

4 November 2014

County Matter Waste Application

Preservation of Horton Clay Pit Site of Special Scientific Interest with imported inert materials and site restoration at Horton Landfill Site, Henfield Road, Small Dole, Upper Beeding, West Sussex, BN5 9XH

Application No: WSCC/056/14/UB

Report by Executive Director of Residents' Services and Strategic Planning Manager

Local Member: David Barling

District: Horsham

Executive Summary

This report concerns a proposal by Viridor Waste Management Limited to infill an area in the north-eastern corner of Horton Landfill with some 138,000 tonnes (92,000m³) of inert waste over a period of 12 months, after which it would be restored to grassland, trees and open habitat. The area in question is an area of Gault clay which remained exposed for research purposes, and forms a geological Site of Special Scientific Interest (SSSI). The present proposal seeks to bury the feature to protect it from further weather erosion.

While the infill period is expected to last for 12 months, the applicant is seeking an operational period of three years, including restoration, to allow for the creation of a haul road, inspection by Natural England, and to avoid prolonged periods of wet weather. A five year aftercare period would follow.

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

The main policies of relevance to this application are policies W8, W11, W16, W17, W18, W19, W20 and W21 of the West Sussex Waste Local Plan (WLP 2014), policy CP2 the Horsham District Core Strategy (2007), policies DC1, DC5, DC6, DC9, and DC40 of the Horsham District Council Development Control Policies (2007) and paragraphs 14, 17, 103, 109, 123, 142, 144, 186, 196, 197, and 203–206 of the National Planning Policy Framework (NPPF) .

There have been no objections to the application from statutory consultees but Upper Beeding Parish Council has raised objections.

Ten objections to the application have been received from third parties with the main concerns raised being the additional noise, dust and disturbance, and the lack of detail in the restoration scheme.

Consideration of Key Issues

The main material planning considerations are whether the proposal:

- accords with planning policy regarding waste recovery operations;
- is acceptable in terms of highway capacity and road safety; and
- has an acceptable impact on local amenity and the local environment.

Accordance with Planning Policy

The proposed development is needed to protect and preserve the geological SSSI, the burial of which has been agreed with Natural England as the best way to prevent further decline. The waste used would be inert construction and demolition waste, and the operation would be subject to an Environmental Permit which would ensure the material used is appropriate. The amount of material used is considered to be the minimum needed to secure the protection of the SSSI without being detrimental to the surrounding landscape, including the South Downs National Park. It is considered therefore that there is an identified need for the development, in accordance with Policy W8 of the WLP 2014.

Impact on Highway Capacity and Road Safety

The proposed development would result in a maximum of 78 HGV movements each day (39 HGVs travelling to and from the site). The site is located on an A-road, which WSCC Highways Officers have confirmed has the capacity to manage the traffic resulting from the development without congestion or impacting upon highway safety. The proposed development is considered acceptable subject to conditions requiring the provision of visibility splays at the site access and a wheel washing facility, along with a routing agreement which will be secured via a Section 106 Agreement.

Impact on Local Amenity and the Local Environment

The application has the potential to result in impacts on people and the environment through on-site operations, the restoration and aftercare, and through HGVs travelling to/from the site during infill. The applicant has submitted a noise assessment indicating that neither the site operations nor HGV movements would result in adverse impacts for local residents, particularly taking into account existing noise levels, largely affected by their location on an A-road. A condition would require that the bulldozer and loading shovel do not operate together which would ensure impacts are minimised. The cumulative impact of the development along with other permitted uses, and given the long term use of the site, is not considered to be significant, particularly given the 'baseline' environment in which quarrying and storage/distribution activities have taken place for some time. The restoration of the site is considered to be acceptable and in keeping with the surrounding area, particularly with landscaping details to be secured by condition.

Conclusion

The applicant is seeking planning permission to infill an area in the north-eastern corner of Horton Landfill with some 138,000 tonnes of inert waste over a period of 12 months, with two further years of operations to restore the site, to protect a geological Site of Scientific Interest (SSSI). The development would bury an exposed area of Gault clay to prevent further weather erosion. The development is considered to be acceptable in terms of need, according with criteria set out in Policy W8 of the WLP 2014, will have no detrimental impact on highway safety or

capacity and is not considered to have any significant impact on residents and the environment as a result of noise.

Recommendation

That planning permission be granted subject to:

- (a) the conditions and informatives set out in **Appendix 1** of this report; and
- (b) the completion of a Section 106 Agreement controlling the routing of HGVs to and from the application site.

1. Introduction

- 1.1 Planning permission is sought to infill an area in the north-eastern corner of Horton Landfill with some 138,000 tonnes (92,000m³) of inert waste over a period of 12 months, after which it would be restored to grassland, trees and open habitat. The area in question is a geological Site of Special Scientific Interest (SSSI) which remained an unrestored part of the quarry to allow an area of Gault clay to remain exposed, at Natural England's request.
- 1.2 The applicant states that the area now requires infilling to protect and preserve the long term future of the SSSI which has begun to suffer from weather erosion. The proposal has the support of Natural England which oversees SSSI designations.
- 1.3 While the infill period is expected to last for 12 months, the applicant is seeking an operational period of three years, including restoration, to allow for the creation of a haul road, inspection by Natural England, and to avoid prolonged periods of wet weather. A five year aftercare period would follow.

