

## **Planning and Rights of Way Committee**

**7 September 2021**

### **County Matter Waste Application**

**Restoration of the former Standen Landfill site with a woodland and pasture landfill cap system**

**Evergreen Farm, West Hoathly Road, East Grinstead, RH19 4NE**

**Application No: WSCC/004/20**

**Report by Head of Planning Services**

**Local Member: Jacquie Russell**

**District: Mid Sussex**

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### **Summary**

Evergreen Farm contains the former 'Standen Tip', a historic inert landfill site, completed in the early 1990s and restored to rough pasture and equestrian use. The site is currently in poor condition, with ground investigation works identifying contaminants which include elevated concentrations of benzo(a)pyrene, high levels of methane and risks to controlled waters through leaching.

The proposed development seeks to import 126,677m<sup>3</sup> (190,015 tonnes) of inert clay/soil waste to restore the site to a mix of native broadleaf woodland and native grassland meadow. The capping of the site would help prevent direct infiltration and mitigate risk associated with leaching of contaminants. A gas venting system would also be installed.

The proposed development would result in a change in profiles to the site and require the removal of some trees/vegetation, which the applicant proposes to mitigate through replanting and ecological enhancements.

The application was considered by the Planning and Rights of Way Committee at its meeting on 29 June 2021 (see **Appendix 2 – June Committee Report**), at which determination was deferred to enable the applicant to reconsider the volume of imported inert material required and the impacts of the proposal in relation to highway capacity, road safety, and traffic management. Although the applicant does not propose any changes to the volume of material to be imported, it is now proposed that importation would take place over a longer period of time, that is, over two years (104 weeks) instead of 80 weeks as originally proposed. This would enable the number of daily HGV movements to be reduced, that is, 50 movements instead of 62 movements as originally proposed. No changes to the routing of HGVs are proposed but the applicant is now proposing that there would be no working on Saturdays. The development, including importation and progressive restoration, would now be expected to take two and half years in total.

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

The main policies of relevance to this application are Policies W1, W8, W11, W12, W13, W14, W15, W16, W17, W18, W19 and W20 of the West Sussex Waste Local Plan (WLP April 2014), Policies DP12, DP16, DP17, DP26, DP29, DP34, DP36, DP37, DP38, DP41 and DP42 of the Mid Sussex District Plan (2014 – 2031) and policies EG1, EG3, EG4 and EG11 of the East Grinstead Neighbourhood Plan (November 2016).

Apart from the National Trust, no other consultees raise objection to the proposal. Notwithstanding this, various consultees highlight areas of concern and request conditions for, but not limited to, highway matters, dust and noise impacts, impacts on Standen House, and landscaping.

There have been 255 representations from third parties, 249 of those objecting and six commenting on the proposal.

### **Consideration of Key Issues**

The main material planning considerations in relation to the determination of the application are whether the proposal:

- is acceptable in principle with regard to waste planning policy;
- is acceptable in terms of the impacts on landscape character and the AONB;
- is acceptable in terms of highway capacity and road safety; and
- has an acceptable impact on local amenity and the local environment.

### **Acceptable in Principle with regard to Waste Planning Policy**

The WLP supports recovery operations involving the deposition of inert waste to land where it would meet certain criteria. The proposed capping of the site is considered to meet these, and as such to represent a genuine 'recovery' operation that provides for the movement of waste up the waste hierarchy, in accordance the West Sussex Waste Local Plan (2014) and National Planning Policy for Waste (2014)

### **Impacts on Landscape Character and the AONB**

The application site is situated within the countryside, in the High Weald Area of Outstanding Natural Beauty (AONB), a protected designation. The site is well-screened by its topography and surrounding vegetation, and much of the operations and final form would take place with only limited visible impact. Any impacts caused during capping operations would be temporary and would not be significant. In addition, it is considered that the completed development would not give rise to any significant unacceptable impact on the character, distinctiveness and sense of place of the location or undermine the objectives of the AONB designation.

### **Impact on Highway Capacity and Road Safety**

The proposed development would result in a maximum of 50 HGV movements each weekday as a result of the capping operation. The route has been reviewed with the Highway Authority and is considered to be the most appropriate route to and from the site. The Highway Authority have considered the potential impacts and concluded that, subject to securing HGV routing and a Construction Management Plan, the

proposed development would not have any significant adverse impacts and, as such, it accords with the NPPF. Therefore, the proposed development is considered acceptable with regard to highway capacity and road safety.

### **Impact on Local Amenity and the Local Environment**

The site is in close proximity to a number of sensitive receptors. Although there would inevitably be some disturbance in the locality as a result of the proposed development, this would be temporary and limited in nature. The imposition of conditions to control hours of operation, noise impacts and impacts on air quality should ensure that there are no unacceptable impacts upon amenity and the local environment. The proposed development would also have no impact on the water environment, nor on the setting and appreciation of Standen House. Overall, the proposed development would deliver better long-term benefits for the site and surrounding environment once the site is capped and restored. It is therefore considered that the development is acceptable in terms of impacts on local amenity and the local environment.

### **Conclusion**

The application was considered by the Planning and Rights of Way Committee at its meeting on 29 June 2021, at which determination was deferred to enable the applicant to reconsider the volume of imported inert material required and the impacts of the proposal in relation to highway capacity, road safety and traffic management. As a result, the applicant has proposed amendments to remove working on Saturdays and to import the material over a longer period of time; this would result in fewer daily HGV movements but increase the total length of time to undertake the development, including for the progressive restoration of the site.

Local and National planning policy supports recovery operations involving the deposition of inert waste to land where waste is moved up the waste hierarchy. The proposed capping of the site is considered to represent a genuine 'recovery' operation that is required to mitigate the presence of contaminants on the site and deal with the physical landform.

The site is well-screened by its topography and surrounding vegetation, and much of the operations and final form would take place with limited visible impact. Any impacts caused during capping operations would be temporary and, given limited views into the site, would not be significant. Upon completion the proposed development would be sympathetic to the character, distinctiveness and sense of place of the location and not undermine the objectives of the AONB designation.

The HGV movements associated with the development are considered to be acceptable and the routing appropriate. The Highway Authority have no objection to the development with regards to highway safety and capacity.

Finally, subject to the control of hours of operation, noise impacts, impacts on air quality and the water environment, the proposed development would not have any significant adverse impacts on sensitive receptors, the local environment, nor the heritage asset of Standen House and its garden.

Overall, the proposed development would deliver better long-term benefits for the site and surrounding environment once the capping is complete and the site is fully restored. In conclusion, the proposal accords with the relevant development plan

policies relating to waste, as well as other material considerations including national policy.

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## **Recommendation**

That planning permission be granted subject to:

- (a) the conditions as set out in **Appendix 1** of this report; and
  - (b) the completion of a Section 106 Agreement relating to:
    - (i) the routing of HGVs to and from the application site;
    - (ii) road widening works and maintaining visibility along West Hoathly Road;
    - (iii) road signage along the prescribed route; and
    - (iv) the securing of a Section 59 Agreement.
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## **1. Introduction**

- 1.1 Evergreen Farm contains the former 'Standen Tip', a historic inert landfill site, completed in the early 1990s and restored to rough pasture and equestrian use. The applicant's recent surveys/investigation show that the restoration quality is poor and that the site contains contaminated material making the land both unsuitable for equestrian use and having the potential to pose a high risk to human health from landfill gas and groundwater leachate emissions to controlled waters.
- 1.2 The proposal is for the importation of 126,677m<sup>3</sup> (190,015 tonnes) of waste clay soils/material to create a 'landfill cap system' to minimise emissions to air, water or soil, and to secure high-quality restoration to a mixture of native broadleaf woodland and native grassland.
- 1.3 The importation of the material would take two years and involve up to 25 daily HGV deliveries (50 two-way movements). The development, including importation and progressive restoration of the site, would take two and half years in total.

