PLANNING STATEMENT

AN APPLICATION FOR PLANNING PERMISSION FOR A CLAY QUARRY AND CONSTRUCTION MATERIALS RECYCLING FACILITY (CMRF) FOR CD&E WASTES INCLUDING THE USE OF AN EXISTING ACCESS FROM LOXWOOD ROAD, THE EXTRACTION AND EXPORTATION OF CLAY AND RESTORATION USING SUITABLE RECOVERED MATERIALS FROM THE CMRF TO NATURE CONSERVATION INTEREST INCLUDING WOODLAND, WATERBODIES AND WETLAND HABITATS

AT

LAND WITHIN PALLINGHURST WOODS TO THE EAST OF LOXWOOD IN WEST SUSSEX

Report Reference: LCP/LOX/LX_20A/PS

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COMPANY STATEMENT

Loxwood Clay Pits Limited (LCP) is a privately owned company. The owners have other private business interests in property, forestry, food, waste, oil, and gas, in the UK and abroad. LCP is the first company to be established with an activity in the minerals sector with the intention to add other businesses to that portfolio in due course.

Consistent with all clay brick and tile works it is essential that a long-term source of supply of good quality clay is secured to safeguard the significant capital investment. LCP have spent several years investigating the potential sources of clay in Pallinghurst Woods and other potential sites with existing consents for extraction. LCP have concluded from their investigations that the extraction of clay from the land at Pallinghurst Woods, in combination with progressive restoration using recovered materials, is the most appropriate option to fulfil their needs.

LCP have engaged Protreat, a specialist consultancy in waste and environmental matters, to prepare an application for planning permission together with an Environmental Statement for the proposed clay extraction and restoration of the development site on the periphery of Pallinghurst Woods.

Together with a team of technical and environmental experts Protreat and LCP have developed a scheme for extraction of clay and restoration using imported waste derived materials. The scheme is based on the principle of minimisation of potential environmental impact. It is proposed that the site is restored to a nature conservation after use including woodland, water bodies and wetland habitats.

1. Introduction

1.1 Protreat are commissioned by Loxwood Clay Pits Limited to prepare this application for planning permission for a clay quarry and construction materials recycling facility (CMRF) for non-hazardous construction, demolition and excavation (CD&E) wastes including the use of an existing access from Loxwood Road, the extraction and exportation of clay and restoration using suitable recovered materials from the CMRF to nature conservation interest including woodland, waterbodies and wetland habitats on land situated in woodland known as Pallinghurst Woods, to the north east of Loxwood in West Sussex.

1.2 The information narrative contained in this document is supplementary to that provided on the completed planning application forms and is to be regarded as forming part of the application. The information contained in this statement is also intended to assist the Planning Authority in determination of the proposals. The proposed development covers an area of approximately 8 hectares and the proposals fall under Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (EIA Regs). The application for planning permission is accompanied by an Environmental Statement (ES) based on a thorough Environmental Impact Assessment (EIA) scoped in agreement with West Sussex County Council.

1.3 This document outlines the nature of the proposed development, and how it accords with both planning policies and its immediate environment. It therefore sets out the context within which it is believed that the site is suitable for the development.

1.4 Loxwood Clay Pits Limited (LCP) is controlled by one of the Danhash family that has owned 122 hectares (300 acres) of Pallinghurst Woods (part of the former Pallinghurst Estate), north east of the village of Loxwood, Billingshurst, West Sussex, for the last 30 years.

1.5 LCP was incorporated in April 2017, with the intention of extracting clay from the periphery of Pallinghurst Woods on a small commercial scale, like the small-scale clay extraction and brick making activities that have previously taken place within the Pallinghurst Estate over 100 years ago. These activities are common in this area, such as the former Rudgwick clay pit and brick works located just 5 miles east of Pallinghurst Woods.

1.6 Subject to this development going ahead, LCP would then pursue a further project elsewhere in West Sussex, for the establishment of a small-scale hand produced brick works to supply bricks to the local market, that are of a type and style that is appropriate to the local character and built environment.