2. Site and Description

- 2.1 The application site forms the north-eastern corner of Horton Landfill, located some 200 metres south-east of Small Dole (see [Appendix 2 – Site Location](#)). It is bounded to the east by the A2037 (Henfield Road) which runs south to the A283 and Shoreham, and north to join the A281 at Henfield. The site is on the eastern edge of Horsham District.
- 2.2 Horton Landfill is a former clay pit extending to some 32 hectares, used from 1991 to 2012 for landfilling. The landfill site has been restored to a gentle dome which peaks in the eastern third of the site. A sixty year aftercare period has been entered to ensure its return to agricultural use.
- 2.3 The application site comprises an area of some 3.5 hectares of land, including a long access road of some 1.6 kilometres in length and the infill area (see [Appendix 3: Site Plan](#)). This would make use of the existing landfill access in the south-eastern corner of the site, extending around the southern, western and northern perimeter of the landfill to enter the infill site from the west.
- 2.4 Horton Landfill abuts the infill site to the south and west, beyond which is predominantly agricultural land, with scattered residential properties. The Hillside Scout Camp is located on the opposite side of the A2037 from the site.

- 2.5 The site access road extends from the A2037 along the southern edge of the site to the landfill offices and staff facilities at the west of the site. Beyond this to the west is a small, water-filled clay pit used for informal fishing activities. The haul road continues around the perimeter of the landfill to the north and then east.
- 2.6 As already noted, the infill area of the application site is a SSSI designated for the following geological reasons: a succession of clays representing the Lower Gault, with Natural England noting that the site is regarded as of particular importance for the 'fossil faunal assemblages' of the Lower and Middle Albian stages of the Lower Cretaceous.
- 2.7 There are a number of sites of ecological interest near the site including Tottington Wood Ancient Woodland and Site of Nature Conservation Interest (SNCI) some 350m to the east, and Hoe Wood SNCI and Ancient Woodland some 860 metres north-east. The South Downs National Park is some 450 metres east of the site. The River Adur, including another SNCI, is some 650 metres west of the landfill site.

3. Relevant Planning History

- 3.1 As already noted, the wider Horton Landfill site is a former claypit, used for landfilling since planning permission was granted in 1991 (ref. UB/51/90). Under this permission, landfilling was to cease in April 2004, but permission was granted extending this to 2008 with restoration by 2009 (ref. DC/700/04(UB)).
- 3.2 In 2007, planning permission was sought to continue landfilling until 2010 with restoration by 2012, and to raise restoration levels (ref. DC/814/07(UB)). This was approved by Planning Committee in April 2008, though the decision was not issued until November 2008 after the Small Dole Action Group challenged the decision-making process.
- 3.3 Most recently, planning permission was granted in December 2010 allowing the continuation of landfilling to 1 August 2011, with restoration by 1 April 2012 (ref. WSCC/088/10/UB). This included condition 12 which required that (in summary) a section of exposed Gault clay (SSSI) in the north eastern corner of the claypit was retained and maintained with no filling.

4. The Proposal

- 4.1 Planning permission is sought to import some 138,000 tonnes (92,000m³) of inert waste to the site over a period of 12 months to 'stabilise and preserve' the geological SSSI exposure. The SSSI forms one side of a valley, with the other formed by the restored landfill. Water falls to a sump in the area between the restored landfill and the SSSI.
- 4.2 While the infill period is expected to last for 12 months, the applicant is seeking an operational period of three years, including restoration, to allow for the creation of a haul road, inspection by Natural England, and to avoid prolonged periods of wet weather.
- 4.3 The works proposed would involve the laying of a temporary haul road, linking the existing access road which remains in situ, to the SSSI area. An area of

temporary aggregate/hardcore would be laid across the restored landfill area and removed when the works are complete.

- 4.4 A minor excavation of the SSSI would then be undertaken to allow inspection and recording, and an area of chalk (or similar) would be laid as a marker.
- 4.5 The valley between the SSSI and restored landfill would then be filled with inert waste over a period of 12 months.
- 4.6 The works would involve infilling the 'v-shaped' void with waste of up to 15 metres in depth, with a drainage ditch at the centre to manage surface water run-off (see [Appendix 4: Infill Section](#)). The infill would result in a gently sloping landform, rising upwards from east to west, linking in with the topography of the surrounding area (see [Appendix 5: Proposed Restoration](#)). It would have a drainage ditch along the middle to manage surface run-off.
- 4.7 The applicant has sought operational hours of between 07.30 and 18.00 Monday to Friday, with no working on Saturdays, Sundays or public holidays.
- 4.8 It would result in a maximum of 78 HGV movements each day (39 HGVs travelling to/from the site). This would represent an increase of 1% in traffic on the A2037, and a 17% increase in HGVs travelling along this road.
- 4.9 The applicant is proposing a routeing agreement requiring HGVs to enter and leave the site via the south only, avoiding the village of Small Dole.
- 4.10 A layer of soil would be laid over the infill to allow plant growth, and drainage ditches would be installed. The area would then be seeded and planted.
- 4.11 A five year aftercare period is proposed to ensure the site's restoration is successful.

5 **Environmental Impact Assessment (EIA)**

- 5.1 The application is for a waste development of more than 0.5 hectares so falls within Part 11(b) (ii) and (iii) of Schedule 2 of the EIA Regulations relating to 'installations for the disposal of waste'.
- 5.2 The 'indicative screening thresholds' for Schedule 2 developments are set out in the Annex to the Planning Policy Guidance (PPG): Environmental Impact Assessment. For waste installations, EIA is more likely to be required where the annual throughput is more than 50,000 tonnes or the site area is more than 10 hectares.
- 5.3 The County Council confirmed on 8 April 2013 that the proposal would be considered 'EIA development', as defined in the EIA Regulations. An Environmental Statement, setting out the findings of the EIA, was submitted with the application.

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 (as confirmed in paragraphs 2 and 196 of the National Planning Policy Framework ('the NPPF')). For the purposes of this application, the statutory development plan is considered to comprise the West Sussex Waste Local Plan (2014), the Horsham District Local Development Framework (2007) and the Horsham District Council Development Control Policies (2007).

