Following publication of the agenda, a letter dated 13 May 2022 was sent by Mr Williamson (of Protreat) to Michael Elkington, Head of Planning Services, in relation to the committee report on the Loxwood planning application (WSCC/030/21). The letter, which is available on the planning application web pages, will be addressed by Mr Elkington at the meeting.

Agenda Item No.	Page Number	Paragraph	Update	Reason
4	18	Executive Summary	The JMLP supports extraction of brick clay where it would meet the criteria listed in Policy M5. The proposed development does not accord with Policy M5 as two ~~three~~ of the current brickworks have over 25 years reserves of clay~~, with the other having 24 years~~. In addition to not being required to supply additional reserves, the applicant has not identified a link between the site and any of the existing brickworks. Furthermore, the development would represent an insignificant contribution (375,000 tonnes) to help maintain supply of clay, given that current reserves are 14.2 ~~17.5~~ million tonnes. As such, the development does not accord with Policy M5 of the JMLP.	Update: new Annual Monitoring Report published – paragraphs updated to reflect most recent figures.
4	19	Executive Summary	Furthermore, the Appropriate Assessment undertaken by officers indicates that, notwithstanding the water neutrality mitigation measures proposed by the applicant, it has not been demonstrated that the proposal would not have an adverse effect on the internationally important Arun Valley SAC/SPA/Ramsar site.	Addition: Wording updated to reflect Natural England comments

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			Therefore, not only does the proposal not accord with Policy M17 of the JMLP, Policy W14 of the WLP, Policy 49 of CLP, and Paragraph 180 of the NPPF in relation to this specific issue, the County Council must refuse the project under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended). <u>In addition, it has not been demonstrated that there would not be an adverse effect on the internationally important The Mens SAC and Ebernoe Common SAC.</u>	
4	20	Executive Summary	Although on and off-site ecological mitigation is proposed, the proposed development would still result in a net loss of biodiversity habitats. Furthermore, it has not been demonstrated that the proposed water neutrality measures would not result in the proposal having an adverse effect on the internationally important Arun Valley SAC/SPA/Ramsar site, which is sufficient reason to refuse the application. <u>In addition, it has not been demonstrated that there would not be an adverse effect on the internationally important The Mens SAC and Ebernoe Common SAC.</u>	Addition: Wording updated to reflect Natural England comments

Agenda Item No.	Page Number	Paragraph	Update	Reason
4	24	Habitats Regulation Assessment	5.6. The proposed development is located on the boundary of the 6.5km key conservation area for The Mens SAC and is also within the 12km wider conservation area for Ebernoe Common SAC. Habitats within these areas that are required to sustain the bats associated with the SACs, are considered functionally-linked habitat critical for sustaining the populations of bats within the SACs. Natural England advise that it is not possible to conclude that the proposal is unlikely to result in significant effects on the European site(s) in question. Therefore they advise that an Appropriate Assessment is undertaken.	New paragraph: Wording updated to reflect Natural England comments
4	28	6.27	**EU Council Directives 2008/98/EC as amended by EU 2018/851 and 1999/31/EC as amended by EU/2018/850** By virtue of paragraphs 18 and 20 of the Waste (England and Wales) Regulations 2011 (SI 2011/988) as amended, when determining any application for planning permission that relates to waste management (paragraph 18 of the Regs) or landfill (paragraph 20 of the Regs), the authority is required to take into account Council Directives 2008/98/EC as amended by 2018/851 and 1999/31/EC as amended by 2018/850. For waste	Correction: paragraph replaced to correct references to EU Directives.

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			management, Directive 2008/98/EC, as amended by 2018/851/EC, 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)). For landfill, 1999/31/EC as amended by 2018/850/EC, Annex 1 paragraph 1.1 and paragraph 5 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 when assessing the application and provided this is done, any decision in which the furtherance of the objectives is not achieved, may stand.	
4	29	7.4	**Natural England:** Advise that it is not possible to conclude that the proposal is unlikely to result in significant effects on the European sites of the Mens SAC and Ebernoe Common SAC. Also advises that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out with regards to the Arun Valley SPA, SAC and Ramsar sites.	Update: Further response received from Natural England

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4	30	7.16	Forestry Commission: No response received.	Update: Additional consultee.
4	31	9.4	West Sussex has four active brickworks; Wealden/Warnham Brickworks, Laybrook Brickworks, Freshfield Lane Brickworks, and Pitsham Brickworks (located within the South Downs National Park). The JMLP and the latest Annual Monitoring Report (AMR – 2020/21 ~~2019/20~~) indicate that two ~~three~~ of these brickworks have at least 25 years of reserve ~~and that, at the time of writing the JMLP, the other one had 24 years of reserve,~~ totalling 14.2 ~~17.5~~ million tonnes.	Update: New Annual Monitoring Report published – paragraph updated to reflect most recent figures.
4	32	9.7	With regard to the current application, the applicant seeks to provide West Sussex with a new supply of clay reserves over a period of 30-years that would replace the loss of the clay reserve at the former Rudgwick site. Policy M5 of the JMLP however, does not require replacement of such reserves. It only seeks to help maintain a stock of reserves for individual brickworks. As set out above, two ~~three~~ of the remaining active brickworks have at least 25 years of reserve~~, with the other standing at 24 years~~. There is no	Update: new Annual Monitoring Report published – paragraph updated to reflect most recent figures.

