

Planning Committee

11 September 2018

Waste Planning Application (County Matter)

Amendment of condition 4 of planning permission WSCC/051/16/CR to restrict requirement for sheeting of vehicles to HGVs only at Rivington Farm, Peeks Brook Lane, Shipley Bridge, Crawley, West Sussex, RH6 9SR

Application No: WSCC/034/18/CR

Report by Head of Planning Services

Local Member: Richard Burrett

District: Crawley

Executive Summary

Planning permission is sought to amend condition 4 of planning permission WSCC/051/16/CR relating to waste operations at Rivington Farm, north-east of Crawley, so that instead of requiring all vehicles leaving the site to be covered, only HGVs would require sheeting.

Specifically, the applicant is seeking to amend the condition as follows:

4. "No commercial vehicle HGV shall leave the site unless it is covered sheeted to prevent dust. No commercial vehicles or HGVS shall leave the site unless and its wheels and underside have been cleaned to prevent materials, including mud and debris, being deposited on the public highway."

Reason: In the interests of highway safety, safeguarding local amenity and to comply with policies EC9 and ENV12 of the Crawley Borough Local Plan 2015 and Policies W16 and W18 of the West Sussex 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 from national to local level, along with other material considerations.

Crawley Borough Council has objected to the proposal, noting that all vehicles have the potential to result in dust pollution if not covered and so the amendment would result in an unacceptable impact on the amenity of nearby occupiers, contrary to policies CH3 and ENV10 of the Crawley Borough Local Plan. Seven objections have also been received from local residents, including from the Peeks Brook Lane Residents' Association raising concerns about impact on highway safety, amenity and the environment.

Consideration of Key Issue

The main material planning consideration is whether the proposed development is acceptable in terms of impact on residential amenity and the environment.

Crawley Borough Council and a number of local residents consider that altering the condition to require that only HGVs are covered would result in increased dust

impacts for people and the environment. The applicant considers that the condition is unreasonable as smaller vehicles cannot be sheeted, are fewer in number, and have the reduced potential for impacts. They also consider it to be unenforceable. However, it is concluded that the condition, as worded, is necessary to require that all vehicles are covered and material is not deposited on the highway and spreading into the wider area. Amending the condition would not provide this protection and would, therefore, be contrary to the development plan.

Conclusion

Planning permission is sought to amend condition 4 of planning permission WSCC/051/16/CR so that instead of requiring all vehicles leaving the site to be covered, only HGVs would require sheeting. It is considered that the proposed amendment has the potential to increase the impact of site operations on people and the environment, by increasing the risk of material being deposited on the highway and surrounding area. The existing condition is considered to be reasonable and necessary, and to otherwise meet the 'six tests' required for the imposition of planning conditions. On this basis, the proposed amendment to the condition is considered to be contrary to the development plan.

Recommendation

That planning permission be **refused** for the reason set out at **Appendix 1**.

1. Introduction

- 1.1 This report relates to an application to amend a condition attached to a planning permission at a waste site so that the requirement for vehicles to be sheeted relates only to HGVs rather than all vehicles.
- 1.2 The proposal relates to Rivington Farm, north-east of Crawley (see **Appendix 2 – Site Location Plan**) which is used primarily for the management of inert waste, but also landscaping materials including compost and manure.

2. Site and Description

- 2.1 The application site is located on the western side of Peeks Brook Lane, in a rural area north-east of Crawley and immediately east of Gatwick Airport. The application site forms small pockets within, and additions to, an existing waste site, primarily used for the processing of inert construction and demolition waste and export of aggregate (see **Appendix 3 – Approved Site Layout Plan**).
- 2.2 The site is elongated from its relatively narrow access onto Peeks Brook Lane, widening at the western end where waste is processed and stored in the north-western part, with buildings in the south-western extent. There are large, high bunds around the northern and western side boundaries, part of which are the subject of an Enforcement Notice requiring their removal, which was served by Crawley Borough Council in 2012.
- 2.3 The site access is some 170 metres long, extending west from Peeks Brook Lane with grassed areas either side, and grassed bunds to around 2m in height along the northern site boundary. The road is sealed between a wheelwash

located around half way along, and Peeks Brook Lane. Beyond the wheelwash is a weighbridge and office, opposite which are bunkers containing material for sale and export.