- 6.2 The key policies in the development plan, which are material to the determination of the application, are summarised below, and their conformity or otherwise with the National Planning Policy Framework is considered. In addition, reference is made to relevant national planning policy guidance and other policies that guide the decision-making process and which are material to the determination of the application.

West Sussex Waste Local Plan (2014)

- 6.3 The Waste Local Plan (WLP 2014) was adopted by the County Council on 11 April 2014 and forms part of the 'development plan'. It covers the period to 2031 and is the most up-to-date statement of the authorities' land-use planning policy for waste. It accords with the approach taken in the NPPF and should be given significant weight when considering this application.
- 6.4 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, and are considered 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.*
- 6.5 Policy W11 of the WLP supports waste development provided there are no unacceptable impacts on the character of the area.
- 6.6 Policy W16 supports waste development provided there are no unacceptable impacts on the intrinsic quality and, where appropriate, the quantity of air, soil and water resources. Policy W17 supports waste development provided that flood risk is not increased and surface water run-off is properly controlled.

Policy W18 relates to transport, supporting waste development where (in summary) transport links are adequate, where there is a safe and adequate access to the highway, there would be no adverse impact on road users and where vehicle movements are minimised.

- 6.7 Policy W19 supports waste development provided *“lighting, noise, dust odours and other emissions, including those from transport, are controlled to the extent that there will not be an unacceptable impact on public health and amenity”*; and the amenities of public rights of way are safeguarded. Policy W20 supports temporary waste development for restoration provided that it is (in summary) appropriately located provides high quality and practicable restoration, and its management and aftercare are included, ensuring benefits to local landscape character and the local environment.
- 6.8 Policy W21 seeks to prevent an ‘unreasonable level of disturbance’ to the environment and local communities through the cumulative impact of waste uses and other uses.

Horsham District Core Strategy (2007)

- 6.9 The key relevant policy relates to Environmental Quality (Policy CP2).

Horsham District General Development Control Policies (2007)

- 6.10 The relevant policies are: Countryside Protection and Enhancement (Policy DC1), Biodiversity and Geology (DC5), Woodland and Trees (DC6), Development Principles (Policy DC9), and Transport & Access (Policy DC40).

National Planning Policy Framework (2012)

- 6.11 The National Planning Policy Framework (NPPF) sets out the Government’s planning policies for England and outlines how these are expected to be applied. The NPPF does not form part of the development plan but is a material consideration in determining planning applications. One of its stated intentions is to guide decision-makers as to what matters are material to the decision-making process.
- 6.12 The paragraphs in the NPPF of greatest relevance to the present proposal are:
Paragraph 14 (presumption in favour of sustainable development, and approving development that accords with the development plan); 17 (core planning principles); 103 (ensuring flood risk is not increased elsewhere); 109 (contribute to and enhancing the natural environment); 123 (impact of noise on health and quality of life); 142 (extraction of minerals), 144 (consideration of mineral planning application); 186 (positive decision making); 196 (determining applications in accordance with the development plan); 197 (presumption in favour of sustainable development); and 203-206 (use of planning conditions).

National Planning Policy for Waste

- 6.13 The National Planning Policy for Waste (NPPW) was released in October 2014 and has a stated aim of setting out detailed waste planning policies. Paragraph 7 of the NPPW relates to determining waste planning applications. It states that

in doing so, waste planning authorities should, in summary and as relevant to this application:

- Only expect applicants to demonstrate the need for new/enhanced facilities where proposals are not consistent with an up to date Waste Local Plan;
- Consider the likely impact on the local environment and amenity against the locational criteria set out in Appendix B (see below) and advice on health implications;
- Ensure that facilities are well-designed, contributing positively to the character and quality of the area;
- Concern themselves with implementing the strategy in the Local Plan and not control of processes which are a matter for pollution control authorities [such as the Environment Agency], on the assumption that such regimes are properly applied and enforced; and
- Ensure that landfill sites are restored to beneficial uses at the earliest opportunity and to high environmental standards

6.14 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 use conflict.

Planning Practice Guidance: Waste

6.15 Planning Practice Guidance (PPG): Waste (October 2014) includes further detail relating to waste matters. Paragraph 6 notes the obligation to consider the principles of self-sufficiency and proximity in relation to waste management. Paragraph 9 notes that driving waste up the Waste Hierarchy, away from disposal such as landfill, is an integral part of national policy for waste and a material consideration in decisions on waste applications.

6.16 Paragraph 46 notes that unallocated sites can be used if the proposal is consistent with an up to date Local Plan. Paragraph 47 relates to the expansion of existing facilities, noting that it should not be assumed that the fact that a site has hosted a waste disposal facility before should not lead to the assumption that it is appropriate to add to these or extend their life. It is important to consider the cumulative effect of previous waste disposal facilities, as well as, potentially, impacts on environmental quality, social cohesion and inclusion and economic potential.

6.17 Paragraph 50 notes that there exist a number of issues which are covered by other regulatory regimes which waste planning authorities should assume will operate effectively, focusing on whether the development is an acceptable use of the land and the impact of the use. However, *“before granting permission they will need to be satisfied that the issues can or will be adequately addressed by taking the advice [sic] from the relevant regulatory body.”*

Waste Management Plan for England

- 6.18 The Waste Management Plan for England (2013) provides an overview of waste management in England and aims to deliver the objectives of the EU Waste Framework Directive, namely to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of waste, and reducing the impacts and improving the efficiency of resource use. It notes the requirement for everyone managing and producing waste to take all reasonable measures to apply the waste hierarchy.
- 6.19 It notes that *"the disposal of inert waste in or on land i.e. landfill remains a valid way of restoring quarries and worn out mineral working where this is a planning requirement."* (page 13). It also states that the construction, demolition and excavation sector is the largest contributing sector to waste generation, of which 50% is mineral wastes from construction, with a further 34% being soils.