## **2. Site and Description**

- 2.1 The application site extends to 4.4 hectares including the access road and sits in open countryside within the High Weald AONB. The land is not currently being used for any form of agricultural or equestrian use due to its undulating topography and the exposure in places of previously-deposited materials.
- 2.2 The site is situated near East Grinstead in Mid Sussex District (see **Appendix 3 - Area Plan**). It is located approximately 300m south of the boundary of East Grinstead's built-up area with vehicular access proposed via West Hoathly Road and an access to the north of the existing Evergreen Farm residential property rather than the access to Standen House.

- 2.3 The site (see **Appendix 4 - Location Plan**) comprises an irregular shaped parcel of land and is generally undeveloped fields with several equestrian buildings, barns, and a residential property with an associated garden situated on the central western part of the site. On the north-eastern boundary of the site, there is an area of 'Ancient Woodland', which contains several pathways and clearings that have been in use as camping pitches.
- 2.4 The south-western part of the site comprised two fields, with the western-most part comprising undeveloped grassland and the eastern field occupied by several mature trees. The central and northern portions of the site comprised undeveloped grassland, which had previously been used for pasture. The area is very undulating with a sloping landscape.
- 2.5 A number of mature and semi-mature trees are present across the site and along its boundaries together with the area of ancient woodland. Several Public Rights of Way (PROWs) surround the application site, but none abut it.
- 2.6 The closest residential property, Beechcroft Care Centre, a care home for young adults with physical and learning difficulties, abuts the site on its northern boundary. Trefoil Montessori Farm School also lies to the north of the site.
- 2.7 About 500m to the south of the application site is Standen House, a Grade I Listed Building and is a designated heritage asset of the highest significance. The house lies within a park/garden, also known as Standen, which is a Grade II Registered Parks and Garden of Special Historic Interest and also a designated heritage asset.

### **3. Relevant Planning History**

- 3.1 The application site includes a historic landfill known as 'Standen Tip'. Approval of the landfill was given by Mid-Sussex District Council in March 1981 for '*the reclamation of land for agricultural use by tipping*'. Permission to extend the time period for the completion of works was approved in March 1992.
- 3.2 Various permissions relating to the Evergreen Farm property (located to the south-west of the site and outside the red-line boundary) have been approved dating from the late 1980s. These include planning permissions for a temporary timber dwelling house on the site (which is still present) and approvals for a replacement house.
- 3.3 More recently, an application for the same development (i.e. restoration of the former Standen Landfill) was made in August 2019, application reference number WSCC/061/19. As with the current application, this gave rise to a high number of objections with a particular concern about HGV movements, with some HGVs proposed to be routed through the centre of East Grinstead.
- 3.4 However, prior to determination of that application, it was withdrawn due to the submission of incorrect certificates. Before resubmitting the application with the correct certificates, the applicant took the opportunity to reassess the proposed routing to and from the site. During this time, discussions were held with planning and highways officers and applicant's highways consultant. Section 4.11 of this report sets out the conclusions of those discussions in relation to routing.

- 3.5 The current application was first considered by the Planning and Rights of Way Committee at its meeting on 29 June 2021. The Committee voted to defer determination of the application as result of concerns about the volume of material required and the volume and routing of HGVs. As a result, the applicant has reconsidered the following matters:
- the need for the volume of inert material to be imported, including general fill in the areas currently designated for woodland and;
  - matters regarding highway capacity, road safety, and traffic management measures.
- 3.6 Although the applicant does not propose any changes to the volume of material to be imported, it is now proposed that the importation of the material would now take place over a longer period of time, that is, over two years (104 weeks) instead of 80 weeks as originally proposed. This would enable the number of daily HGV movements to be reduced, that is, 50 movements instead of 62 movements as originally proposed. No changes to the routing of HGVs are proposed but the applicant is now proposing that there would be no working on Saturdays. The development, including importation and progressive restoration, would now be expected to take two and half years in total.
- 3.7 The applicant also sought to address concerns raised at the Committee meeting about the principle of the development. These matters are considered further in Section 9 of this report.

#### **4. The Proposal**

- 4.1 Planning permission is sought for the importation of 126,677m<sup>3</sup> (190,015 tonnes) of waste clay soils/material to create a 'landfill cap system' to minimise any emissions to air, water or soil, and to secure high quality restoration to a mixture of native broadleaf woodland and native grassland (see **Appendix 5 – Block Plan and Appendix 6 – Landscape Plan**).
- 4.2 The development is sought due to the risks posed by the historic deposit of waste beneath the site. Survey work has identified elevated concentrations of the carcinogen benzo(a)pyrene and concentrated and high levels of methane. The associated assessment also identified risks to controlled waters through the leaching of groundwater contaminants.
- 4.3 A restoration layer designed to modern standards is proposed, which would control the identified risk to human health. The restoration layer would require a 1.0-1.1 metre impermeable clay cover system topped with layers of subsoils and topsoil. This cap would mitigate the risk associated with the physical quality of soil encountered near the surface (i.e. brick, tarmac, metal and glass). The installation of a capping system on site would increase overland flow of surface water, rather than allowing direct infiltration, thereby protecting controlled waters by limiting the potential leaching of the elevated contaminants of concern identified beneath the site. The proposed capping system includes a gas venting and surface water drainage system to prevent gas build up below the new cap and minimise the identified risks. Any leachate from the landfill would be channelled to an outfall via a small swale and wetland system to be installed as a secondary precaution.
- 4.4 Where the afteruse would be pasture, the restoration layer over the top of the clay cap will be 1.0 metre thick. Where the afteruse would be woodland, a 2.0

metre thick layer is required. The transition between the two thickness of restoration layer and the merging of the cap with existing contours would require sculpting and careful management that, in some areas, results in slightly greater depth of material (see **Appendix 7 – Proposed Final Levels, Appendix 8 – Cross Section A-A to C-C, Appendix 9 – Cross Section D-D to F-F and Appendix 10 – Cross Section G-G**).

- 4.5 Around half the cap area, located on the shallower slopes of the landfill would be part planted with a native broadleaf woodland to extend the wooded area of the Ancient Woodland to the north-east of the site. A degree of natural regeneration of woodland around the planted areas would be allowed to establish. The steeper sections of the landfill would be grassed with mix native to the High Weald AONB. Only 1.0 metre depth of restoration layer could be added to the steeper sections due to stability considerations.
- 4.6 Construction of the cap would take place in two halves. To help control noise impacts, operations would be limited to eight weeks per annum along the north-western boundary to protect nearby receptors. To ensure work in this area would be limited to eight weeks, material would be stockpiled on site in advance. Stockpiled material would be kept in bunds 3m in height along the boundary of the eight-week zone ready for placement. The remainder of the cap would be built year-round.
- 4.7 The existing topsoil is thin and contaminated with debris but would remain in situ. HGVs would drive across the land and tip imported material as close to the placement area as possible. One bulldozer and one 360 digger would be used to spread the material. The 360 digger would normally be stationary, turning 180 degrees to move the material from the point of deposit to placing it ready for the bulldozer to spread. HGVs would tip off haul roads that would be constructed when required and would also ensure mud is not tracked back onto the haul road. Smaller trenching machines would construct the pipe work system. Once the impermeable layer of the cap has been constructed, it would be topsoiled.
- 4.8 The scheme would require the removal of some trees and vegetation. Trees along the western boundary are generally of lower value or are immature. The root protection areas of those in the western area would be compromised and the capping cannot be fully built without their removal. In this location, the restoration layer would not provide sufficient depth to protect the clay cap. Mitigatory tree planting is proposed elsewhere on site where sufficient soil depths allow.
- 4.9 The site would operate 08.00 to 18.00 Monday to Friday, with no deliveries or working at the weekend and on Bank Holidays. Plant would move around the site according to weather and types of material imported. Wheel wash facilities would be located at the egress from the site. A road sweeper would be situated on site and deployed as required.
- 4.10 HGVs would deliver the material to the site. This would require 25 deliveries a day, that is, 50 daily movements over a two-year period. The development, including importation and progressive restoration of the site, would take two and half years in total.
- 4.11 HGVs would enter the site using one access from West Hoathly Road. The proposed construction route between the A22 and the site would be via