1.7 Pallinghurst Woods is situated low down in the Ludwick Low Weald clay vale landscape setting, within the Low Weald Hills of West Sussex. The geology is derived from Weald Clay formation, with clay shale, mudstone, discrete sandstone beds and superficial deposits. See **Figure PS1**.

1.8 The Weald clay formation is a main clay resource for brick making and is a related resource for traditional building materials including cement, concrete blocks and other building raw materials used in a wide variety of construction activities, including house building and flood alleviation schemes. There is a shortage of clay in West Sussex, with the brick works at West Hoathly and Pitsham respectively due to run out of clay in less than 10 years and 20 years' time. National planning policy requires each county to maintain at least 25 years supply for each brick works.

1.9 Based on the proposed rate of clay extraction, the clay available at the proposed development site in Pallinghurst Woods will run out in approximately 30 years. Including the time required to excavate the first phase and to complete the restoration after the excavation has finished, the project will last for 33 years overall.

1.10 To provide for the continued output of clay during the 30-year period, LCP have identified that the proposed site in Pallinghurst Woods is suitable for brick making. In addition, the chemical and physical properties demonstrate that the clay could be used for producing cement, which could then be used for making concrete blocks, which are also used for house building. The clay could also be used for flood defence purposes.

1.11 The clay pit void will be restored using suitably inert materials derived from the processing of CD&E wastes, processed inside a building located next to the clay pit. The waste processing activity will be permitted by the Environment Agency to separate the restoration materials and, subject to the terms of an approved Waste Recovery Plan, use the materials that have been certified for use as inert materials, for the restoration of the clay pit void. The other waste materials recovered from the construction and demolition waste will be transported off site for further recycling and use e.g., in aggregates and reclaimed bricks. This related activity will commence in year 2 or 3 and cease activity after 33 years from commencement of the clay extraction.

1.12 Moreover, the establishment of a clay pit with 30 years of clay reserves, would replace the loss of the 30-year clay reserve (from 2012 until 2042) at the former Rudgwick clay pit and brickworks close to LCP's site. This former clay pit and brickworks was designated as a safeguarded site in the 2003 West Sussex Minerals Local Plan and in minerals planning policy terms, should not have been granted planning permission for restoration of that clay pit 30 years earlier than originally intended.

1.13 West Sussex County Council's April 2020 Scoping Opinion suggested that the planning application should be based on the Rochdale Envelope. The Planning Inspectorate's Rochdale Envelope advice note states that this approach applies to certain projects to which The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 applies. This typically applies to NSIPs that are the subject of outline applications where a Development Consent Order is sought from PINS / Secretary of State and is more akin to onshore / offshore wind projects. The approach taken to this planning application is as prescribed in the EIA Regs. The Environmental Statement assesses the worst-case scenario in the manner set out in the EIA, taking into account the environmental information, which is sufficient to assess the likely environmental impact of the proposal.

1.14 For developments other than onshore and offshore wind projects, the Rochdale Envelope is not an exact science. For example, when assessing the noise emission and hence the noise impact, from this proposed development, the worst case would be from the on-site generation of electricity. However, it would obviously be sensible to try and reduce the noise by supplying mains electricity to the site. Overhead 11kV cables are commonplace in and around Pallinghurst Woods, Loxwood and Tismans Common etc., but additional overhead cables would have some landscape and visual impact. Even a de minimis landscape and visual impact would represent the worst case from that perspective. But that does not mean that the planning application should be made on the basis of the worst-case noise impact if the noise level can be reduced by using mains supplied electricity instead

of onsite generation. However, this does mean that a judgment must be made as to whether landscape and visual impact is more important than noise or vice versa.

2. Site location and description

2.1 **Figure PS2** shows the boundary of the proposed development site including the access route to the nearest highway, which is approximately 8 hectares in total, of which approximately 6 hectares is planned for clay extraction. The total redline area is too large for a standard 1:2500 scale planning drawing.