- 2.4 Beyond the weighbridge there is a large area for material processing and storage, with large buildings to the south used for the storage of plant and material.
- 2.5 The Rivington Farm buildings, including a dwelling, are located immediately south of the waste site. There are also dwellings located south of the site along Peeks Brook Lane, and beyond farmland to the west on the B2036.
- 2.6 Vehicles travelling to and from the site do so along Peeks Brook Lane, a narrow rural road. If vehicles travel south, they pass eight detached houses on the eastern side before linking with Antlands Lane (the B2037) some 250m south. Heading north, vehicles pass four dwellings before turning west into Fernhill Road which connects with the B2036 to the west, or continuing north under the M23 into Surrey.
- 2.7 To the west, north and south of the waste site is open farmland. Gatwick Airport is some 1.25km to the west of the site, with noise arising from overhead flights a highly noticeable characteristic of the site and surrounding area.
- 2.8 The site is not within an area designated for its landscape, ecological or heritage value, and it is not in an area considered to be at increased risk of flooding.
- 2.9 The site is, however, within an area identified in the Crawley Borough Local Plan (2015) as land safeguarded for a second runway at Gatwick Airport (Policy GAT2). It is also within an area identified in the Plan as a Biodiversity Opportunity Area (Policy ENV2).
- 2.10 The site is in the north-eastern corner of the County and Crawley Borough. Tandridge Borough, within Surrey County, is located some 250m east of the site, just beyond the M23 corridor, and some 900m north of the site, where Peeks Brook Lane runs under the M23.

3. Relevant Planning History

- 3.1 A key decision relevant to the present application and the continuing use of the site is the Lawful Development Certificate (LDC) granted by Crawley Borough Council (CBC) in January 2010 confirming that the use of the land "*for the purposes of storage, screening, and bagging of soils, composts, manure, aggregates, landscaping, and building materials for resale and the use and parking of plant associated with this use and ancillary offices*" had been undertaken for a continuous period of more than ten years and so was lawful. This approval forms the basis of waste operations at the site. The LDC does not limit HGV numbers, or site throughput, or otherwise control site operations, but it does refer to and approve a specific site layout.
- 3.2 CBC issued an Enforcement Notice on 21 June 2012 in relation to an area immediately north of the LDC boundary, relating to the "*change of use of agricultural land to storage of topsoil, bark, woodland mulch, scalping, sand, shingle and ballast without the benefit of planning permission*". The Notice was

upheld on appeal. While some material has been removed, unfortunately, CBC has so far been unsuccessful in securing the removal of the majority of material from the surrounding agricultural land.

3.3 In July 2015, permission was refused by the County Council for 'enclosures and revised access', namely the creation of large bunds to the north of the access road, and the north and west of the waste site (ref. WSCC/018/15/CR). This application was refused by officers under delegated powers for two reasons, namely:

- 1 *"It has not been demonstrated that the volume of waste proposed to be used represents the minimum amount to achieve the benefits identified in the application, or that the proposed development would result in clear benefits. The proposed development would compromise the movement of waste up the waste hierarchy, and is contrary to Policies W1, W8 and W9 of the West Sussex Waste Local Plan (2014), the National Planning Policy for Waste (2014), and Planning Practice Guidance: Waste (2014)."*
- 2 *The bunds, by virtue of their unsympathetic scale and massing would be visually prominent and detrimental to visual amenity and the character of the rural area contrary to policy W11 of the West Sussex Waste Local Plan, Policies EN4, C1 and C2 of the Crawley Borough Core Strategy (2008), 'saved' policies GD1, GD2, GD5 and GD6 of the Crawley Borough Local Plan 2000, and emerging policies CH3, CH9 and ENV2 of the Crawley Borough Local Plan 2015-2030."*

