are proposed on Sundays or Bank Holidays.
- 9.31 The nearest residential properties to the operational area of the application site are Thistleworth Farm (some 90m to the east), and Hurst Cottage (some 90m to the west beyond the A24). However, it should also be noted that Thistleworth Barn (some 55m to the east) has planning permission for conversion to residential use. Further beyond are a small number of residential properties opposite the A24 and the village of Dial Post some 300m to the north. To the south is a large garden centre complex and commercial premises, alongside which, are a small number of residential properties, a caravan park, and an established inert construction waste transfer and recycling site (see **Appendix 8 – Receptors Plan**).
- 9.32 In terms of noise, although the site is located in a rural area, the proximity to the A24 and other urban influences is such that ambient noise levels are high during the day, in particular as a result of road traffic. This is also apparent at the public rights of way in the immediate vicinity of the site.
- 9.33 A Noise Management Plan has been submitted by the applicant that sets out the measures proposed to control noise at the site. This includes the site being laid out to minimise reversing and typical operational controls, such as use of screening plant when wind conditions are optimal (where possible),

minimising drop heights, controlling vehicle speeds, and responding to noise complaints. In addition to noise management and bunds, a 1m high acoustic fence is also proposed on top of the western and northern bunds.

- 9.34 A Noise Assessment has been provided by the applicant that has measured back noise levels and considered operational noise arising from the use of plant on the site. This concludes that the proposed development would result in a low impact at the nearest residential receptors, indicating that noise complaints are unlikely.
- 9.35 Third parties in the locality consider that noise from the site is unacceptable, often takes place outside the applicants stated operational hours and gives rise to disruption. Questions are also raised as to the adequacy of the submitted Noise Assessment.
- 9.36 The Horsham District Council, Environmental Health Officer (EHO) has reviewed the submitted assessment and is aware of its weaknesses as highlighted by third parties. However, noting the context of the site's location and high ambient noise levels, he concludes that the impact of noise from site activities is not expected to be significant, provided that the activities are controlled in terms of; the plant to be used; no crushing operations; use of broadband reversing alarms; and hours of operation Monday-Friday 08:00- 17:00hrs. The EHO also notes the provision of an acoustic fence is beneficial, albeit the principal mechanisms for controlling noise will be hours of work and limiting plant operated at the site.
- 9.37 Noting the open nature of the activities, which include the use of heavy plant/vehicles, screening of materials, and taking into account the relative close proximity of the nearby sensitive receptors (both residential and footpath users), the proposed development may be audible in certain circumstances from some locations. However, given the high ambient noise levels during the day in the locality, subject to noise attenuation provided by bunds and acoustic fencing, and the imposition of operational noise controls as recommended by the EHO, it is not considered that the proposed development would be likely to result in any unacceptable noise impact upon sensitive receptors.
- 9.38 In terms of dust and air quality impacts, a Dust Mitigation Scheme has been submitted by the applicant, which sets out the measures proposed to control dust from the site. This includes the provision of hard surfacing, a sprinkler system, road sweeping, as well as daily monitoring of site conditions.
- 9.39 The EHO has reviewed the submitted Dust Mitigation Scheme and considers that although it includes elements of good practice, it lacks key information on monitoring and lines of responsibility. Accordingly, he recommends conditions to secure; a detailed Dust Management Plan; no burning of waste; and a wheel wash to minimise fugitive emissions from vehicles leaving the site.
- 9.40 In terms of lighting, the applicant suggests that some task lighting may be required in winter months. Although no detail of lighting has been provided, it is apparent on site that some lighting has been placed on top of bunds. A condition is proposed to secure details of lighting, for it to be directed appropriately to avoid spillage outside of the site, and controls of its use only

within operational hours. Subject to this condition, given the proposed hours of operation and proximity to the A24, it is not considered that the proposals would result in any unacceptable lighting impacts.

- 9.41 Overall, the proposed development would not cause unacceptable harm to the amenities of occupiers of nearby property/land, or the amenity value of a public right of way. Therefore, the proposed development accords with policies W19 of the WLP, Policy 33 of the Horsham District Planning Framework (2015) and paragraph 170 of the National Planning Policy Framework.
- 9.42 The proposed development has the potential to give rise to noise, light and dust impacts associated with the sorting and grading of up to 25,000tpa of construction, demolition and excavation waste, and the delivery of waste/export of materials in HGVs. The proximity to the A24 and other urban influences is such that existing ambient noise levels are high during the day, in particular as a result of road traffic. The development proposals include both physical and operational measures to mitigate impacts upon amenity, including bunds, acoustic fencing, dust suppression, and controls over operational practices. Subject to conditions to secure such measures, restriction of operational practices and hours of working, it is not considered that the proposed development would give rise to unacceptable impacts upon local amenity.