Planning Practice Guidance: Minerals

- 6.20 Paragraphs 50 to 58 of Planning Practice Guidance (PPG): Minerals includes considerations relating to the restoration and aftercare of minerals sites, such as the application site which was historically in quarry use.

EU Council Directive 2008/98/EC

- 6.21 By virtue of the Waste (England and Wales) Regulations 2011 when determining any application for planning permission that relates to waste management (article 18) the planning authority is required to take into account EU Council Directive 2008/98/EC which sets out the objectives of the protection of human health and the environment (article 13) and self-sufficiency and proximity (first paragraph of article 16(1), article 16(2) and (3)). Case law has confirmed that these articles are objectives at which to aim. As objectives they must be kept in mind whilst assessing the application and provided this is done, any decision in which the furtherance of the objectives are not achieved, may stand.

7. Consultations

- 7.1 **Horsham District Council Environmental Health:** No objection subject to conditions ensuring that the bulldozer and excavator do not operate simultaneously; setting noise limits for the operation of plant; limiting HGVs to 39 each day; limiting hours to 07.30-17.00 Monday to Friday, 08.00-13.00 Saturdays and no operations on Sunday; requiring a Noise Management Plan, Dust Management Plan, and that no contaminated material is deposited.
- 7.2 **Horsham District Council Planning:** No response received.
- 7.3 **Upper Beeding Parish Council:** Object due to extensive traffic movements but would reconsider objection if an enforced 20mph limit is set up on Henfield Road in Small Dole and Upper Beeding for duration of movements, and financial compensation is made to the parish in recompense for the disruption caused.
- 7.4 **Henfield Parish Council:** No response received.
- 7.5 **Natural England:** No objection. Satisfied that the proposed development is as previously agreed with Natural England and must be carried out in strict accordance with the details of the application. Ask for prior notice of the

stripping of weathered clay from the exposure so can arrange final recording and collecting from the exposure.

- 7.6 **Environment Agency:** No objection subject to condition requiring surface water drainage scheme. Notes that an Environmental Permit would be required.
- 7.7 **South Downs National Park Authority** (neighbouring authority): No objection but ask that WSCC has regard to their Integrated Landscape Character Assessment when considering the impact, and consider the cumulative impact with the Golding Barn restoration, particularly in relation to traffic.
- 7.8 **WSCC Archaeology:** No objection and no mitigation required.
- 7.9 **WSCC Drainage:** No objection subject to conditions requiring schemes of surface water and foul water drainage being approved and implemented.
- 7.10 **WSCC Ecology:** No objection subject to a condition requiring preparatory works are undertaken in accordance with mitigation and timings set out in Environmental Statement and under supervision of qualified ecologist.
- 7.11 **WSCC Highways:** No objection subject to visibility splays being provided along with wheel wash facilities. No highway capacity concerns. Notes that the access has historically been used by HGVs over a significant period of time, and that it is more than adequate to accommodate the type of vehicle associated with development. Support routeing agreement ensuring that HGV traffic arrives and departs to/from south only to prevent HGVs using inappropriate roads to access site. Notes this should include provision for erection of appropriate directional signage.
- 7.12 **WSCC Landscape:** No objection subject to provision of a detailed landscaping scheme and Arboricultural Method Statement to protect trees. Notes that adverse landscape and visual impacts would be temporary, over a relatively short period of time.

8. Representations

- 8.1 The application was publicised in accordance with Schedule 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 involving the erection of four site notices located around the application site, an and neighbour notification letters.
- 8.2 In response, nine objections were received. The main issues raised in these were, in summary, the lack of effort and maintenance put into the existing restoration of the site; concerns over the noise, dust and disturbance resulting from HGVs returning; the restoration now proposed is vague, appears generic, should require agricultural grade 2 or 3a – high quality, and an aftercare period of longer than five years; inconsistencies in the information; seek provision of a footpath for public access, and regular reporting of progress to Committee, particularly given apparent lack of enforcement of landfill historically.
- 8.3 In addition, a representation was received from the Small Dole Action Group raising various concerns including that the preservation of the SSSI was not

dealt with earlier as had been agreed; and that the mitigation measures set out in the Noise Assessment and Air Quality Study are conditioned. They also ask that the routing of vehicles is made subject to a legally-enforceable agreement.

9. Consideration of Key Issues

9.1 The main planning matters to consider in relation to this application are whether it:

- accords with planning policy regarding waste recovery operations;
- is acceptable in terms of highway capacity and road safety; and
- has an acceptable impact on local amenity and the local environment.

Accordance with Planning Policy

9.2 Policy W8 of the West Sussex Waste Local (WLP) (2014) supports recovery operations involving the deposition of inert waste to land where they meet various criteria. For it to be concluded that the restoration of the site with inert waste is 'needed', these criteria must be satisfied.

9.3 The following considers each criterion of Policy W8 in turn.

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

9.4 The applicant states that the development is needed to protect and preserve the long term future of the SSSI which Natural England has concluded is in 'unfavourable decline'.

9.5 The Environmental Statement submitted with the application includes consideration of geodiversity. It notes that the Horton Clay Pit SSSI comprises a south-west facing slope of the Gault Formation, the majority of which is bare clay without vegetation cover, though grasses and shrubs exist at the margins. The key issue is that the angle of the exposed formation is too steep to allow long term slope stability.

9.6 The applicant considered three methods to protect the SSSI, namely removing the weathered clay to allow appropriate geological recording; burying the exposure after marking it to secure long term protection (the present scheme); or burying the feature without marking it. The removal of weathered material would allow for further assessment, but the SSSI would not be protected from further deterioration. The full burial would preserve the SSSI but would restrict access in the future. The present scheme was concluded to have the greatest benefit, particularly with 'substantial assessment' allowed after the exposure is cleaned and prior to burial.