2.2 **Figure PS3** shows the boundary of the proposed development site without the access route to the nearest highway, this is a 1:2500 scale drawing.

2.3 The proposed site is located at National Grid Reference TQ 05090 32831, in a rural wooded Low Weald clay vale landscape setting, on land to the north of Loxwood Road. It comprises an area of 8 hectares of woodland and scrub, 6 hectares of which would be progressively excavated for clay in small phases, before then being sequentially backfilled and restored.

2.4 The development site is on land leased by LCP from the Danhash family and is bounded on three sides by dense woodland and, to the north, open farmland and further woodland.

2.5 The proposed development site is currently a mixture of woodland and recently replanted woodland/scrub which will need to be cleared to allow for construction of the CMRF and claypit operations. As can be seen in **Figure PS4**, much of the site contains little of any arboricultural significance, with area 1 being mainly scrubland with sapling trees being planted approximately 5 years ago, and area 2 being planted approximately 20 years ago. According to the historical forestry records, area 3 was planted approximately 95 years ago, though it also contains a few older individual trees. These areas will all be felled in phases during the life of the project in order to allow efficient development to take place whilst helping to conserve existing habitats and facilitate habitat translocation. Any useful wood resources produced as a result of this clearance will be marketed through the normal forestry channels to ensure that resources are not wasted. The development area within the land owned by the developer was chosen specifically because of the relative immaturity of the majority of trees in the plot and its peripheral location in Pallinghurst Woods, to minimise environmental, ecological and climate change impacts.

2.6 The ecological work undertaken on the proposed development site has shown that the scrubland areas are populated by reptilian species, in particular slow worms. Reptile fencing (approximately 1m high) will therefore be erected around the perimeter of the site during site construction following reptile translocation by trained ecologists. This is to keep reptiles such as slow worms out of the area once construction activities are underway. This is explained in more detail in the mitigation section of the ecological chapter in the ES. There are currently no plans to erect any security fencing around the 6-hectare clay pit, apart from paled fencing around the surface water lagoon. The site's isolated location 1.6km from the nearest public highway and gated access (at the layby) should act as suitable security.

2.7 This sequential restoration approach differs from older traditional claypits, in which the whole pit is normally excavated, leaving large voids in the land, before restoration at a final stage. The staged restoration planned for this project will mean that each claypit cell will be excavated and restored to original ground levels within a period of approximately 2 years. The cells can then be overplanted, thus

avoiding the more intrusive visual and landscape impacts associated with a traditional claypit.

2.8 In addition to the progressive restoration advantage, the annual volume of clay will be removed from a pit approximately 40m x 50m in size, around 1/3 the size of a football pitch annually, so the project can be described as almost artisanal in size compared to a traditional claypit excavation.

2.9 The proposed lorry access route from Loxwood road layby northwards, would follow the route of the existing woodland access road for timber extraction, i.e., an existing access track for lorries, from Loxwood Road through Caddick's Copse, to the development site, approximately 1.6km distant. The vehicles entering and leaving site at the layby will predominantly travel from/to the east along the eastern section of Loxwood road, to the A281 Horsham-Guildford road junction at Bucks Green.

2.10 The proposed development site is approximately 1.6 km to the northeast of Loxwood, 1.5 km southeast of Alfold, 1.2 km east of Alfold Bars, 2.7 km west of Bucks Green, 1.5 km west of Tisman's Common, 3 km west of Rudgwick, and 6.4 km south of Cranleigh. The land is approximately 2 km north of the Wey and Arun Canal, which flows westwards, south of the site, through the village of Loxwood. The site lies due south of the County Boundary between Sussex and Surrey and south of the Sussex Border Path. In fact, the north west corner of the land in common ownership is immediately adjacent to the Sussex Border Path. The County boundary thus lies quite close to the north of the site. The A281 is 1.3km directly to the north of the site at its closest point.