3.4 Retrospective planning permission was subsequently granted for '*the siting of one weighbridge and portacabin office, and erection of one HGV canopy, widening and part sealing of the access road and installation of a wheel wash*' (ref. WSCC/051/16/CR). This permission related only to an area from Peeks Brook Lane to the rear of the storage bunkers, along with the site offices, with the remainder of the site, including the bulk of the waste processing activities, being operated under the LDC. The permission was subject to eleven conditions including restricting storage alongside the access road, requiring schemes for dust control, landscaping, drainage and the improvement of the site entrance, and condition 4 requiring the covering and cleaning of all vehicles.

4. The Proposal

4.1 Planning permission is sought to amend condition 4 of planning permission WSCC/051/16/CR so that instead of requiring all vehicles leaving the site to be covered, only HGVs would require sheeting.

4.2 Specifically, the applicant is seeking to amend the condition as follows:

4. ~~No commercial vehicle HGV shall leave the site unless it is covered sheeted to prevent dust. No commercial vehicles or HGVS shall leave the site unless and its wheels and underside have been cleaned to prevent materials, including mud and debris, being deposited on the public highway.~~

Reason: In the interests of highway safety, safeguarding local amenity and to comply with policies EC9 and ENV12 of the Crawley Borough Local Plan 2015 and Policies W16 and W18 of the West Sussex Local Plan 2014.

- 4.3 The amended condition would require that only HGVs, rather than all commercial vehicles, leaving the site are 'sheeted to prevent dust' rather than 'covered'. The requirement to clean the underside of all commercial vehicles would still apply in the amended condition, though they are proposing to add reference to HGVs.
- 4.4 The applicant notes that the amendments are sought because of ongoing problems in complying with the condition. They consider that the requirement is unreasonable, noting that while HGVs have the capability of being sheeted, smaller vehicles such as pick-up trucks and vehicles trailers do not. They also state that such vehicles are infrequent and carry smaller quantities of loose material, so the potential for dust creation is smaller.

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

- 5.1 The development, particularly if viewed cumulatively with the wider site, could be considered to fall within Part 11 (b) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017('the EIA Regulations) being an 'installation for the disposal of waste'.
- 5.2 The annex to Planning Practice Guidance: EIA sets indicative screening thresholds for development. For installations for the disposal of waste, EIA is more likely if the area of the development exceeds 0.5 ha and it is within 100m of controlled waters, with the indicative thresholds being a capacity of more than 50,000 tonnes or 10 hectares. It notes that sites taking smaller quantities or seeking to accept only inert wastes are unlikely to require EIA.
- 5.3 In this instance, the site area is 0.46 hectares, with the total waste site extending to some 0.8 hectares. The site manages only inert waste. It is not, therefore, considered to be EIA development, taking into account the EIA Regulations, including Schedule 3, along with the Planning Practice Guidance.

6. **Policy**

Statutory Development Plan

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the statutory development plan unless material considerations indicate otherwise (as confirmed in paragraph 2 of the National Planning Policy Framework (NPPF)). For the purposes of the application, the following approved or adopted planning policy documents form the statutory development plan: the Crawley Borough Local Plan (2015) and the West Sussex Waste Local Plan (2014).
- 6.2 The key policies in the development plan, which are material to the determination of the application, are summarised below, and their conformity or otherwise with the National Planning Policy Framework 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.