9.7 A report from Natural England, prepared in 2009, has been submitted with the application. It notes that below the weathered material, the SSSI features are in good condition, and that:

"It is not considered that it is appropriate to maintain this site as a surface exposure because of the rapid surface weathering of the Gault Clay and destruction of fossils contained therein. Continuous re-exposure of the fresh clay will simply accelerate damage to the

interest features, so that the most appropriate way to manage the site is with the Gault Clay covered over and either protected for weathering or rates of weathering are significantly reduced. It is acceptable that in order to access the interest features powered machinery will be required for temporary excavations."
(Environmental Statement: Appendix 7, Annex 1).

9.8 The covering of the SSSI with material is, therefore, supported by Natural England, which has confirmed that the development is as has been previously agreed with them.

9.9 Taking the above into account, it is considered that the proposed covering of the SSSI area with inert waste would result in clear benefits to the designation and by extension, to geological research.

(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 construction and demolition wastes. Material that could be recycled or otherwise put to use would have been removed 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 It is considered that the development would come forward even if 'virgin' soil and aggregate had to be used in the place of inert waste as works are required to preserve the SSSI.

(d) the material to be reused is suitable for its intended use.

9.12 The proposed fill material would consist of imported, inert construction/demolition waste all typical materials used in land raising, engineering and restoration projects. An Environmental Permit would be required for the development which would require that incoming waste is checked by trained operatives. It is therefore considered that the material to be used would be appropriate for the proposed development.

(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 would involve infilling a valley between the restored landfill to the west, and the clay face of the SSSI to the east. Neither of these are natural landforms, the landfill having been formed from infilled waste, and clay face of the SSSI being a remnant of the extraction of clay from the site. The infill of this area would create a landform which links in with the surrounding contours, sloping gently upwards from east to west.

9.14 It is considered that the scheme proposed would deliver the burial of the SSSI feature with the minimum amount of material required without adverse impact

on the landscape. A lesser scheme would result in a landform less in keeping with the surrounding area or tying in with the adjacent contours.

9.15 The scheme is therefore considered to accord with this criterion.

(f) there would be no unacceptable impact on natural resources and other environmental constraints.

9.16 The proposed restoration scheme would, subject to conditions, not result in any unacceptable impact on natural resources and other environmental constraints, as is considered in more detail later in this report. The proposal, therefore, accords with this criterion.

(g) the proposal accords with Policy W13 (Protected Landscapes)

9.17 The application site is outside protected landscapes but the South Downs National Park is some 450 metres to the east. It therefore has the potential to affect the designation.

9.18 Policy W13(b) is most relevant to this application, noting that *"proposals for waste development outside protected landscapes will be permitted provided that they do not undermine the objectives for the designation."*

9.19 The purposes of national park designations are to conserve and enhance the natural beauty, wildlife and cultural heritage of the area; and to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public.

9.20 It is considered that the present development would conserve the natural beauty, wildlife and cultural heritage of the area, particularly through protecting the SSSI designation. Furthermore, it would enhance the local area by providing a landform more in keeping with its surroundings, albeit one not visible from the National Park. The development would not undermine the understanding or enjoyment of the special qualities of the Park.

9.21 The proposed development is therefore considered to accord with this criterion.

(h) any important mineral reserves would not be sterilised

9.22 Clay extraction has not taken place at the application site since at least 1991. The development would sterilise the area of clay contained in the SSSI but extraction from this area has not been permitted since its designation which was for the specific purpose of retaining an area of Lower Gault clay for study purposes.

9.23 It is therefore considered that the development accords with this criterion.

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

9.24 The proposed development would result in a landform which is in keeping with the surrounding land. A condition would be added to the permission requiring the submission of a landscaping scheme to ensure that the site is completed to a high standard and planting is appropriate. WSCC's Landscape Officer raises

no objection subject to the imposition of conditions to ensure that landscaping is acceptable and maintained, and that existing trees are protected through an Arboricultural Method statement.

- 9.25 Subject to the imposition of conditions it is considered that this criterion is met.
- 9.26 Policy W8 of the WLP supports recovery operations involving the deposition of inert waste to land where they meet various criteria. The present proposal is considered to satisfy the criteria set out, and thereby, to accord with the policy.
- 9.27 *The proposed development is needed to protect and preserve the geological SSSI, the burial of which has been agreed with Natural England as the best way to prevent further decline. The waste used would be inert construction and demolition waste, and the operation would be subject to an Environmental Permit which would ensure the material used is appropriate. The amount of material used is considered to be the minimum needed to secure the protection of the SSSI without being detrimental to the surrounding landscape, including the South Downs National Park. It is considered therefore that there is an identified need for the development, in accordance with Policy W8 of the WLP 2014.*

Impact on Highway Capacity and Road Safety

- 9.28 The proposal would, at its most intensive, result in up to 78 HGV movements each day (39 HGVs travelling to/from the site). The applicant anticipates that the infilling of the SSSI would take 12 months, with quieter periods before and after this during the construction of the haul road, and the planting works.
- 9.29 WSCC Highways officers have raised no objection to the proposal. They consider that the calculations of HGV movements are robust, and are likely to result in eight two-way HGV movements each hour which is acceptable in highway capacity terms. They note that the use of the existing access would be appropriate and acceptable, though some maintenance of visibility splays is necessary and would be required by condition, as is a wheel wash. A routing agreement, to be secured by a S106 legal agreement, requiring vehicles to arrive from and depart to the south only, is supported.
- 9.30 While the proposal would result in an increase in HGV movements on the highway, the site is on an A-road, and, subject to the imposition of appropriate conditions, WSCC Highways Officers have confirmed that it would not result in any highway safety or capacity concerns.
- 9.31 *The proposed development would result in a maximum of 78 HGV movements each day (39 HGVs travelling to and from the site). The site is located on an A-road, which WSCC Highways Officers have confirmed has the capacity to manage the traffic resulting from the development without congestion or impacting upon highway safety. The proposed development is considered acceptable subject to conditions requiring the provision of visibility splays at the site access and a wheel washing facility, along with a routing agreement which will be secured via a Section 106 Agreement.*