Imberhorne Lane, Saint Hill Road and West Hoathly Road. HGVs would enter from the south, turning right into the site. When leaving, HGVs would turn left onto West Hoathly Road and follow a prescribed route.

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

- 5.1 The development falls within Part 11(b) of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment Regulations 2017 as an 'installation for the disposal of waste', and has a development area of more than 0.5 hectare and is within a 'sensitive area', and within 100m of controlled waters.
- 5.2 The County Council provided a Screening Opinion on 9 August 2019 confirming that, having regard to the selection criteria in Schedule 3 of the EIA Regulations, the proposed development would not have the potential for significant effects on the environment within the meaning of the EIA Regulations 2017.

## **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.
- 6.2 For the purposes of this application, the statutory development plan comprises the West Sussex Waste Local Plan (2014), the Mid Sussex District Plan (2014-2031), and the East Grinstead Neighbourhood Plan (November 2016).
- 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 and other policies that guide the decision-making process and which are material to the determination of the application.

### **West Sussex Waste Local Plan (April 2014)('the WLP')**

- 6.4 Policy W1 relates to the need for waste management facilities and seeks to prevent waste landfill/disposal operations, with an objective of zero waste to landfill in West Sussex by 2031.
- 6.5 Policy W8 of the WLP relates to recovery operations involving the deposition of inert waste to land. These are supported providing a number of criteria are met, which are considered further in Section 9 of this report. These are:
- “(a) the proposal results in clear benefits for the site and, where possible, the wider area;
  - (b) the material to be used is only residual waste following recycling and/or recovery or it is a waste that cannot be recycled or treated;
  - (c) there is a genuine need to use the waste material as a substitute for a non-waste material that would otherwise have to be used;
  - (d) the material to be reused is suitable for its intended use;
  - (e) the amount of waste material to be used is no more than is necessary to deliver the benefits identified under (a);



- (f) there would be no unacceptable impact on natural resources and other environmental constraints;
- (g) the proposal accords with Policy W13 (Protected Landscapes);
- (h) any important mineral reserves would not be sterilised; and
- (i) restoration of the site to a high quality standard would take place in accordance with Policy W20."

6.6 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: Character (Policy W11), High Quality Development (Policy W12), Protected Landscapes (Policy W13), Biodiversity and Geodiversity (Policy W14), Historic Environment (Policy W15), Air, Soil and Water (Policy W16), Flooding (Policy W17), Transport (Policy W18), Public Health and Amenity (Policy W19) and Restoration and Aftercare (Policy W20).

#### **Mid Sussex District Plan (2014 - 2031)**

6.7 The relevant policies are: DP12 – Protection and Enhancement of Countryside, DP16 – High Weald Area of Outstanding Natural Beauty, DP17 – Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC), DP26 – Character and Design, DP29 – Noise, Air and Light Pollution, DP34 – Listed Buildings and other Heritage Assets, DP36 – Historic Parks and Gardens, DP37 – Trees, Woodlands and Hedgerows, DP38 – Biodiversity, DP41 – Flood Risk and Drainage and DP42 – Water Infrastructure and the Water Environment

#### **East Grinstead Neighbourhood Plan (November 2016).**

6.8 The relevant policies are: EG1 – Protection of the High Weald AONB, EG3 – Promoting Good Design, EG4 – Designated and Non-Designated Assets and EG11 – Mitigating Highway Impact.

#### **National Planning Policy Framework (2021)**

6.9 The National Planning Policy Framework (NPPF) promotes, wherever possible, the use of waste as a resource and the movement of waste management up the 'waste hierarchy', thereby only supporting the disposal of waste as a last resort. It also sets out the approach waste authorities should take to determining applications.

6.10 The paragraphs in the NPPF of greatest relevance to the present proposal are:

Paragraph 11 (presumption in favour of sustainable development, and approving development that accords with the development plan); paragraphs 55 - 57 (planning conditions and obligations), 120 (making effective use of land), 130 (well-designed places), 131 (incorporate trees in design where possible), 167 (ensuring flood risk is not increased elsewhere); 174 (contributing to and enhancing the natural environment), 176 (conserving and enhancing landscape in AONB), 180 (protecting and enhancing biodiversity and geodiversity), 183 (ground conditions and pollution), 185 (ensuring new development is appropriate for its location taking into account the impact of pollution on health and the environment).

## **National Planning Policy for Waste (2014)**

- 6.11 Paragraph 7 of the National Planning Policy for Waste (NPPW) relates to determining waste planning applications. In summary, sections of key relevance to this application require planning authorities to:
- “Consider the likely impact on the local environment and amenity against the locational criteria set out in Appendix B (see below); and
  - Ensure that facilities are well-designed, contributing positively to the character and quality of the area; and
  - Concern themselves with implementing the strategy in the Local Plan and not control of processes which are a matter for pollution control authorities, on the assumption that such regimes are properly applied and enforced.”

Appendix B to the NPPW sets out locational criteria for testing the suitability of sites, namely the protection of water quality and resources and flood risk management; land instability; landscape and visual impacts; nature conservation; conserving the historic environment; traffic and access; air emissions including dust; odours; vermin and birds; noise, light and vibration; litter; and potential land conflict.

## **National Planning Practice Guidance**

- 6.12 This is a web-based resource which provides national planning guidance and is regularly updated. Of particular relevance to the development proposals are ‘waste’ (October 2015), ‘Noise’ (6 March 2014), ‘Natural environment’ (21 January 2016).

## **EU Council Directives 2008/98/EC and 1999/31/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), or landfill (article 20), the planning authority is required to take into account EU Council Directives; 2008/98/EC (the Waste Framework Directive) (which sets out the objectives of the protection of human health and the environment and self-sufficiency and proximity) and; 1999/31/EC (the Landfill Directive (which sets out which sets out the key considerations for the location of a landfill and requirement to prevent serious environmental risk and nuisance). Case law has confirmed that these 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 **Mid Sussex District Council:** No objection subject to Environmental Health and Contaminated Land Officer comments being addressed.
- 7.2 **Mid Sussex District Council – Environmental Health Officer:** No objection subject to conditions securing a Construction Environmental Management Plan (CEMP) which covers dust management, noise management and lighting.
- 7.3 **Mid Sussex District Council – Contaminated Land Officer:** No objection subject to a verification report has been submitted and approved showing that

the scheme has been implemented properly. Also recommend a condition covering any unsuspected contamination.

