

fluid planning

**Evergreen Farm
West Hoathly Road
RH19 4NE**

**Statement on Planning
Committee Comments
0043**

Contents

3	Introduction
3	Detailed response to issues raised
10	Summary and conclusion

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1.0 Introduction

- 1.1 This statement addresses matters raised during the 29 June Planning and Rights of Way Committee and following further discussion with the County Planning Authority (“CPA”).
- 1.2 The proposed development is to remediate a landfill site at Evergreen Farm, East Grinstead, West Sussex. The landfill is the former Standen Landfill. Remediation will involve providing a capping layer over the waste to prevent contact with contaminants and reduce infiltration of rainfall through the waste material.
- 1.3 Discussion at the Planning and Rights of Way Committee covered a range of matters. These can be summarised as:
- The Principle of the development versus doing nothing;
 - The volume of inert material to be imported; and,
 - Matters regarding highway capacity, road safety and traffic management;

2.0 Detailed response to issues raised

Principle of the development versus doing nothing

- 2.1 The principle of the development versus doing nothing was a matter raised throughout the application leading up to Committee. The matter raised at Committee, whether any remediation needs to be done at all, and whether other options have been considered therefore reflect previous discussions with Statutory Consultees, which it can be said, led to professionals, opining that, the proposal is justifiable. It is noted that Members’ also queried the level of contaminant within the Site and whether these actually pose a risk.
- 2.2 Comments by the Mid Sussex District Council’s Contaminated Land Officer, Mr Benson say that *“based on the information subtitled to date the overall design does appear satisfactory for remediating the site”*. Mr Benson also says: *“[u]ltimately the site contains contaminates and we would want to encourage and support the voluntary remediation that is proposed”*. These comments provide validation of the issue.
- 2.3 The Environment Agency (“EA”) stated: *“[t]he reports submitted in support of this*

planning application provides us with confidence that it will be possible to suitably manage the risk posed to controlled waters by this development". Again, third party validation is provided on the technical data submitted.

- 2.4 Geo Environmental, professionals in land contamination are clear that extensive testing demonstrate there are clear benefits to the proposal (as outlined in further detail below), the remediation of the Site is necessary. Unfortunately, where professionals, be those private consultants working on behalf of the applicant, officers, including within the planning authority and the EA all agree there is a problem and the position explained appears reasonable, then no further work is required on this matter. It should be taken as read unless a suitably qualified individual raises justifiable concerns, which is not the case here. If the landfill were remediated after filling, physical contaminants plus leachate and gassing would simply not be an issue. So this is a proposal to remediate a toxic legacy resultant from poor management by the operator and regulation by the EA and County.
- 2.5 CPA planning officers, based on the technical details submitted and responses by Statutory consultees considered the need for remediation to be reasonably explained. While Members' concerns are noted, they do not outweigh professional opinion, all of which agrees there is an existing problem and future pollution risk on and off Site.

Benefits of the proposal and the 'do nothing' scenario

- 2.6 With regard to WLP W8 criteria (d) and (e), and with reference to the comments by Members, regarding the volume of material and whether it is right to remove tree planting from the proposal as a means to reduce import volumes, a redesign of the proposal has been ruled out.
- 2.7 Over the 1m clay cap, a 2m restoration layer for tree planting areas is required in some areas and occasionally slightly more material depth is proposed to help tie the landscape into existing contours and achieve a visually acceptable end landscape that does not pool surface water. It should be accepted that the import required for tree planting is only a small part of the scheme and mostly, the depths of soil are the bare minimum required everywhere else. The point here is that the design, is a composite of pollution control mitigation, stability, drainage and landscape objectives, carefully balanced. The additional import volume for trees, is not considered material to highway movements because a significant number are still required. To redesign

the proposal to account for highways, when the CHA is content is not justifiable.

2.8 Moving beyond valid concerns expressed by Members' but with all due respect, not supported by professional opinion and evidence, policy W8 a) requires that "***the proposal results in clear benefits for the site and, where possible, the wider area***". Those benefits have been accepted by professional opinion in the lead up to Planning Committee and can be summarised as:

- The site contains contaminants that are mobile, leaching, and impacting controlled waters (surface water stream) (Table 4.1 and 4.4 of the Geo Environmental report).
- Capping will prevent leaching of the contaminants confined within the waste body by reducing infiltration through the waste materials and what does infiltrate will be controlled/ treated via a leachate collection blanket/swale and wetland system.
- This will be an ecological feature alongside the other ecological/landscape enhancements proposed. In addition, this supports the aim of supporting biodiversity in the proposal.
- This system also helps with slope stability as it prevents any waterlogging on the slopes which is the main risk to slope stability.
- The capping would also eliminate the existing physical risks to any future use of the site posed by materials close to the surface (for example brick, tarmacadam, metal, and glass). The site has been used for sheep grazing which stopped due to loss of sheep through illness or maiming from the landfill. More recently the site has accommodated horses and due to injuries sustained on the former landfill, were confined to a path between the stables and woodland which was inadequate and led to that use ceasing.
- Landfill gas was identified as high risk for site users with risks of asphyxiation /fire/explosion (Table 5 Desktop Study, May 2018). The nature of the capping system on the site currently is considered to be inadequate for an end use (para 4.10 Geo Environmental report). It is therefore clear that the existing site is inappropriate for any use which involves people or animals due the risks above. (Table 8 of Desktop Study and page 24 of Geo Environmental report).
- The capping will prevent leaching of the contaminants confined within the waste body by reducing infiltration through the waste materials and what does infiltrate will be controlled/ treated via a leachate collection blanket/swale and wetland system – this does act as an ecological feature, alongside other ecological/landscape enhancements proposed. However, this system also helps with slope stability as it prevents any waterlogging on the slopes which is the main risk to slope stability.
- Further, there are also clear indications that the landfill site is damaging the environment. Methane and Carbon dioxide from the landfill materials are likely to be impacting trees adjacent to the landfill site and potentially the ancient woodland - (see 4.2.2 and 4.10 of

Geo Environmental report). The capping of the site is therefore an opportunity to protect existing woodland/ancient by installing gas vents to create pathways located away from key receptors such as vegetation/woodland. This is set out in the Geotech Design report.

- 2.9 Given the concentrations of contaminants within the leachate encountered there is potential for leachate into groundwater and the underlying aquifer (Geo Environmental para 4.7). The capping would reduce the risk factor associated with a landfill Site that was not remediated to the correct standard at the time. Remediation therefore provides significant benefit because it solves the contamination risk on Site, and greatly minimises the risk going forward into the future. This point should be afforded considerable weight.
- 2.10 Based on a do-nothing scenario the existing and future risks are:
- Death of farm animals, horses and wild animals from falls, illness or asphyxiation
 - Dying trees and risk to death of ancient woodland
 - Risk to human health - Asphyxiation / fire / explosion
 - Contamination of controlled waters (surface water and likely groundwater) and the likely impacts to the environment.
- 2.11 Even if there is no formal use of the Site the risks are unacceptable and the restoration levels at the Site would not be allowed to exist today. Therefore, against the minimal risk and inconvenience of HGV movements, the do-nothing scenario is not considered a credible option. The capping of the former landfill site is necessary and professional opinion of both the applicant's consultants and various Consultees find no reason to doubt the proposal would result in a significant lowering of the risk factor associated with this landfill Site.
- 2.12 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. Removal of the contaminants from Site is not practicable or financially affordable. 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. It is unclear how that option would ever be desirable let alone viable.

WLP Policies W8 and W13

- 2.13 In terms WLP Policies W8 and W13. Policy W8 of the WLP supports recovery

operations involving the deposition of inert waste to land where it meets the relevant criteria. The proposal meets the criteria of WLP:

- The proposal results in clear benefits for the site and for the wider area as outlined above.
- In terms of the material to be used, as per WLP W8, the material is only residual waste following recycling and/or recovery or it is a waste that cannot be recycled or treated and the amount of waste material to be used is no more than is necessary to deliver the benefits identified.
- There will be no unacceptable impact on natural resources and other environmental constraints and these matters can be further controlled by condition and the EA waste permit.
- The proposal accords with Policy W13 (Protected Landscapes) and a detailed landscaping scheme has been proposed
- Any important mineral reserves would not be sterilised.
- Restoration of the site to a high quality standard would take place in accordance with Policy W20.

2.14 The proposal does represent the minimum amount of material required to achieve the proposed restoration scheme and landscape strategy which as mentioned is 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. It is generally recognised that on regraded Sites, trees have other important functions. They 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.

2.15 While Member's concerns are acknowledged, removal of trees from the design proposed is not beneficial or desirable. Ultimately, once the CPA grant planning permission, the EA, via a recovery permit will also control the Site, the design and everything taking place, to ensure the landfill Site is made safe. Significant ongoing monitoring is required along with validation of the works throughout. Scrutiny by two public bodies, affords maximum control over the proposal and proof the remediation is required.

2.16 While Members' queried options of trapping gas, the concentrations on Site do not

warrant that course of action.

The volume of material to be imported

- 2.17 Given the position outlined above, that the proposal is justifiable, supported by professional opinion and ultimately has a double protection resultant from the need for the applicant to seek a EA recovery permit, no change to the design is proposed or warranted. In the lead up to Planning Committee, the applicant confirmed that the net import volume would be 126, 677 m³ of material. This volume obviously relates to HGV movements to be discussed later.
- 2.18 The incorporation of tree planting into the proposal undoubtedly adds design benefits, aesthetic, ecological and recreational improvement as mentioned previously.
- 2.19 The applicant is agreeable to volumes being controlled by planning condition. The EA will also exert similar controls to the CPA on this matter, to ensure the impact of the proposal is limited and controlled. This allows a reliable assessment of highway impact resultant from HGV movements.