Impact on Local Amenity and the Environment

- 9.32 The application has the potential to result in impacts on people and the environment through on-site operations, the final restoration and aftercare use, and through HGVs travelling to/from the site during infilling operations. The key considerations are the impact of increased noise/disturbance; cumulative impacts; and the acceptability of the restoration, particularly in terms of final landscaping.
- 9.33 **Noise and Disturbance:** The development would result in a maximum of 39 HGVs travelling to/from the site each weekday and, therefore, it has the potential to result in the disturbance of residents near the site and along the A2037 the vehicles would travel on.
- 9.34 A Noise Assessment submitted with the application indicates that even with a 'worst case scenario' of 14 HGVs per hour travelling past affected dwellings, there would be no increase in noise levels. The existing noise level at these dwellings is 61dB so already subject to relatively high background noise, reflecting their location on an A-road. It is also of note that operations would take place only on weekdays, with no operations on weekends.
- 9.35 The site and lorry route are located on an A-road, which is an appropriate route for large vehicles and large numbers of vehicles, and whilst the development would result in increased HGV movements along the A2037, it is not expected to result in adverse noise impacts for residents.
- 9.36 The site works would involve the operation of a loading shovel to tip material, and bulldozer to spread/roll it. The submitted Noise Assessment concludes that there may be some increase in noise for residents living in close proximity to the site, the nearest of which is some 50m north-east. However, the levels anticipated fall below the relevant criteria set out in NPPF guidance, even with both pieces of machinery operating at once. Although the Environmental Health Officer has requested a condition requiring that only one piece of machinery operates at a time, the impact would not be significant, and as such a condition is not necessary. A condition instead, has been recommended to limit noise from the site, which would encompass all operations and machinery. A condition is also proposed requiring the mitigation measures set out in the applicant's Noise Assessment to be implemented. These include the operation of plant in accordance with EU emission limits, shutting down plant when not in use, and the location of plant as far as possible from residential properties.
- 9.37 It is, therefore, concluded that the impact of the development in terms of noise and disturbance from both on-site operations and HGV movements would not be significant, subject to the imposition of conditions.
- 9.38 **Cumulative Impact:** The development has the potential to result in cumulative impact with other operations including the restoration of Golding Barn quarry with inert waste (South Downs National Park Authority ref. SDNP/12/02275/CW), and the Sweeptech waste operation north of the site (ref. WSCC/084/13/HF).
- 9.39 The Sweeptech use replaced an existing intensive use of the site and so no increase in vehicle movements is anticipated. Similarly, while the Golding Barn scheme would result in up to 100 HGV movements each day (50 HGVs

travelling to/from the site), the WSCC Highways Officer response to this notes that the historic use of the site involved up to 94 loads each day. There is therefore little increase in HGV movements resulting from either these schemes or the application schemes, individually or cumulatively.

- 9.40 However, with this in mind there is clearly the potential for cumulative impacts over time, in relation to ongoing operations at Horton Landfill site and nearby, particularly at Golding Barn. While the concerns of residents in this regard is noted, several have also acknowledged that the proposal would be for a temporary period of 12 months, after which the site would be finally restored and put out of use.
- 9.41 Whilst not ideal, it is not considered that prolonging the impact of operations at Horton Landfill on residents for a further 12 months would be significant enough to warrant refusal, particularly given the conclusions that noise emissions would not be significant.
- 9.42 **Restoration:** Concern has been raised by residents over the restoration and aftercare of the proposed site, linked in part to concerns over the lack of maintenance of the wider landfill restoration.
- 9.43 The applicant has submitted a proposed restoration scheme indicating that the landform slope upwards from the north-eastern corner, linking in with contours on the restored landfill and surrounding land. It would primarily be put to grassland, with a band of woodland planting extending in a north-south direction along the middle of the site, west of the drainage ditch. In the eastern part of the site there would be sand areas to provide habitat for reptiles, and butterfly banks along with native scrub. Final details of landscaping of the site would be required by condition.
- 9.44 The restoration as proposed ties in to the proposed restoration of the wider landfill which includes thick woodland along the southern and south-eastern boundaries, with a smaller amount along the northern boundary, and grassland in the centre, to be used for grazing or hay cropping. The present proposal would be in keeping with the landfill restoration, and no objection has been raised by WSCC Landscape or Ecology Officers, subject to the imposition of appropriate conditions. An Arboricultural Method Statement has not been required as there are at present no trees on or near the site.
- 9.45 The restoration and aftercare of the site would be secured by conditions, as with the wider site. It must be assumed that these would be complied with, and if not, that appropriate action would be taken. Aftercare in relation to the wider landfill site is on-going.
- 9.46 Residents have raised concerns that five years of aftercare is not sufficient. However, paragraph 53 of Planning Policy Guidance: Minerals sets out various limitations on aftercare conditions, including (with reference to Schedule 5 of the Town and Country Planning Act 1990) that the authority cannot require any steps to be taken after the end of a five year aftercare period without the agreement of the minerals operator. As a five year aftercare period has been agreed for the landfill site which is far larger, it is considered difficult to justify a longer period.

9.47 Taking the above into account, it is considered that the proposed restoration is acceptable and would, in the long term, secure a land-use of ecological and agricultural benefit.