- 7.4 **East Grinstead Town Council:** Neither support nor object to the development. Highlights concerns relating in the main to traffic, but also that Mid Sussex Officers must be satisfied.
- 7.5 **Environment Agency:** No objection subject to conditions requiring the submission for approval of a verification plan and a verification report, by the Waste Planning Authority. Also recommends a condition to ensure that there is no infiltration of surface water and requiring the submission of a Construction Environmental Management Plan (CEMP) covering noise, odour, dust, gas, leachate and surface water drainage and timetables of monitoring and the submission of reports.
- 7.6 **NATS:** No safeguarding objection.
- 7.7 **Gatwick Safeguarding:** No safeguarding objection.
- 7.8 **Natural England:** Standing advice provided raising no objection.
- 7.9 **Historic England:** No objection to the application on heritage grounds.
- 7.10 **National Trust:** Objects due to the significant impacts on Standen House visitor attraction. However, should approval be granted, it recommends conditions covering requiring the submission of a CEMP, details of signage, limiting deliveries, and reducing traffic movements at certain times.
- 7.11 **High Weald Advisory Joint Committee:** Neither supports nor objects to the development. Provides standing advice. Recommends, should the planning authority approve the development, that drainage should avoid adverse impacts and that landscaping should include native and locally sourced species and include a management plan.
- 7.12 **Forestry Commission:** Standing advice provided. No objection raised.
- 7.13 **Sussex Gardens Trust:** No objection. Recommends conditions minimising traffic impacts on Standen House.
- 7.14 **The Gardens Trust:** Does not wish to comment.
- 7.15 **WSSC Archaeology:** No objection subject to the removal of redundant signage upon completion.
- 7.16 **WSSC Drainage:** No objection subject to approving the submitted drainage scheme.
- 7.17 **WSSC Ecology:** No objection subject to conditions relating to the protection of bats and badgers.
- 7.18 **WSSC Tree Officer:** No objection subject to the inclusion of a condition requiring the submission of a landscaping scheme.
- 7.19 **WSSC PROW:** No objection, advice given.

- 7.20 **WSCC Highways:** No objection subject to access and road widening and the submission of a construction management plan. Also advises that the applicant will need to enter into a section 59 agreement to cover potential damage arising from the increase in extraordinary traffic.
- 7.21 **Local Councillor Jacquie Russell:** Concurs with the EAs comments and recommendations, highlights routing concerns and also dust and noise impacts. Supports section the need for a Section 59 agreement.

## **8. Representations**

- 8.1 The application was publicised in accordance with Schedule 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 involving the erection of site notices located around the application site, an advertisement in the local newspaper, and neighbour notification letters.
- 8.2 255 representations have been received from third parties; 249 objecting to the development and 6 commenting on the proposal.
- 8.3 The main issues raised in representations are that:
- Traffic movements are excessive and will cause congestion, traffic jams and collisions;
  - The local area cannot support any more traffic and are difficult to navigate;
  - The proposal would generate unacceptable noise, dust and odour close to properties;
  - Traffic will lead to potholes and deterioration of the local roads;
  - There will be risks to the safety of pupils at the local school;
  - Increased risk to pedestrians, cyclists and other road users;
  - Traffic information is incorrect;
  - There will be an adverse impact upon the environment and wildlife;
  - The scheme would have an adverse impact on local residents, including schools, care home and Standen House;
  - Evidence provided is unreliable/no need for the development;

## **9. Consideration of Key Issues**

- 9.1 The main planning matters to consider in relation to this application are whether it:
- is acceptable in principle with regard to waste planning policy;
  - is acceptable in terms of impacts on landscape character and the AONB;
  - is acceptable in terms of highway capacity and road safety; and
  - has an acceptable impact on local amenity and the local environment.

### **Acceptable in Principle with Regard to Waste Planning Policy**

- 9.2 Policy W8 of the WLP supports recovery operations involving the deposition of inert waste to land where they meet various criteria. For the proposed development to be considered a recovery operation, and thus acceptable in

principle in accordance with Policy W8, these criteria must be satisfied. Consideration of each of these is set out below.

(a) the proposal results in clear benefits for the site and, where possible, the wider area.

9.3 The applicant has several objectives in relation to the need for the development. The principal objective of the proposal is to control risk to human health from the historic tipping and to also mitigate the physical landform as a result of the exposed previously deposited materials. In this regard, the applicant states that the development would:

- reduce the on-going risk to controlled water from contaminants on the site which are mobile and leaching by reducing infiltration through the waste materials;
- eliminate existing physical risks to any future use of the site posed by materials close to the surface (for example brick, tarmac, metal, and glass). The applicant states that the site has previously been used for sheep grazing which stopped due to loss of sheep through illness or maiming from landfilled materials. More recently, the site has accommodated horses but due to injuries sustained on the former landfill, were confined to a path between the stables and woodland which was inadequate, and which led to the use ceasing; and
- reduce risks of asphyxiation/fire/explosion as identified during the desk-top survey. Therefore, the existing site is inappropriate for any use which involves people or animals due such risks; and
- prevent damage to the environment because methane and carbon dioxide from the landfill materials are likely to be impacting trees adjacent to the landfill site and potentially the ancient woodland.

9.4 Essentially, the applicant states that the site is unusable in its existing condition and that it is having a detrimental effect upon the environment.

9.5 In terms of the level of contamination, the reports submitted with the application clearly identify contamination of the former landfill and on-going risks to controlled waters. Following a review of the surveys, Mid Sussex District Council's Contaminated Land Officer accepts that the site does contain contaminants, stating that "the site contains contaminants and we would want to encourage and support the voluntary remediation".

9.6 It is accepted that the proposed capping is an opportunity to mitigate contamination produced by historic landfilling.

9.7 The proposed development would result in the direct loss of existing grassland habitats and disturbance to adjacent ancient woodland. Such impacts are unavoidable as the scheme extends up to the boundary of the site. However, there is already evidence of damage to the edge ancient woodland from previous operations. The ecological assessment states that the capping of the site would result in an "unavoidable impact on a small number of trees, (however, this) is outweighed by the wider environmental benefits of capping the landfill site and containing the leachate".

9.8 On completion, it is considered that the proposed package of planting and ecologic enhancements would provide an improved habitat in the long-term and

compensate for loss of any habitats and vegetation. WSCC Ecologist raises no objection to the proposal, subject to a condition securing bat and badger protection.