Matters regarding highway capacity, road safety and traffic management

- 2.20 Matters relating to highway capacity, road safety and traffic management need to be considered in light of professional advice, and avoid politicised opinion. The need for the proposal is beyond doubt. Remediation needs to be carried out. That said, the proposal will create inconvenience and additional movements by vehicles that can be intimidating to other users of the highway network.
- 2.21 GTA Civils, in combination with the County Highway Authority (“CHA”), worked to assess the impact the proposal might have on highway capacity and safety. Specifically, discussion and work dealt with routing, a commitment to a Section 59 Agreement and Road Safety Audits. At Committee, Member’s queried the professionalism of the work supporting the position that, the proposal is safe. It must be stressed here, that it is unlikely professionally accredited consultants would mislead on this matter. Further, the CHA’s own professionally accredited highway officers, helped define the remit of the work and verify the findings as robust. On this basis, separation of wider fears and dislike of HGV movements from professional opinion by the CHA is required.

- 2.22 The proposed routing between the A22 and the Site has been analysed to ensure that HGVs can safely manoeuvre the narrower rural roads. A swept path analysis of the Imberhorne Lane / B2110 / Saint Hill Road crossroad junction, the Saint Hill Road / West Hoathly Road junction and the two sharp bends on Imberhorne Lane (between Greenacres house and Imberhorne Lane Nurseries) was carried out. Travelling north along West Hoathly Road into the Site was considered, based on the professional opinion of the CHA, to pose no highway safety matters. The Stage 1 Road Safety Audit and Design Review, following the industry standard approach and verified by the CHA as robust, made various recommendations.
- 2.23 The applicant, in discussion with the CHA agree to marginal widening of the sunken section of West Hoathly Road, on Highway owned land. Proposed widening is limited, and does not materially alter the overall character of the lane, which is must be noted is in a form that had no clear design, rather is irregular and just happened to be in the form it is by chance. Obviously an alteration to the width would be permanent, but given the minimal length affected, that is not considered a materially harmful change. Longer term benefits would then remain for users of the highway network who will be afforded some additional room to navigate this section of Highway. The CPA need to consider, whether from a planning perspective, the proposed localised widening of West Hoathly Road is harmful to the wider character of the area. It is proposed here, that by reason of the overall minimal scale of the works, the impact on the value of the Road in the current form is minimal. Sufficient safeguards for the design can be built into planning conditions, to control the visual impact, design and any ecological concerns.
- 2.24 Comments by the National Trust in respect of their concerns on Standen House as a visitor attraction are noted. Those highway concerns are however, not supported by the professional opinion of the CHA. That said, the applicant is open to reducing the number of vehicles allowed into the Site per day to 25 vehicles (50 movements per day), not operating at weekends or bank holidays, erecting signage along the route and ensuring all activities and movements are controlled by the Construction Management Plan to be conditioned. This would push works to a near 2 year (100 working weeks) period which is considered workable. The applicant is agreeable to a community liaison programme, including co-ordination with the National Trust.
- 2.25 Ultimately, the CPA need to weight environmental protection and the rights of the landowner and applicant for a safe living environment against protection of a heritage asset, that would be affected temporarily in so far as inconvenience

to visitors along parts of the highway network and potentially only for a short distance. The impact on visitor numbers at this time cannot be reliably assessed, especially since the ongoing COVID situation is seemingly likely to change peoples' lifestyles. Refusal of the proposal on grounds of potential inconvenience and an unknown resultant impact on visitor numbers is simply not justifiable.

2.26 Clearly, HGV movements are undesirable. But here, because a landfill Site was permitted and poorly controlled by authorities at the time, a historical legacy likely at some point to harm off Site receptors as emissions leach from the Site, requires remediation. Concerns raised by residents, users of the highway network and the National Trust can be satisfactorily addressed through appropriate conditions and the applicant is agreeable to additional controls if the CPA see fit, although the original conditions proposed are considered to afford robust controls. The effect of the above measures is that any potential impacts on Standen House and gardens and the wider route are minimised to the point the CHA support the findings of the Transport Statement and all later work in the lead up to Planning Committee. The proposed development does not give rise to any unacceptable impacts upon highway capacity or road safety based on the CHA's own assessment.

2.27 Based on the above explanation and needing to avoid redesigning the scheme to accommodate preferences of neighbours and users of the highway authority who would rather no works take place, the only concessions are an extension to the construction period to two years with corresponding reduction in vehicle movements and potential enhanced information requirements through a construction management plan to include meaningful liaison with the community.

3. Summary and conclusion

3.1 The capping of the existing site is necessary to mitigate existing environmental effects relating to leachate and gassing issues from the polluted landfill site.

3.2 As outlined above, 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. It is

unclear how that option would ever be desirable let alone viable.

- 3.3 Redesigning the scheme, simply to remove trees and possibly lower vehicle movements, ignores the inter relationship between landscape design, slope stability and drainage design parameters. This course of action is not warranted in the context that the risk factor associated with doing nothing is accepted by the CPA officers and with the impact on the highway network deemed acceptable by the CHA. That said, it is proposed to extend the period of work over a 2 year operational period and to agree to an enhanced construction management plan.

- 3.3 The proposal is in compliance with both local and national policies as explained above and should be recommended for approval.