9.48 *The application has the potential to result in impacts on people and the environment through on-site operations, the restoration and aftercare, and through HGVs travelling to/from the site during infill. The applicant has submitted a noise assessment indicating that neither the site operations nor HGV movements would result in adverse impacts for local residents, particularly taking into account existing noise levels, largely affected by their location on an A-road. A condition would require that the bulldozer and loading shovel do not operate together which would ensure impacts are minimised. The cumulative impact of the development along with other permitted uses, and given the long term use of the site, is not considered to be significant, particularly given the 'baseline' environment in which quarrying and storage/distribution activities have taken place for some time. The restoration of the site is considered to be acceptable and in keeping with the surrounding area, particularly with landscaping details to be secured by condition.*

10. Overall Conclusion and Recommendation

10.1 The applicant is seeking planning permission to infill an area in the north-eastern corner of Horton Landfill with some 138,000 tonnes of inert waste over a period of 12 months, with two further years of operations to restore the site, to protect a geological Site of Scientific Interest (SSSI). The development would bury an exposed area of Gault clay to prevent further weather erosion.

10.2 The development is considered to be acceptable in terms of need, according with criteria set out in Policy W8 of the WLP 2014, will have no detrimental impact on highway safety or capacity, and is not considered to have any significant impact on residents and the environment as a result of noise.

10.3 It is **recommended**, therefore, that planning permission be granted subject to (a) the conditions and informatives set out in **Appendix 1** of this report; and (b) the completion of a Section 106 Agreement concerning the routeing of HGVs to and from the application site .

11. Resource Implications and Value for Money

11.1 This is not a material planning consideration and cannot therefore be considered in determining this application. There will be no requirement for additional resources unless the decision is challenged and there is a requirement to defend the County Council's position at any subsequent appeal.

12. Crime and Disorder Act Implications

12.1 There are no implications.

13. Equality Act Implications

13.1 As part of the decision-making process, under the Equality Act, public bodies must have due regard to the need to eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic

and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it.

- 13.2 An Equalities Impact Report is required in relation to this development to show how consideration of equality issues has influenced the decision-making process (see [Appendix 6](#)). This concluded that the development would not adversely affect those with 'protected characteristics'.

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. **Human Rights Act Implications**

- 15.1 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 15.2 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 15.3 The Committee should also be aware of Article 6, the focus of which (for the purpose of this committee) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

Geoff Mee
Executive Director of Residents' Services

Michael Elkington
Strategic Planning Manager

Background Papers

As set out in Section 6.

List of Appendices

Appendix 1 - Conditions and informatives

[Appendix 2 – Site Location Plan](#)

[Appendix 3 – Site Plan](#)

[Appendix 4 – Infill Section](#)

[Appendix 5 – Proposed Restoration](#)

[Appendix 6 - Equality Impact Report](#)

Contact: Jane Moseley ext. 56867

Appendix 1 - Conditions and Informatives

GENERAL

Commencement

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

Written Notification

2. Written notification of the date of commencement shall be sent to the County Planning Authority not less than 7 days before the commencement of development. Written notification of the deposit of waste commencing shall be sent to the County Planning Authority not less than 7 days before it begins.

Reason: to ensure the development proceeds as approved.

Cessation

3. The use of the site for the importation and deposit of waste shall cease within 12 months of commencement. The land shall be restored in full (in accordance with condition 9 of this permission) no later than 3 years from the commencement of the development hereby permitted.

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

Approved Plans

4. The proposed development shall not take place other than in accordance with the approved information and plans;
 - Planning Application Area (dwg 68185.SS/003);
 - Infill Proposal (dwg 68185.SS.006);
 - Infill Section (dwg 68185.SS.007);
 - Restoration (dwg 68185.SS.008);

and supporting information including the Environmental Statement (URS, Rev 1, July 2014) and Supporting Statement (URS, Rev 0, July 2014), save as varied by the conditions hereafter.

Reason: To secure a satisfactory development.

Availability of Approved Documents

5. A copy of the decision notice together with the approved plans and any subsequently approved documents shall be kept at the site office at all times and the terms and contents of them shall be made known to the supervising staff on site. These documents shall be made available to the County Planning Authority upon request.

Reason: To ensure that the site operatives are conversant with the terms of the planning permission.

PRE-DEVELOPMENT CONDITIONS

Wheel Washing Scheme

6. The development hereby permitted shall not take place, including site clearance works, until a scheme has been submitted to and approved in advance and in writing by the County Planning Authority detailing the measures to clean vehicles leaving the site to prevent earth, mud and debris arising from the development being present on the highway. Thereafter, the approved scheme shall be implemented in full throughout the operation of the development hereby permitted.

Reason: In the interests of highway safety.

Restoration and Aftercare Scheme

7. Prior to the commencement of development a restoration and aftercare scheme relating to the site, including haul road, shall be submitted to and approved by the County Planning Authority. The scheme shall indicate:
- a) details of the top layers of fill including depths;
 - b) details of seeding, planting and subsequent aftercare of the restored land including the species and spacing of any plants/trees;
 - c) details of the site's maintenance and aftercare for at least five years after the completed restoration;

Thereafter the approved scheme shall be implemented in full.

Reason: To secure a satisfactory restoration of the site.

Surface Water Drainage Scheme

8. The development hereby permitted shall not take place until a scheme of surface water drainage management over the period of the development has been submitted to and approved in writing by the County Planning Authority. Thereafter, the approved drainage details shall be implemented in full as approved throughout the development, including aftercare.

Reason: To accord with paragraphs 103 and 120 of the NPPF (2012) to ensure that impacts through flooding and pollution are not caused.