- 9.9 Overall, it is agreed that the proposed development would result in environmental and ecological benefits compared with the existing situation, particularly in the long-term. The benefits would be to the site and the wider area, the latter being a desirable but not essential requirement under Policy W8. The proposal is therefore considered to accord with this criterion.
- (b) the material to be used is only residual waste following recycling and/or recovery or it is a waste that cannot be recycled or treated.
- 9.10 The imported inert wastes would comprise clay and soils. Material that could be recycled or otherwise be put to use would have been removed from elsewhere by the waste operator prior to coming to the site, particularly as the financial returns for recycling are greater than for waste deposit. The proposal is, therefore, considered to accord with this criterion.
- (c) there is a genuine need to use the waste material as a substitute for a non-waste material that would otherwise have to be used.
- 9.11 The development would make use of inert waste rather than 'virgin' soils to create the capping system. Using any material other than waste would make the scheme unviable.
- (d) the material to be reused is suitable for its intended use.
- 9.12 The imported inert wastes would comprise clay and soils, all typical materials used in land raising, engineering and restoration projects. In addition, an Environmental Permit would most likely be required that would ensure incoming waste is checked by trained operatives. The proposal is, therefore, considered to accord with this criterion.
- (e) the amount of waste material to be used is no more than is necessary to deliver the benefits identified under (a).
- 9.13 The proposed development is considered to be the minimum required to deliver the benefits highlighted in paragraph 9.3. The applicant has stated that the amount required to complete the scheme is 126,677.74m<sup>3</sup>. Although the applicant is content for this amount to be controlled by condition, this would not be workable given that the scheme does not include a weighbridge. However, the applicant has produced existing and post-development site levels, which can be used to control the levels of imported material.
- 9.14 The clay capping is required to be a minimum of 1m thickness to limit water infiltration, with the soil on top of this varying across the site; it would be thicker where planting is required and thinner where there are steeper slopes and where areas require only grassing.
- 9.15 During discussion at Committee on 29 June 2021, Councillors requested that the level of imported material be reviewed and asked whether less material could be brought into the site. The applicant has advised that it is not possible to provide the design of capping system with a reduced volume of material. They have stated that the proposal:

“represents the minimum amount of material required to achieve the proposed restoration scheme and landscape strategy which a composite solution balancing drainage, stability, landscape and pollution control criteria. The incorporation of trees, apart from the aesthetic and ecological benefits help to stabilise the surface, on what will always be a sloping site, where rainfall is design to move through the restoration layer and not penetrate the landfill below. Tree roots help with the stability of surface soil and add a safety factor into the overall design. They (also) provide invaluable habitats for wildlife, and largely due to annual leaf fall leading to a build-up of litter, they improve prospects of soil formation”.

- 9.16 It is considered that the scheme creates a landform that responds to the existing topography whilst producing benefits to the local environment. Therefore, the proposal is considered to accord with this criterion.
- (f) there would be no unacceptable impact on natural resources and other environmental constraints.
- 9.17 The development has the potential to have detrimental effects on the environment and natural resources. However, the Environment Agency has raised no objection to the proposal.
- 9.18 The WSCC Drainage and Flood Risk engineer is satisfied that the drainage matters have been dealt with and have no objection to the development subject to the drainage plan being approved. The site is in an area that is at a low risk of flooding, and overall flood risk is low. On this basis, it is considered, that drainage matters have been adequately addressed.
- 9.19 The development would be adjacent to an area of Ancient Woodland to the east and there would be some impact upon the root protection zones of some trees. However, there is evidence that damage to trees in the area has occurred from the historic landfill contaminants, it is not proposed to remove any trees. Subject to conditions to secure the implementation of the site wide Landscaping Scheme and Ecological Management Plan, and management of construction activities (e.g. dust suppression and minimisation of noise), it is not considered there would be any unacceptable impact on the Ancient Woodland or biodiversity more generally.
- 9.20 Therefore, the proposed scheme, subject to conditions, would not result in any unacceptable impact upon wider amenity, air quality, ecology or the water environment and is considered to accord with this criterion.
- (g) the proposal accords with Policy W13 (Protected Landscapes)
- 9.21 In terms of impacts on the landscape, landscape character and the AONB as discussed later in this report; the proposed development is considered acceptable.
- (h) any important mineral reserves would not be sterilised
- 9.22 Ground investigation reports have shown the site to be contaminated and a historic landfilling site. It is therefore unlikely that mineral extraction would be economically or practicably viable given the history of the site. Accordingly, it

is not considered that there would be any unacceptable sterilisation of mineral reserves. The proposal is, therefore, considered to accord with this criterion.

- (i) restoration of the site to a high-quality standard would take place in accordance with Policy W20

9.23 In terms of impacts on the landscape, landscape character and the AONB Policy W20 seeks to protect these and as discussed in the following section, the proposed development is considered acceptable.

9.24 In conclusion, the WLP supports recovery operations involving the deposition of inert waste to land where it would meet certain criteria. The proposed capping of the site is considered to meet these, and as such to represent a genuine 'recovery' operation that provides for the movement of waste up the waste hierarchy, in accordance the West Sussex Waste Local Plan (2014) and NPPW (2014).

### **Impacts on Landscape Character and the AONB**

9.25 The application site extends to 4.4. hectares and the development would involve the importation of 126,677m<sup>3</sup> (190,015 tonnes) of waste clay soils/material in a protected landscape; it is, therefore considered to be 'major' development.

9.26 Policy W11 of the WLP states that proposals for waste development will be permitted provided that they would not have an unacceptable impact upon the character, distinctiveness and sense of place of the area.

9.27 Policy W13(c) of the WLP states that proposals for major waste development in protected landscapes, in this case the High Weald AONB, will not be permitted unless:

- (i) there is an overriding need for the development within the designated area; and
- (ii) the need cannot be met in some other way or met outside the designated area; and
- (iii) any adverse impacts on the environment, landscape, and recreational opportunities can be satisfactorily mitigated.

9.28 This reflects paragraph 176 of the NPPF, relating to development in AONBs/National Parks, which states that "great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs".

9.29 The development has the potential to result in two main types of landscape and visual impact: temporary changes to views during the capping operations; and permanent changes to the landscape character through the creation of a raised landform and loss existing grassland habitats and disturbance to adjacent ancient woodland.

9.30 The site is located within a very rural area with few residential properties in the immediate area, with only the Beechcroft Care Centre and Trefoil Montessori Farm School likely to have direct views of the proposed new landform upon completion.



- 9.31 In terms of temporary impacts during construction, the Landscape and Visual Assessment submitted with the application concludes that visual effects would be medium adverse. However, there are very limited viewpoints of the site and any impact would be both transitory and temporary in nature. Upon completion, the proposal would bring forward a landform broadly matching the character of the surrounding area.
- 9.32 The Landscape and Visual Assessment identifies the visual impact on the Beechcroft Care Centre as being low adverse, with effects improving over time and once mitigation planting beds in. The proposed capping is also unlikely to be visible from West Hoathly Road, with it being screened from view by the intervening properties, mature trees and vegetation. The Landscape and Visual Assessment concludes that "due to the undulating topography, the local trees and vegetation, the site is well concealed from view."
- 9.33 Policy W13 reflects the fact that a 'high bar' is set by national policy for major development in protected landscapes. Sub-paragraph (i) is discussed in paragraphs 9.2–9.24 of this report. In essence, it is concluded that there is a benefit to the site, a genuine need for the development and it is the minimal amount to achieve the benefits set out.
- 9.34 With regard to sub-paragraph (ii), it is important to consider that the land has been found to contain contaminants. In response to meeting the need some other way, the applicant states that:
- "The contaminants leaching from the site, gases present and materials just below and exposed at the surface cannot be addressed in any other way than to cap the site and form a protective layer. Attempting to mitigate the impact of the contaminants on an ongoing basis rather than prevent the impacts entirely is an unacceptable option for preventing harm to the environment and also economically unviable considering the costs involved and lack of any end use.
- 9.35 In addition, the need clearly cannot be met outside the designated area, insofar as the site is located within the AONB and the works proposed are intended to address the problems that already exist on the site. The reason put forward by the applicant is therefore considered realistic and reasonable. In this regard, the development is considered to meet with sub-paragraph (ii).
- 9.36 With regard to sub-paragraph (iii), environmental matters are discussed in paragraphs 9.50-9.60 of this report. They conclude that, while there would be some adverse impacts on the environment, they can be satisfactorily addressed by condition in order to make the development acceptable.
- 9.37 With regards to impacts upon the landscape, the submitted Landscape and Visual Impact Assessment identifies that the development would result in a slight adverse impact upon the High Weald AONB. However, overall, this assessment must also be balanced against the overriding need to secure acceptable remediation of the contaminants within the poorly restored historic landfilling site.
- 9.38 Overall, the temporary construction operations and the loss existing grassland habitats and disturbance to the adjacent area of Ancient Woodland would not result in significant impacts on the landscape. Upon completion, the proposed development would result in an improvement, in landscape terms, over the

existing site. The proposed landscaping works would enhance the future landscape and ecological value of the site. Accordingly, the impact on the landscape character of the area is considered to be acceptable.