2.11 In a wider context the site is in an undesignated landscape area, within the Low Weald NCA 121, and in the Low Weald Hills West Sussex Local Landscape Character Area LW4 (West Sussex County Council Landscape Character Assessment 2007).

2.12 The site is located within a dense area of mature mixed deciduous woodland, with some coniferous compartments. Part of the land in the central area of the development site has been replanted within the last 5 years. The site comprises semi mature shaws and trees, along the site's northern and eastern margins, with some ancient woodland near to the immediate west. These wooded areas with mature trees act as a significant visual buffer for the site. The tree species on the proposed development site are a mixture of broadleaved native trees and shrub species, including Oak and Hazel, and in the woodland beyond there are more blocks of mature mixed native broadleaved woodland which completely enclose the proposed development to all but immediate views.

2.13 The accompanying Landscape and Visual Impact Assessment (LVIA) appended to the Environmental Statement (ES), provides more detail.

2.14 The development site itself is in an undesignated landscape area with no historic, ecological, landscape or other designations. No Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar sites are located within a 5km radius of the proposed development Site. No Sites of Special Scientific Interest (SSSI) are located within a 2km radius of the proposed development. Similarly, no locally designated non-statutory sites are located within a 1km radius of the proposed development. However, the proposed development does fall within a SSSI Impact Risk Zone for Chiddingfold Forest SSSI and The Mens SSSI which are located approximately 2.70km north-west and 6.50km south, respectively. There is more information on this in the Environmental Statement.

2.15 There are several areas of Ancient Woodland designated by Natural England within the 300 or so acres surrounding the development site, but none of these woodlands are directly affected by the proposal, and no designated ancient woodland will need to be developed or removed.

2.16 Historically the development has been either woodland or agricultural (arable) land going back many years, and as such it has no planning history. The site was historically part of the Pallinghurst Estate and had been used as a commercial coniferous forestry plantation until the current owners began to restore the 300 acres to native woodland some 25-30 years ago. These deciduous plantations now form designated 'priority habitat' of local importance and there is more on this in the Environmental Statement. The historical background of the development is further detailed in the archaeological report within the EIA section appended to the Environmental Statement.

3. Proposed quarry design and restoration scheme principles

3.1 The main characteristics of the site that influenced the design are; the location on the periphery of Pallinghurst Woods, the route of the existing woodland access road, the location of the existing access to Pallinghurst Woods at the layby entrance to Loxwood Road, the location of existing infrastructure, hedgerows, treelines and woodland, the proximity of receptors to the site, the quality of the clay, the local demand for waste recovery and recycling, the hydrology and hydrogeology of the site and the lack of visibility of the site from the surrounding area.

3.2 The lateral extent of the clay extraction area has been determined based on the boundary of the land currently available to LCP and the extent of the workable clay identified by the site investigation carried out in 2017, existing land drains, established hedgerows and trees, the presence of archaeological remains of local interest and the location of receptors. The proposed extraction area is shown on **Figure PS5**. A standoff of at least 10m will be retained between the limit of the extraction area and habitats along the eastern, western and southern boundaries with a minimum 15m standoff along the northern and north west boundaries. There will be a minimum 75m standoff from the nearest ancient woodland.

3.3 During the archaeological assessment of the proposed development site and the access road through Pallinghurst Woods, it was identified that a small part of the northern boundary and the eastern boundary of the development site plus the land beneath the entrance from the layby on Loxwood Road, may be of local archaeological importance. The northern and eastern boundaries have since been amended to exclude clay excavation in those areas and to retain the archaeological features. If necessary, bog mats will be used near the entrance to Pallinghurst Woods. A Written Scheme of Investigation (WSI) will be prepared and during soil stripping operations archaeological mitigation will be implemented where necessary as specified in the WSI.