Crawley Borough Local Plan 2015 – 2030 (December 2015):

- 6.3 The Crawley Borough Local Plan was adopted in December 2015 and so provides an up-to-date policy basis for consideration.
- 6.4 Policy CH3 sets out 'normal requirements for all new development', noting that all development will be required to be based on a thorough understanding of the significance and distinctiveness of the site and its immediate and wider context; being of high quality in terms of their urban and landscape design; relating sympathetically to their surroundings; providing/retaining a good standard of amenity for existing and future occupants; and meeting requirements necessary for safe and proper use, particularly regarding access, circulation and manoeuvring.
- 6.5 Policy CH9 relates to development outside the built-up area, as the application site is. It aims to ensure that Crawley's 'compact nature and attractive setting is maintained' by, among other things: ensuring development does not generate inappropriate amounts or types of traffic for rural roads; and not introducing a use which by virtue of its operation is incompatible with the countryside.
- 6.6 Policy EC1 relates to sustainable economic growth, seeking to ensure that Crawley's recognised economic role and function is maintained.
- 6.7 Policy ENV10 seeks to prevent unacceptable risks from environmental pollution, including supporting development which would not lead to a significant increase, including cumulative, in levels of pollution or hazards.
- 6.8 Policy ENV12 supports development that does not result in a material negative impact on air quality.
- 6.9 Policy GAT2 identifies land which is safeguarded from 'development which would be incompatible with the expansion of the [Gatwick] airport'. It notes that minor development such as changes of use and small scale building works such as residential extensions will normally be acceptable, and that where appropriate, planning permission may be granted on a temporary basis. Supporting paragraph 9.18 notes that "*incompatible development within safeguarded land is regarded as development which would add constraints or increase the costs or complexity of the development or operation of an additional runway.*"

West Sussex Waste Local Plan (April 2014)

- 6.10 The Waste Local Plan (WLP) was adopted in April 2014 and forms part of the 'development plan'.
- 6.11 Policies W11–W20 relate to development management and are designed to ensure that there would be no unacceptable harm to amenity, character, and the environment or to other material considerations from waste development proposals. Of particular relevance to the proposals are the following:

- Policy W16: Air, Soil and Water – requires that waste development, in summary, does not result in unacceptable impacts on air, soil or water resources or their management and protection.
- Policy W18: Transport – requires that transport links are appropriate and the capacity of the highway network would not be detrimentally affected, with clause (c)(iv) requiring that there is a "*safe and adequate means of access to the highway network and vehicle movements associated with the development will not have an adverse impact on the safety of all road users.*"
- Policy W19: Public Health and Amenity – clause (a) requires that, among other things, dust and other emissions, including those arising from traffic, are "*controlled to the extent that there will not be an unacceptable impact on public health and amenity.*"

National Planning Policy Framework (2018)

6.12 The recently-updated 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); 38 (approaching decision making in a positive and creative way); 54 – 57 (use of planning conditions and obligations to make development acceptable); 80 (significant weight placed on need to support economic growth and productivity); 83 (decisions should enable sustainable growth of businesses in rural areas); 108 (development should include appropriate opportunities to promote sustainable transport modes; safe and suitable access; and mitigation of significant impacts on capacity/congestion or highway safety); 109 ("*development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*"); 117 – 118 (decisions should promote an effective use of land); 127 (decisions should ensure that development adds to the quality of the area and is sympathetic to local character); 153 – 154 (development should minimise energy consumption; renewable/low carbon development should be approved if its impacts can be made acceptable); 170 (contributing to/enhancing the natural and local environment); 175 – 177 (impacts on habitat/biodiversity); 180 (pollution from development); 181 (development should contribute towards compliance with relevant pollutant limit values); 182 (existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established); 183 (planning decisions should assume other pollution control regimes will operate effectively).

Planning Practice Guidance (PPG)

6.13 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)

- 6.14 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.

PPG: Use of Conditions (June 2018)

- 6.15 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.
- 6.16 The PPG: Use of Conditions reiterates paragraph 55 of the NPPF which states that:

"Planning conditions should only be imposed where they are:

1. *necessary;*
2. *relevant to planning and;*
3. *to the development to be permitted;*
4. *enforceable;*
5. *precise and;*
6. *reasonable in all other respects.*

The policy requirement above is referred to in this guidance as the 6 tests."