- 9.39 In conclusion, the application site is situated within the countryside, in the High Weald AONB, a protected designation. The site is well-screened by its topography and surrounding vegetation, and much of the operations and final form would take place with only limited visible impact. Any impacts caused during capping operations would be temporary and would not be significant. In addition, when complete it is considered that the proposed development would not give rise to any significant unacceptable impact on the character, distinctiveness and sense of place of the location or undermine the objectives of the AONB designation.

### **Impact on Highway Capacity and Road Safety**

- 9.40 One of the key issues raised in objections to the application has been the impact of HGVs on the road network. The application site is located on the southern side of West Hoathly Road with access to the site to be provided via an upgraded bell-mouth access. Routing to and from the site would be from the south of West Hoathly Road, turning right into the site, and when exiting, turning left from the site.
- 9.41 It is proposed that the importation of the required soils by HGV would take place over two years, which equates to 25 daily deliveries (that is, 50 daily movements).
- 9.42 The site would operate from 08.00 to 18.00 Monday to Friday, with no deliveries or working on weekends or Bank Holidays. The applicant has agreed that deliveries would only take place between 09.30 and 15.30. Although this would mean that deliveries would occur at a greater rate between these hours, that peak traffic hours in the area, including during school pick up and dropping off hours, would be avoided.
- 9.43 Between the hours of 09.30–15.30, HGV deliveries would equate to just over four deliveries every hour, or one delivery every 15 minutes (approximately).
- 9.44 In addition to the concerns about HGV numbers, concerns have also been raised regarding the routing and that the local highway network is not adequate due to issues ranging from narrow roads, pinch points, conflict with other operations and activities and potential road blockages with visitors to Standen House.
- 9.45 As highlighted in Section 3 of this report, the previous application for the development that was withdrawn proposed HGVs routing through centre of East Grinstead. In particular, there was concern that an alternative route should be chosen to avoid existing built-up areas that suffer from congestion and where HGVs would pass schools and nurseries along the route into the town. The applicant has worked closely with the Highway Authority to address these concerns and the Highway Authority has concluded that the route proposed in this application, which avoids East Grinstead, is the best route to and from the site. A Road Safety Audit (RSA) has been undertaken along with a formal Designers Response. A number of matters have been highlighted in the RSA, namely the narrow carriageway, restricted visibility and routing difficulties.

- 9.46 The applicant has agreed to address each highlighted point. Where possible, the carriageway along West Hoathly Road would be widened (permanently), vegetation will be cut back to ensure visibility, routing would be altered along Saint Hill Road junction to avoid potential collisions and additional temporary signage would be erected.
- 9.47 The Highway Authority comment that "All matters raised in the RSA have now been addressed in accordance with the Auditor recommendations and there are no outstanding matters raised through the audit process". They raise no objection to the proposal subject to securing routing arrangements through a Section 106 Agreement and a Construction Management Plan (CMP) by planning condition. The applicant has confirmed that they are willing to enter into a routing agreement and submit a CMP, which would include a community liaison programme and co-ordination with the National Trust.
- 9.48 The Section 106 Agreement would also secure road widening, vegetation removal, and the provision of road signs. In addition, the applicant has agreed to enter into a Section 59 Agreement to cover the increase in extraordinary traffic that would result from construction vehicles. This would require the provision of a bond to enable the recovery of costs of any potential damage that may result to the public highway as a direct consequence of the construction traffic. The securing of the Section 59 Agreement would be a requirement of the Section 106 Agreement.
- 9.49 In conclusion, the proposed development would result in a maximum of 50 HGV movements each weekday as a result of the capping operation. The route has been reviewed with the Highway Authority and is considered to be the most appropriate route to and from the site. The Highway Authority have considered the potential impacts and concluded that, subject to securing HGV routing and a CMP, the proposed development would not have a significant adverse impacts and, as such, it accords with the NPPF. Therefore, the proposed development is considered acceptable with regard to highway capacity and road safety.

### **Impact on Local Amenity and the Environment**

- 9.50 By its nature, the importation of waste in HGVs and restoration operations involving plant and machinery, has the potential to result in noise, vibration and dust, and impacts that have the potential to adversely affect local amenity and the local environment. Potential impacts on the amenity of local residents and the local environment must be considered. Landscape impacts and the benefits of the proposal are considered elsewhere in this report.
- 9.51 With regard to noise, the applicant has submitted an acoustic report. The report acknowledges in relation to the Beechcroft Care Centre and Trefoil Montessori Farm School, that the works are likely to exceed recommended noise limits. However, the report also indicates that it does not exceed noise levels for shorter term works. Therefore, the applicant has agreed that in order to minimise the impacts of works on these receptors, work in this area will only take place eight weeks per year and that "initial works on site will comprise the build-up of ground levels to around final height along the western boundary of the site, to prove a natural barrier to the passage of noise from the capping works. Continuation of the capping works will then begin closest to the formed natural barrier working backwards away from the receptors."

- 9.52 The District Council's Environmental Health Officer (EHO) is satisfied with the conclusions of the assessment. Subject to the noise mitigation measures being secured through a Construction Environmental Management Plan (CEMP), the development is considered acceptable. The CEMP would require compliance with noise limits and mitigation measures set out in the acoustic report, which if necessary can be enforced, in the event that the noise limits are breached.
- 9.53 With regard to air quality, the applicant has submitted a Dust Risk Assessment, which concludes that the air quality and dust effect from the development is considered to be 'not significant'. However, it does predict at Trefoil Montessori Farm School and Lister Avenue, that operations may cause a slight adverse effect from dust. The District Council's Environmental Health Officer (EHO) raises no objection to the development, but recommends that the submission of a Dust Management Plan be conditioned with a requirement that, if dust emissions should adversely affect adjacent residential properties, sensitive receptors and/or the local environment, the activity will be suspended until such time as conditions allow it to continue without given rise to a further adverse effects.
- 9.54 The District Council's EHO has also recommended a condition requiring the submission for approval of lighting details for the site. However, no lighting is proposed and a condition restricting use of lighting is proposed instead.
- 9.55 The District Council's Contaminated Land Officer has reviewed the application and, subject to the imposition of condition seeking the submission of a verification report prior to future use of the site and a condition dealing with any contamination not previously identified, raises no objection to the development. Following review of the ground investigation report and geotechnical design studies, he concludes that "ultimately the site contains contaminates and we would want to encourage and support the voluntary remediation that is proposed."
- 9.56 In terms of the water environment, the application site is located in Flood Zone 1 (at a low risk of flooding). The proposal would direct surface run-off into newly laid drains, swales and culverts. The WSCC Drainage Officer raises no objection to the proposals and is satisfied that the drainage arrangements for the development are fit for purpose and would not exacerbate flooding off-site.
- 9.57 Standen House lies approximately 500m to the south of the site, with the entrance approximately 150m south of the proposed access. The National Trust has objected to the development on the grounds that additional traffic will cause a detrimental impact on highway network and have an adverse impact on the appreciation of the heritage asset and the attractiveness of the setting. The traffic impact could arise from congestion on the network, with vehicles unable to pass each other, and signage becoming a hinderance.
- 9.58 Matters involving highway capacity and safety are dealt with in previous sections and are considered to be acceptable. However, the impact on heritage assets and amenity matters are also material considerations. It is recommended that some of the mitigation requested by the National Trust, for example restricting access to the development and the submission of a CEMP, be required by condition. Overall, however, it is considered that a delivery of material to the site every 15 minutes (on average) is not unacceptable in relation to the setting of Standen House.