3.4 Clay present at the development site that is suitable for the proposed uses is present on average 0.5m below ground level underlying the soil and overburden. The clay that will be extracted at the site for exportation is on average 6m thick with a maximum thickness of approximately 8m to 9m. The overlying soils will be translocated elsewhere in Pallinghurst Woods to preserve the habitats and the overburden will be excavated and retained on site for use in the restoration of the site. The extracted clay will be stockpiled for weathering and then transported off site for sale using Heavy Goods Vehicles (HGVs) up to 32 tonnes Gross Vehicle Weight (GVW). The base of the extraction will be at a level of between approximately 32m and 35m AOD.

3.5 Clay extraction will generate approximately 375,000 tonnes of clay for use and based on a mineral extraction rate of 12,500 tonnes per annum it is estimated that mineral extraction operations will be completed in 30 years.

3.6 Mineral extraction operations will be undertaken in a series of 30 Phases and will commence in the middle of the site and will initially progress in the north eastern corner of the site during the first 10 years before moving into the south eastern corner for the subsequent 10 year period and then finishing in the south western corner for the final 10 year period. **Figure PS6** provides more details. Most of the trees are located in the south western corner so most of the tree felling to facilitate clay extraction will take place between half and two thirds into the project, i.e. 15 to 20 years. However, the surface water lagoon will also be located in the south

western corner of the site and the trees in this area will need to be felled at the outset of the project. The phasing is shown in **Figure PS4**.

3.7 As there is no groundwater present on the site, there is no potential for the base of the excavation to heave because of groundwater pressure. As the clay mineral is extracted from the site any surface water ingress to the void will be controlled by a series of sumps and trenches excavated in the base of the site as the extraction progresses. Pumps will dewater the working area into a segregated area in the surface water lagoon. Surface water run off from rainfall on the rest of the site will be channelled to the clean section of the surface water lagoon. Where possible surface water from the lagoon will be treated and used in the mist air system to remove airborne dust from inside the CMRF building and when waste recovered materials are used to restore the claypit void. Any water discharge from the site into the adjacent controlled waters will be subject to a water discharge permit obtained from the Environment Agency.

3.8 Without mitigation measures, the operations at the site will only be visible from rights of way close to the northern boundary of the site. The operations will have an acceptable noise impact on neighbouring properties. The large clay stockpile to the east of the CMRF will help to attenuate noise from the activities inside that building. However, noise impacts have been modelled without considering any attenuation from clay stockpiles. No bunds will be required to prevent surface water from running on to the site because the existing northern boundary bund will be left completely intact due to the minimum 15m offset from that boundary.

3.9 On grant of planning permission, advanced planting and gapping up of hedgerows will be carried out on the existing perimeter hedgerows that line the northern, north-eastern and western part of the site. The advanced planting will form part of the overall restoration scheme for the site.

3.10 The restoration scheme has been designed for nature conservation with water bodies, wetland habitats and interim species rich seeded grassland to be replaced with plantation broad leaved woodland. The proposed restoration scheme is shown in **Figure PS7**. Restoration materials will be available from the CMRF from the processing of CD&E wastes, which together with the overburden will be used to achieve the proposed restoration profile at current levels as shown in **Figure PS8**. It is anticipated that up to 210,000m^3 of restoration materials will be used from the CMRF during the 33 years required to complete the proposed restoration profile (30 years excavation plus 3 years). It is proposed that the importation of restoration materials will commence when clay extraction progresses into Phase 3 (year 2).

3.11 The CMRF and clay pit restoration using processed CD&E wastes will be a combined waste recovery activity governed by a bespoke environmental permit issued by the Environment Agency. This permit will specify which waste materials will be imported for processing in the CMRF and which of the recovered materials from that activity can be classified as suitably inert in accordance with Waste Acceptance Procedures, a Waste Recovery Plan and an Environmental Management System, for the restoration of the clay pit.