- 6.17 It notes that all six of the tests must be satisfied each time a condition is imposed, and sets out 'key considerations' in relation to each of the tests.

EU Council Directive 2008/98/EC

- 6.18 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 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 **Crawley Borough Council (Environmental Health):** Object. Note that they have received complaints of nuisance caused by dust and mud from vehicles using the waste site and that covered loads help to mitigate these issues at the site.

- 7.2 **Crawley Borough Council (Planning):** Object. Ongoing issues with pollution from vehicles using the site, with extensive dust covering nearby roads, cars and houses/gardens. "*Notwithstanding the size of the vehicle, all vehicles using the site to deliver or collect waste/products from the site have the potential to, and are likely to result in dust pollution if not covered. It is therefore considered that varying the condition would allow smaller uncovered vehicles to*

pollute the area and that would result in an unacceptable impact on the amenity of nearby occupiers contrary to policies CH3 and ENV10 of the Local Plan.”

- 7.3 **WSCC Highways:** No objection. Note that the main consequences of not sheeting all vehicles would relate to environmental health and amenity rather than highway safety, so the acceptability should be considered by other appropriate authorities. Note that if reference to HGV is included in the condition, this should be defined (e.g. any vehicle exceeding 3.5 tonnes unladen weight).

- 7.4 **WSCC Councillor Richard Burrett:** Comments awaited; to be presented verbally at Committee.

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 on land located at and around the application site, an advertisement in the local newspaper, and the issue of 29 neighbour notification letters.
- 8.2 In response, seven objections were received, including one from the Peeks Brook Lane Residents' Group, signed by twelve people. The main issues raised in objections were that the site operations result in dust/mud issues on Peeks Brook Lane and the residential properties located there, so all vehicles should be covered, irrespective of type; and that the use results in highway safety issues, including from material falling from uncovered vehicles.

9. Consideration of Key Issue

- 9.1 The main material planning consideration is whether the proposed development is acceptable in terms of impact on residential amenity and the environment.
- 9.2 It should be noted that the use of the site for waste purposes is lawful and so is not under consideration in relation to this application. Consideration is limited to whether the proposed amendment to conditions is acceptable in planning terms. It is not, therefore, appropriate to add conditions to restrict the established use of the site for waste purposes, or change conditions in a way which would do so.

Impact on Residential Amenity and the Environment

- 9.3 Crawley Borough Council, along with a number of local residents, consider that if the condition is altered to require only HGVs to be covered, there would be additional dust and material released into the environment, noting that all vehicles leaving the site, regardless of size, have the potential to do so.
- 9.4 The applicant considers that the condition, as currently worded, is unreasonable as smaller vehicles such as pick-up trucks and vehicles with trailers do not have the capacity to be sheeted and carry smaller amounts of material, and so the potential dust impact is reduced. They also state that non-HGVs form a 'small fraction' of traffic movements out of the site, though have confirmed that they are unable to quantify this statement.