- 9.59 Historic England have been consulted and have raised no objection, stating that they are “pleased that the access has been altered so as to limit the impact to Standen House” and “no longer have concerns regarding this application as it stands.”
- 9.60 In conclusion, the site is close to a number of sensitive receptors. Although there would inevitably be some disturbance in the locality as a result of the proposed development, this would be temporary and limited in nature. The imposition of conditions to control hours of operation, noise impacts and impacts on air quality should ensure that there are no unacceptable impacts upon amenity and the local environment. The proposed development would also have no impact on the water environment, nor on the setting and appreciation of Standen House. Overall, the proposed development would deliver better long-term benefits for the site and surrounding environment once the site is capped and restored. It is therefore considered that the development is acceptable in terms of impacts on local amenity and the local environment.

## **10. Overall Conclusion and Recommendation**

- 10.1 The application was considered by the Planning and Rights of Way Committee at its meeting on 29 June 2021, at which determination was deferred to enable the applicant to reconsider the volume of imported inert material required and the impacts of the proposal in relation to highway capacity, road safety and traffic management. As a result, the applicant has proposed amendments to remove working on Saturdays and to import the material over a longer period of time; this would result in fewer daily HGV movements but increase the total length of time to undertake the development, including for the progressive restoration of the site.
- 10.2 Local and National planning policy supports recovery operations involving the deposition of inert waste to land where this would move waste up the waste hierarchy. The proposed capping of the site is considered to represent a genuine ‘recovery’ operation that is required to mitigate the presence of contaminants on the site and deal with the physical landform.
- 10.3 The site is well-screened by its topography and surrounding vegetation, and much of the operations and final form would take place with only limited visible impact. Any impacts caused during capping operations would be temporary and, given limited views into the site, would not be significant. Upon completion, the proposed development would be sympathetic to the character, distinctiveness and sense of place of the location and not undermine the objectives of the AONB designation.
- 10.4 The HGV movements associated with the development are considered to be acceptable and the routing appropriate. The Highway Authority have no objection to the development with regards to highway safety and capacity.
- 10.5 Finally, subject to the control of hours of operation, noise impacts, impacts on air quality and the water environment, the proposed development would not have any significant adverse impact on sensitive receptors, the local environment, nor the heritage asset of Standen House and Standen Park and Garden.

- 10.6 Overall, the proposed development would deliver better long-term benefits for the site and surrounding environment once the capping is complete and the site fully restored. In conclusion, the proposal accords with the relevant development plan policies relating to waste, as well as other material considerations including national policy.
- 10.7 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.
- 10.8 It is **recommended**, therefore, that planning permission be granted subject to:
- (a) the conditions as set out in Appendix 1 of this report; and
  - (b) the completion of a Section 106 Agreement relating to:
    - (i) the routeing of HGVs to and from the application site;
    - (ii) road widening works and maintaining visibility along West Hoathly Road;
    - (iii) road signage along the prescribed route; and
    - (iv) the securing of a Section 59 Agreement.

## **Factors taken into account**

### **11. Consultations**

11.1 See Sections 7 and 8.

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

12.1 Not applicable.

### **13. Equality and Human Rights Assessment**

13.1 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the 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:** Chris Bartlett, Principal Planner, 0330 22 25571

#### **Appendices**

- Appendix 1 – Conditions
- Appendix 2 – June Committee Report
- Appendix 3 – Area Plan
- Appendix 4 – Location Plan
- Appendix 5 – Block Plan
- Appendix 6 – Landscape Plan
- Appendix 7 – Proposed Final Levels
- Appendix 8 – Cross Section A-A to C-C
- Appendix 9 – Cross Section D-D to F-F

Appendix 10 – Cross Section G-G

**Background papers**

See Section 6.



## **Appendix 1 – Conditions and Informatives**

### **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Written notification of the date of commencement shall be sent to the Waste Planning Authority not less than seven days before the commencement of development.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990.

#### **Cessation**

2. The development hereby permitted shall cease and the land be restored in full (in accordance with Condition 3 of this permission) not later than 30 months from the commencement of the development hereby permitted.

Reason: To comply with Schedule 5 of the Town and Country Planning Act 1990.

#### **Approved Plans**

3. The proposed development shall not take place other than in accordance with the approved information and plans:
  - Location Plan (Drawing No. fp0043.1);
  - Block Plan (Drawing No. fp0043.2);
  - Proposed Final Levels (Drawing No. fp0043.4 Rev B);
  - Proposed Levels with below ground infrastructure (Drawing No. fp0043.5);
  - Cross Sections A-A to C-C (Drawing No. fp0043.7 Rev B);
  - Cross Sections D-D to F-F (Drawing No. fp0043.7B Rev B);
  - Cross Sections G-G (Drawing No. fp0043.7C Rev B);
  - Typical Cap Construction Detail (Drawing No. fp0043.8);
  - Construction Phasing Plan (Drawing No. fp0043.11);
  - Tree Protection Plan (dated May 2019);
  - Landscape Plan Schedules & Specification (Drawing WD806L01); and
  - Access Plan (Drawing 10908/101 RevP6)

save as varied by the conditions hereafter.

Reason: To secure a satisfactory development comes forward, carried out in accordance with the details considered in approving it.

### **PRE-COMMENCEMENT CONDITIONS**

#### **Construction Management Plan**

4. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing

by the County Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works,
- details of a community liaison programme, including co-ordination with the National Trust,
- communication procedures with community regarding key operational timings and a named person for residents to contact, and
- waste management including prohibition of burning at the scheme, and for the storage and disposal of waste providing maximum recycling opportunities and disposal and control of litter.

Reason: In the interests of highway safety and the amenities of the area.

### **Construction Environmental Management Plan**

5. The development hereby permitted shall not commence until a Construction Environmental Management Plan (CEMP) in respect of; noise, odour, dust, gas, leachate and surface water drainage, including a timetable of monitoring and submission of reports to the Waste Planning Authority, has been submitted to, and approved in writing by the Waste Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to, and approved in writing by, the Waste Planning Authority at the required intervals indicated in the CEMP and agreed by the Waste Planning Authority.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures. This is in line with paragraph 174 of the National Planning Policy Framework.

### **Ecological Management and Aftercare Plan**

6. Prior to the commencement of development, an Ecological Management and Aftercare Plan (EMAP) shall be submitted to, and approved in writing by, the Waste Planning Authority. The Plan shall provide biodiversity and habitat management details for a five-year period after completion of restoration for each phase and shall include ecological enhancement measures as specified

within the Ecological Assessment (dated 8 May 2019 – Project No.P2692) submitted with the application. The approved Ecological Management and Aftercare Plan shall be implemented in full throughout development and the agreed five-year management period.

Reason: To ensure the long-term management of habitats, species and other biodiversity features. Required prior to commencement to ensure that the scheme is robust and will protect and enhance the biodiversity and habitats of the site.