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			evidence that additional clay reserves are required at any brickworks in West Sussex.	
4	32	9.10	In conclusion, the JMLP supports extraction of brick clay where it would meet the criteria listed in Policy M5. The proposed development does not accord with Policy M5 as <u>two</u> ~~three~~ of the current brickworks have over 25 years reserves of clay~~,~~ ~~with the other having 24 years~~. In addition to not being required to supply additional reserves, the applicant has not identified a link between the site and any of the existing brickworks. Furthermore, the development would represent an insignificant contribution (375,000 tonnes) to help maintain supply of clay, given that current reserves are <u>14.2</u> ~~17.5~~ million tonnes. As such, the development does not accord with Policy M5 of the JMLP.	Update: new Annual Monitoring Report published – paragraph updated to reflect most recent figures.
4	35	9.32	Although proposing a facility with a throughput of 25,000 tonnes per annum of CDE waste on an unallocated site, the applicant has not provided any evidence in relation to where the waste will originate. Similarly, the applicant has not provided any evidence to demonstrate that there is a shortfall in existing or permitted inert recycling capacity to manage the levels of waste	Update: new Annual Monitoring Report published – paragraph updated to reflect most recent figures.

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			arising in the plan or catchment area. Moreover, the most recent AMR states that there is 'headroom' of c. 347,000 ~~174,000~~ tonnes per annum in operational capacity, which suggest that there is no shortfall for aggregate recycling in the County. Therefore, there is no demonstrable need for the CMRF and the proposal is contrary to Policy W1 of the WLP.	
4	44	9.86.1	In additional to potential impact of Arun Valley SAC/SPA/Ramsar, there is also a potential for significant effects upon the qualifying populations of bats within The Mens SAC and Ebernoe Common SAC due to the loss of functionally linked habitats at the application site. Although the applicant has carried out their own Habitats Regulation Assessment and have screened out likely significant effects, Natural England advise that it is not possible to reach this conclusion and, therefore, an Appropriate Assessment should be undertaken. Accordingly, it has not been demonstrated that the development would not have an adverse impact on these internationally important sites.	Addition: Wording updated to reflect Natural England comments

Agenda Item No.	Page Number	Paragraph	Update	Reason
4	44	9.87	Furthermore, the Appropriate Assessment undertaken by officers indicates that, notwithstanding the water neutrality mitigation measures proposed by the applicant, it has not been demonstrated that the Proposal would not have an adverse effect on the internationally important Arun Valley SAC/SPA/Ramsar site. Therefore, not only does the proposal not accord with Policy M17 of the JMLP, Policy W14 of the WLP, Policy 49 of CLP, and Paragraph 180 of the NPPF in relation to this specific issue, the County Council must refuse the project under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended). <u>In addition, it has not been demonstrated that there would not be an adverse effect on the internationally important The Mens SAC and Ebernoe Common SAC.</u>	Addition: Wording updated to reflect Natural England comments
4	46	10.5	Although on and off-site ecological mitigation is proposed, the proposed development would still result in a net loss of biodiversity habitats. Furthermore, it has not been demonstrated that the proposed water neutrality measures would not result in the proposal having an adverse effect on the internationally important Arun Valley	Addition: Wording updated to reflect Natural England comments

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			SAC/SPA/Ramsar site, which is sufficient reason to refuse the application. In addition, it has not been demonstrated that there would not be an adverse effect on the internationally important The Mens SAC and Ebernoe Common SAC.	
5	85	Condition 1	This permission shall be for a limited period only expiring on 31 March 2024, by which date the fencing, gates and structures hereby approved shall be removed from the site, and the site restored in accordance with the approved restoration scheme (ref. Well Site Restoration Layout Plan – KOGL-BB-PA-XX-09 and Landscape Proposals – 1377-3001 Rev 01). Reason: *To secure the proper restoration of the site following the approved period for this temporary development.*	Clarification: plan added to ensure clarity about the required restoration and planting at the site (in particular, the requirement to reinstate both the well-site and access track to their former agricultural condition).
5	86	Condition 1	This permission shall be for a limited period only expiring on 31 March 2024, by which date the operations hereby permitted shall have ceased, all buildings, plant and machinery, including foundations, hard standings shall have been removed from the site, and the site shall be restored in accordance with the approved restoration scheme (ref. Well Site Restoration	Clarification: plan added to ensure clarity about the required restoration and planting at the site (in particular, the requirement to reinstate both the well-site and access track to

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			Layout Plan – KOGL-BB-PA-XX-09 Rev 2 and Landscape Proposals – 1377-3001 Rev 01). Reason: *To secure the proper restoration of the site following the approved period for this temporary development.*	their former agricultural condition).