Impact on Highway Capacity and Road Safety

- 9.43 Access to the site is via an existing asphalt road from Grinders Lane, located immediately to the east of the A24 (part of the Strategic Lorry Route Network). It includes a 9.8m wide kerbed bellmouth that would be maintained in its current form.
- 9.44 This is a private road also serving agricultural land to the north in the applicant's ownership, albeit is shared with a public footpath. Within the site, the development would provide hard surfaced parking alongside the southern boundary for both HGVs and for staff vehicles.
- 9.45 The proposed development would generate an average of approximately 12 HGV movements per day (six HGVs entering/leaving the site). However, it should be noted that this is an average number, and HGV movements could, in reality, be greater than 12 per day suggested, as they are likely to be influenced by the availability of waste arisings in the locality and buyer demand. Conversely, they could be lower than 12 per day on other, less busy, days.
- 9.46 The applicant advises that all HGVs exiting the site currently only turn southbound onto the A24 to avoid right turns across the A24 carriageway. HGVs wishing to turn north are directed south to the Ashington grade separated junction (circa 2 miles south) where they can access the northbound carriageway of the A24. The applicant states they would be willing to enter into a S106 legal agreement to formalise this arrangement.
- 9.47 Third party representations and West Grinstead Parish Council object to the proposals, highlighting HGV movements and access to/from the site (in particular those requiring use of the A24 central reservation), as cause for

safety concerns. They consider that the proposed development, in combination with other development in the immediate locality would exacerbate an existing highway safety problem.

- 9.48 The Highway Authority raises no objection to the proposals. They note that the access is of sufficient width and includes sufficient splays, and have no concerns about parking and servicing arrangements. They conclude that the proposal would result in a small number of vehicular trips, which are not anticipated to result in any capacity concerns. They further conclude that subject to S106 legal agreement to ensure HGVs departing the site only turn south on to the A24 (in the same manner as controls imposed on the Penfold Verall site), that the proposal would not give rise to a severe impact on the operation of the highway network.
- 9.49 In addition to controls over routing, the Highway Authority request conditions to secure; a Construction Management Plan (for any further construction related activities resulting from the formalisation/upgrade of the site); and a wheel washing facility to ensure that mud and earth is not carried onto the public highway.
- 9.50 As noted by the Highway Authority, the nearby Penfold Verral site also on Grinders Lane (an inert waste transfer site with a capacity of 75,000tpa and crushing facilities) is subject to a S106 legal agreement that requires all HGVs leaving the site to turn south onto the A24.
- 9.51 The access to the site from Grinders Lane is shared with a public footpath (PROW 1860). Following further discussion with the applicant, and in light of additional speed control signage erected on the access road, Public Rights of Way Officers raise no objection to the proposals. This is an established access that formerly served Thistleworth Farm and continues to serve the applicant's agricultural land to the north. Shared access arrangements with public footpaths are not uncommon, and speed control measures are in place to minimise the potential for conflict. As a result, the proposed development is not considered to give rise to any unacceptable impact upon public rights of way.
- 9.52 WLP Policy W18 requires that there is safe and adequate means of access to the highway network and that vehicle movements associated with the development will not have an unacceptable impact on highway safety or capacity.
- 9.53 In conclusion, the proposed development would result, on average in some 12 HGV movements per day (six HGVs entering/leaving the site), a modest volume of vehicular movements linked with the proposed throughput of waste, on a site well-located to the Strategic Lorry Route Network (A24). Although the highway safety concerns of third parties and the Parish Council regarding crossing of the A24 carriageway by HGVs are understood, the Highway Authority has reviewed the proposed access arrangements and Transport Statement (which includes details of accident data) and do not raise any highway safety or capacity concerns. Subject to appropriate conditions, there are no transport grounds to resist the proposal. The proposed development therefore accords with Policy W18 of the West Sussex Waste Local Plan (2014) and Policy 40 of the Horsham District Planning

Framework (2015) and paragraphs 108 and 109 of the National Planning Policy Framework (2019).

- 9.54 The proposed development would result in a modest volume of vehicular movements, and the site is well located to the Strategic Lorry Route Network. Subject to conditions to secure a wheel wash and Construction Management Plan, and a routing agreement to secure all exiting HGVs turn south onto the A24, the proposed development would not result in any unacceptable impact upon highway capacity or road safety. The proposed access is suitable to accommodate the type and volume of HGV movements likely to result from the proposed development.