### **Sequence of Phasing**

7. Prior to the commencement of development, a sequence of phasing plans detailing the capping/restoration operations at the site shall be submitted to and approved in advance and in writing by the Waste Planning Authority. The plans shall detail and set out when and where works will take place, heights and locations of stockpiles and, in particular, when work is to take place on the western boundary. Once approved, the working of the site shall take place in accordance with the approved plans.

Reason: To secure a satisfactory programme of works in the interests of the amenity of the locality.

### **Verification Plan**

8. No development shall commence until a verification plan has been submitted to, and approved in writing by, the Waste Planning Authority. The verification plan shall provide details of the data that will be collected in order to demonstrate that the approved works set out in the planning submission/restoration strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components will require the written consent of the Waste Planning Authority. Once approved, the plan shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework

### **Soft Landscaping Scheme**

9. Prior to the commencement of development, a detailed soft landscaping scheme has been submitted to, and approved in advance by, the Waste Planning Authority. The scheme shall include full details of species, planting sizes, planting spacing, plant protection, tree pits, soil amelioration / improvement, seeding, on-going maintenance provision and compliance with biosecurity regulations. Once approved the scheme shall be implemented in full, with all planting carried out in the first planting season (November to February) following the completion of each stage of the development. Any plants which die, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure that trees and vegetation are maintained and enhanced, to protect and enhance the character and biodiversity of the site and surrounding area.

## **CONTROL OVER DEVELOPMENT CONDITIONS**

### **Surface Water Drainage**

10. No infiltration of surface water drainage into the landfill or adjacent land is permitted. The development shall be carried out in accordance with the approved details only.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 174 of the National Planning Policy Framework.

### **Bats**

11. Prior to the commencement of the felling of any tree(s) along the ancient woodland edge or any other tree deemed to have bat potential, an Ecological Clerk of Works will be commissioned to undertake a check for bats and oversee the 'soft-felling' of affected trees. Should protected bat species be present work must stop and Natural England informed. A license may be required from Natural England before works can re-commence; Natural England will advise.

Reason: To safeguard bat species and in accordance with paragraph 8c, 174, 180 of the National Planning Policy Framework.

### **Badgers**

12. Prior to the commencement of any aspect of the proposed development within 30m of the existing or any new badger sett, an Ecological Clerk of Works will be commissioned to monitor and advise on the precautionary approach required to secure the welfare of this species. All recommended action shall be undertaken promptly and reported to the County Planning Authority.

Reason: To safeguard the welfare of badgers and in accordance with paragraph 8c, 174, 180 of the National Planning Policy Framework.

### **Tree Protection**

13. Trees which are to be retained, as detailed on the approved Tree Protection Plan (dated May 2019), shall be protected in accordance with BS 5837:2012 – Trees in relation to design, demolition and construction, throughout the construction of the development hereby permitted.

Reason: In the interests of the locality

### **Hours of Operation**

14. No operations associated with the construction of the development hereby permitted shall take place outside the hours of:
  - 08.00 and 18.00 Monday to Friday; and

- no operations whatsoever as authorised by this planning permission shall occur on Saturdays, Sundays, Bank or Public Holidays.

Reason: To protect the amenities of occupiers of nearby residential properties.

### **HGV deliveries**

15. No HGV vehicles associated with the installation and construction of the development hereby permitted shall be received by or despatched from the site except between the hours of 09:30 and 15:30 on weekdays only.

Reason: In the interests of highway safety and of the amenities of the locality.

### **Vehicle Access**

16. No vehicular access or egress to or from the site in relation to the development hereby approved shall be obtained other than through the entrance shown on approved plan Access Plan (Drawing 10908/101 RevP6)

Reason: In the interests of highway safety and of the amenities of the locality.

### **Noise - Reversing Alarms**

17. All vehicles as well as all plant and machinery that are used on site and those under the applicant's control moving to and from the site that are required to emit reversing warning noise, shall use white noise alarms as opposed to single tone 'bleeping' alarms throughout the operation of the development hereby permitted.

Reason: To protect the amenities of the local residents and the local environment.

### **Vehicular Operations and Controls**

18. The site shall not be used as an operating base for any Heavy Goods Vehicles, or the repair and/or maintenance of any Heavy Goods Vehicles and plant, equipment and/or machinery which are not under the direct control of the operator and not normally used for the delivery, handling or sorting of imported wastes to or within the site.

Reason: In the interests of road safety and of the general amenities of the locality.

### **Lighting**

19. No external lighting shall be installed anywhere within the site. This exclusion shall not prohibit the use of lighting on plant, equipment, machinery and vehicles required during the permitted hours of working or the installation of sensor-controlled security lighting, which shall be designed and shielded at all times to minimise light spillage beyond the site boundary.

Reason: To prevent light pollution in the interests of the amenity of the locality and of local residents.

## **Contamination**

20. If during construction, contamination not previously identified is found to be present at the site then no further development shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme of works, shall be submitted to and approved in writing by the Waste Planning Authority. The remediation measures shall be carried out as approved and in accordance with the approved programme of works. If no unexpected contamination is encountered during development works, on completion of works and prior to occupation and use, a letter confirming this should be submitted to the Waste Planning Authority. If unexpected contamination is encountered during development works, on completion of works and prior to occupation and use, the agreed information, results of investigation and details of any remediation undertaken will be produced to the satisfaction of and approved in writing by the Waste Planning Authority.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures. This is in line with paragraph 174 of the National Planning Policy Framework.

## **Removal of Buildings, Plant, Equipment and Machinery**

21. All buildings, plant, equipment and machinery required in connection with the operations permitted under this planning permission shall be dismantled or demolished and removed from the site and the site thereof restored in accordance with the scheme of restoration approved under Condition 3 within six months of the completion of the restoration scheme.

Reason: In the interests of the amenities of the locality.

## **Permitted Restoration Materials**

22. Imported and any on-site materials required for the purposes of the development hereby permitted shall comprise only inert and uncontaminated waste materials.

Reason: To avoid pollution through contamination of the soil, water and/or air, in the interests of the general amenities of the locality.

## **Submission of Topographical Surveys**

23. Detailed topographical surveys, providing an update on the approved restoration works, shall be submitted every calendar year from the date of commencement to the Waste Planning Authority following the commencement of the development hereby permitted.

Reason: To ensure that the restoration of the site is completed to an acceptable standard within agreed timescales and in the interests of the general amenities of the locality

## **Completion Verification Report**

24. Prior to any future use of the site following completion of the works hereby approved, a verification report demonstrating satisfactory completion of works set out in the approved restoration strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the Waste Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 174 of the National Planning Policy Framework

## **INFORMATIVES**

- a) In accordance with paragraph 38 of the National Planning Policy Framework, the Waste Planning Authority has approached the determination of this application in a positive and creative way, and has worked proactively with the applicant by:

- Providing pre-application advice;
- Seeking amendments early on in the application process to see if a sustainable solution can be agreed;
- Discussing issues of concern as early as possible, including those raised by consultees and third parties;
- Giving them the opportunity to provide further information/changes to overcome material impacts; and
- Working with consultees.

As a result, the Waste Planning Authority has been able to recommend the grant of planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development.

- b) The granting of any planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received. For further information please contact Mid Sussex District Council Environmental Health Department. The developer should at all time employ best practical means to minimise noise disturbance to nearby residents. All construction work practises should comply with B.S. 5228 1:2009 'Code of practice for noise and vibration control on construction and open sites'.