OPERATIONAL CONDITIONS

Visibility Splays

9. The access from the site shall be maintained to include:
- (a) Visibility splay areas at both sides of its junction with A2037 Henfield Road. These splay areas to be defined by:
 - (i) a line 4.5 metres long measured along the centre line of the access road from the line of the nearer edge of the carriageway of A2037 Henfield Road;
 - (ii) a line 160 metres long to the north and 215 metres long to the south measured along the nearer edge of the carriageway of A2037 Henfield Road from its intersection with the centre line of the access road;
 - (iii) the straight line joining the termination of the above lines.

The above mentioned splay areas shall be maintained and shall be kept free from any obstruction over 0.6 metres above the level of the adjoining carriageway of the A2037 Henfield Road.

(b) Provision to prevent surface water discharging onto the public highway shall be maintained to the satisfaction of the County Planning Authority throughout the course of the development.

Reason: In the interests of highway safety.

Noise Mitigation

10. The development hereby approved shall be carried out in full accordance with the noise mitigation measures set out in section 5 of the approved Noise Assessment (Appendix 4 to the Environmental Statement).

Reason: to ensure the noise emissions from the site do not result in unacceptable impacts on sensitive receptors.

Noise Levels

11. The noise levels arising from the development shall not exceed 55dB(LAeq) (1 hour), freefield at any of the receptors identified in Appendix B to the submitted Noise Assessment (Appendix 4 to the Environmental Statement). If noise exceeds this limit a Noise Mitigation Scheme shall be submitted to and agreed in writing by the County Planning Authority within one week of the noise monitoring results being submitted. The approved scheme shall thereafter be implemented in full.

Reason: to ensure noise emissions from the site do not result in unacceptable impacts on sensitive receptors.

Noise - Reversing Alarms

12. All vehicles, plant and machinery 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 accord with paragraphs 109, 120 and 123 of the NPPF (2012) to protect the amenities of the local population and the local environment.

Removal of Buildings, Fences, Plant, Equipment and Machinery

13. All buildings, fences (including the security fence and acoustic fencing), structures, plant, equipment and machinery required on site throughout the operation of the development hereby permitted shall be dismantled/demolished and removed from the site and the site thereof restored in accordance with the scheme of restoration approved under Condition 9 within six months of the completion of restoration operations or when no longer required, whichever is soonest.

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

Dust Management

14. The development hereby permitted shall take place in full accordance with the approved Dust Management Scheme (Annex 1 to the Appendix 5 of the Environmental Statement).

Reason: To accord with paragraphs 120 and 123 of the NPPF (2012) to protect the amenities of the local population and the local environment.

Plant and Machinery

15. No plant or machinery other a bulldozer and loader shovel shall be operated at the site without the prior written approval of the County Planning Authority.

Reason: To accord with paragraphs 109, 120 and 123 of the NPPF (2012) to protect the amenities of the local population and the local environment.

Crushing or Screening Operations

16. No mechanical crushing or screening of materials shall take place at any time.

Reason: To accord with paragraphs 109, 120, 122 and 123 of the NPPF (2012) to ensure the restoration of the site within agreed timescales in the interests of the general amenities of the locality.

Topographical Surveys

17. A detailed topographical survey of the final restoration landform shall be submitted in writing to the County Planning Authority within 1 month of the material deposit ceasing in accordance with condition.

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.

External Lighting

18. No external lighting shall be installed anywhere within the site without the prior approval of a scheme submitted to and approved in writing by the County Planning Authority. Once approved, such lighting will be installed in accordance with the scheme, and removed in accordance with an agreed timetable. For the avoidance of doubt, this exclusion shall not prohibit the use of lighting on plant, equipment, machinery and vehicles required during the permitted hours of working.

Reason: To accord with paragraph 125 of the NPPF (2012) to prevent light pollution in the interests of the amenity of the locality and of local residents.

Hours of Use

19. No operations required to carry out the development hereby permitted which shall include the use of plant, equipment, machinery and vehicles, and the delivery of materials shall take place outside the hours of:

- 07.30 and 18.00 on Monday to Friday inclusive;

No operations shall take place on Saturdays, Sundays, Bank Holidays or Public Holidays.

Reason: To accord with paragraphs 109, 120 and 123 of the NPPF (2012) in the interests of the amenity of the locality and of local residents.

HGV Movements (Numbers)

20. There shall be no more than 78 daily HGV movements (39 HGVs entering and leaving the site) on any day. A record of HGV movements shall be maintained

by the applicant and made available to the County Planning Authority upon request.

Reason: To accord with paragraphs 109, 120 and 123 of the NPPF (2012) in the interests of the amenity of the locality and of local residents.

Enclosed Loads

21. All vehicles delivering wastes to the site and all vehicles removing any reject waste loads from the site shall have their loads enclosed within the vehicle or container so as to prevent spillage or loss of materials on to the public highway and the release of emissions to air.

Reason: To accord with paragraphs 109, 120 and 123 of the NPPF (2012) in the interests of highway safety and of the amenities of the locality.

Export of Materials

22. No on-site materials or imported waste materials shall be exported off site, save for rejected materials that are unsuitable for restoration. A record of reject loads shall be maintained by the applicant and made available to the County Planning Authority upon request.

Reason: To accord with paragraphs 109 and 120-123 of the NPPF (2012) to ensure the restoration of the site within agreed timescales in the interests of the general amenities of the locality.

INFORMATIVES

- A. This permission shall be read in conjunction with an agreement made under Section 106 of the Town and Country Planning Act 1990 concerning the routeing of HGVs to and from the application site.
- B. The Environmental Health Authority, Horsham District Council, may use their powers under the Control of Pollution Act 1974 (COPA) to enforce against any nuisance (including waste disposal, water pollution, noise, atmospheric pollution and public health; and for purposes connected with the matters aforesaid) from the site. For any queries on this matter, please contact the Environmental Health Department of Horsham District Council on 01403 215641.