Other material considerations

- 9.55 The application site is relatively close to Listed Buildings, the setting of which could be impacted by the proposed development. Of particular relevance is the Grade II Listed Thistleworth Farmhouse located to the east of the site. Taking into account the separation provided from the application site by the large A24 bund and ambient noise levels in the locality, their setting would remain generally agricultural, and would not be unacceptably affected.
- 9.56 Although there are no previous records of archaeological sites or finds, or of historic buildings, within the red line boundary of the application site, the County Archaeologist has highlighted the potential for buried archaeological features. Subject to conditions to secure an appropriate scheme of investigation during any further excavations, no objection is raised to the proposed development.
- 9.57 Subject to conditions, the proposed development would not therefore result in any unacceptable harm on heritage features or buried archaeology.
- 9.58 The submitted information includes a Drainage Strategy Report that considers potential flood risk and provides an outline drainage scheme for the management of surface water. In summary, this includes a linear drainage system, balancing pond to the north of the site, and underground cellular storage. The system also includes the capture and treatment of all run-off from hardstanding via an oil and silt/debris separator, and the retention of rainwater for re-use on site (e.g. sprinklers) (see **Appendix 9 –Proposed Drainage Plan**). Any outfall into the neighbouring ditch would be at greenfield rates and/or subject to flow control.
- 9.59 The site is in an area with a limited probability of flooding. The WSCC Flooding and Drainage Engineer raises no objection to the proposals, noting that the scheme's drainage strategy is compliant with both local and national policy guidance. It is of further note that site drainage would also be addressed under the terms of the Environmental Permitting regime (controlled by the Environment Agency). In light of the above, the proposed development would not result in any unacceptable flooding or drainage impacts.

10. Overall Conclusion and Recommendation

- 10.1 Retrospective planning permission is sought for a construction, demolition and excavation waste recycling facility at Thistleworth Farm, Dial Post, Horsham. The facility would process up to 25,000 tonnes per year of inert

construction demolition and excavation waste (CDEW), which would be collected from building sites and taken to the site for sorting and grading to produce recycled soils and aggregates for export/sale.

- 10.2 The proposed development would meet an identified market need consistent with increasing arisings of CDEW. The proposal is therefore consistent with the principle of net self-sufficiency. The development would promote the movement of waste up the waste hierarchy in accordance with both local and national policy, a benefit which must be considered in the planning balance.
- 10.3 The site is located within an 'Area of Search' identified in the WLP, and is well-located to the Strategic Lorry Route Network, a key constraint to development of this nature. Although located on a 'greenfield' site, it could not likely be delivered on an existing waste site, or a site allocated in the WLP, and it has been sufficiently demonstrated that no suitable deliverable alternatives are available. As a result, the proposed development accords with the relevant locational criteria as set out in the WLP.
- 10.4 Given the generally well-contained nature of the site, its location adjacent to the A24 and other urban influences, and the limited throughput of material proposed, the development would not result in a significant increase in the level of activity in the countryside. The contained nature of the site coupled with mitigation of visual impacts principally provided by the proposed bunds and landscaping, are such that the proposed development would not result in an unacceptable impact on the landscape, character or visual qualities of the locality.
- 10.5 Noting the high ambient noise levels that result from the proximity to the A24, and proposed physical and operational measures to mitigate impacts upon amenity, subject to appropriate conditions, the proposed development would not be likely to give rise to an unacceptable impact on the amenities of occupiers of nearby property/land or users of public footpaths.
- 10.6 The proposal would result in modest volume of HGV movements on a site well-located to the Strategic Lorry Route Network (A24) and with a suitable access to accommodate the type and volume of vehicles proposed. The Highway Authority do not raise any highway capacity or road safety concerns subject to appropriate conditions and a routing agreement requiring all exiting HGVs turn south onto the A24.
- 10.7 Overall, the proposed development would meet an identified need, contribute towards managing CDEW arising within the County, and promote the movement of waste up the hierarchy. These are benefits that weigh favourably for the proposal. Although located on a 'greenfield' site, suitable deliverable alternative sites are not considered likely to be available. It is well-located to the Lorry Route Network and its contained nature is such that the development would not give rise to unacceptable impacts upon the landscape, character, visual qualities, or amenities of the locality. Accordingly, the proposed development accords with the development plan and all other material considerations.
- 10.8 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.

- 10.9 Therefore, it is **recommended** that planning permission be granted subject to:
- (a) the conditions and informatives set out in Appendix 1; and
 - (b) the applicant entering into a legal agreement under section 106 of the Town and Country Planning Act 1990 requiring all exiting HGVs from the site to turn south onto the A24.

Factors taken into account

11. Consultation

- 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 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.
- 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. This application has 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, complied 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 There are no implications.

16. Social Value and Sustainability Assessment

16.1 Not applicable.

Michael Elkington

Head of Planning Services

Contact Officer: James Neave, Acting County Planning Team Manager, 0330 22 25571

Appendices

- Appendix 1 – Conditions
- Appendix 2 – Site Location
- Appendix 3 – Application Site
- Appendix 4 – Site Photos
- Appendix 5 – Proposed Site Layout Plan
- Appendix 6 – Proposed Site Sections
- Appendix 7 – Proposed Landscaping Plan
- Appendix 8 – Receptors Plan
- Appendix 9 – Proposed Drainage Plan

Background papers

See Section 6.