- 9.5 The condition, as currently worded, requires that commercial vehicles are “covered ... to prevent materials ... being deposited on the public highway”. It does not require that vehicles are ‘sheeted’, the wording proposed by the applicant. While it may be the case that smaller vehicles do not have the capacity to be ‘sheeted’, all vehicles have the capacity for their loads to be covered in a way that prevents mud and debris from being deposited on the road. This is the requirement of the condition as currently worded and as such, it is considered appropriate for all types of vehicles, regardless of size or other factors.
- 9.6 Further, while the applicant may not have control over vehicles leaving the site, they do have the ability to impose ‘site rules’, in this case requiring that all vehicles leaving the site are covered in a way which prevents material from being deposited on the highway. This is not considered an onerous requirement and is sufficiently flexible to apply to vehicles of all sizes.
- 9.7 Such a requirement would also ensure that drivers accord with the Highways Act 1980 under which it is an offence to ‘deposit anything whatsoever on a highway to the interruption of any user’ (Section 148), or to ‘deposit anything on a highway, as a consequence of which a user of the highway is endangered or injured’ (Section 161).
- 9.8 However, the condition is not considered to be duplication of the controls provided under other regulation. While the Highways Act can address debris on the highway, these provisions are reactive, responding to existing debris, and to specific vehicles. The condition relates to the site as a whole, and is intended to address a known issue with its operations (emissions of dust/debris) and to minimise the impact on highway safety and amenity. It is, therefore, considered relevant to planning and to this specific development (i.e. the operation of a waste site) and is not dealt with through other legislation.
- 9.9 The applicant has stated that the existing condition is unenforceable and, therefore, that it does not meet the ‘six tests’ for planning conditions (see paragraph 6.16 of this report). However, it is not considered that this is the case. If vehicles leaving the site are not covered, the condition has been breached and enforcement action can be taken. The condition is considered necessary to address a known issue with waste sites and, more specifically, with this site, namely the impact of dust and mud emissions from vehicles on residents and the environment.
- 9.10 Overall, it is considered that the condition, as worded, would ensure that all vehicles are covered to prevent materials from being deposited on the highway, and spreading thereafter into the wider area, thereby protecting people and the environment. It is also considered that the condition meets the ‘six tests’ of planning conditions. Amending this requirement would not provide the same protection of people and the environment, which would be contrary to policies CH3 and ENV10 of the Crawley Borough Local Plan, and policies W16 and W19 of the West Sussex Waste Local Plan.
- 9.11 *Crawley Borough Council and a number of local residents consider that altering the condition to require that only HGVs are covered would result in increased dust impacts for people and the environment. The applicant considers that the condition is unreasonable as smaller vehicles cannot be sheeted, are fewer in*

number, and have the reduced potential for impacts. They also consider it to be unenforceable. However, it is concluded that the condition, as worded, is necessary to require that all vehicles are covered and material is not deposited on the highway and spreading into the wider area. Amending the condition would not provide this protection and would, therefore, be contrary to the development plan.

10. Overall Conclusion and Recommendation

- 10.1 Planning permission is sought to amend condition 4 of planning permission WSCC/051/16/CR relating to waste operations at Rivington Farm, north-east of Crawley, so that instead of requiring all vehicles leaving the site to be covered, only HGVs would require sheeting.
- 10.2 It is considered that the proposed amendment has the potential to increase the impact of site operations on people and the environment by increasing the risk of material being deposited on the highway and surrounding area. The existing condition is considered to be reasonable and necessary and to otherwise meet the 'six tests' required for the imposition of planning conditions.
- 10.3 On this basis, the proposed amendment to the condition is considered to be contrary to the development plan.
- 10.4 It is **recommended**, therefore, that planning permission be **refused** for the reason set out in **Appendix 1** of this report.

11. Equality Duty

- 11.1 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.

12. Crime and Disorder Act Implications

- 12.1 There are no implications.

13. Risk Management Implications

- 13.1 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.

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 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.

- 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 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

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Background Papers

As set out in Section 6.

List of Appendices

Appendix 1 – Reason for Refusal

Appendix 2 - Site Location Plan

Appendix 3 – Approved Site Layout Plan

Appendix 1: Reason for Refusal

1. The proposed amendment to the condition would increase the potential for material, including mud and dust, to be deposited on the road network and surrounding area, to the detriment of the environment and residential amenity, contrary to Policies CH3 and ENV10 of the Crawley Borough Local Plan, and Policies W16 and W19 of the West Sussex Waste Local Plan.

INFORMATIVE

- A. The County Planning Authority has acted positively and proactively in determining this application by passing on the comments of consultees to the applicant to address. Despite this, the County Planning Authority has not been able to grant planning permission as the proposal does not accord with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.