3.12 Overburden stripped during the clay excavation will either be stored in the clay stockpiles area or along the northern edge of cell phases 2 to 6 or on the area designated for excavation the following year. Clay stockpiles for weathering prior to exportation will not exceed 4.5m in height and the overburden stockpiles will not exceed 3m in height. The 4.5m high stockpile located on Phase 28 will only be required during the first two years.

3.13 The CMRF's permitted input capacity for CD&E wastes will be 25,000 tonnes per annum and dependent on the density of the recovered suitably inert materials, up to 12,500 tonnes will be used for the restoration of the clay pit. The materials used for the restoration of the clay pit will have a dry density that is lower than the dry density of the extracted clay. The exported weathered clay will have a density that is higher than the drier extracted clay.

3.14 The partitioned surface water lagoon will be converted to a fishing lake and a habitats pond at the end of the restoration period.

3.15 It is proposed that Footpath 792_1 is temporarily diverted during the operational lifetime of the clay pit to assist with out of hours site security arrangements. The footpath would be diverted at the junction with bridleway 801, to follow the route of the bridleway to the Sussex Border Path before continuing as Footpath 792_1 before joining Footpath 797. This would effectively close the small stretch of Footpath 792_1 between its junctions with bridleway 801 and Footpath 797.

3.16 It is also proposed that where Footpath 795 runs parallel to the Private Right of Way in a north westerly direction from bridleway 3240, for personnel safety reasons, a fence is constructed between the footpath and the private right of way.

4. Proposed site infrastructure

4.1 Access to the claypit would be gained by a dedicated site access road beginning from the layby just east of the junction of Loxwood Road and Bridleway 3240, some 1.6km to the south east of the proposed development site and continuing along the old forestry road through the original Pallinghurst Estate, which has been in use since the beginning of the 20th Century. This gravelled single lane road has been used throughout the history of the Pallinghurst Estate to remove felled trees, as part of its commercial woodland past, so is known to be capable of use by HGVs. It is proposed to widen this access road in two strategic areas to ensure it is wide enough to allow two HGVs to pass. Each of these wider sections will be 7.5m wide along a short 20m stretch of the access road. These passing areas will be outside the areas of ancient woodland through which the road currently traverses albeit the eastern passing place will be in an area of Plantation on Ancient Woodland. LCP's appointed ecologists have recommended this location rather than a more westerly location that is frequented by wood white butterflies.

4.2 The proposed site and intended access route with HGV passing places and public rights of way can be seen in **Figure PS9**.

4.3 Access to the site will be primarily along Loxwood Road to the nearest part of the Lorry Route Network commencing from the junction of Loxwood Road with the A281 at Bucks Green.

4.4 Gates are located at the main entrance on Loxwood Road and further traffic control barriers will be located at the crossing to bridleway 3240 and at the entrance to the development site. The compound situated 100m from the main entrance will be used for car parking and the area surfaced with a DoT Type 1 stone material. The layout of the compound including the wheel wash and car park will be agreed with the planning authority pursuant to a condition of the planning permission. Water for the wheel wash will be from a new mains water supply taken from Loxwood Road and will be recirculated. Downward facing external lighting will be provided in the compound area as necessary, either side of the main entrance to Loxwood Road, and along the south and eastern sides of the CMRF building. The lighting will only be used during operational hours and only during early morning and early evening during the months of October to March.

4.5 The two-storey site office and amenity building measuring 18m x 4m and 6m high will be positioned along the northern face of the CMRF. The weighbridge will be positioned inside the western boundary to the proposed development site and the wheel wash will be located 100m inside the entrance from the layby on Loxwood Road.

4.6 All the access roads through Pallinghurst Woods will be maintained in a condition which is consistent with minimising noise and dust emissions and mud on the public highway. The DoT Type 1 stone aka MoT Type 1 will be 40mm granite limestone, basalt or gritstone used in conjunction with a 3-D containment system that includes edge restraints.

4.7 HGVs associated with the extraction of clay and the outbound movement of recyclates from the CMRF will essentially be 32 tonne GVW to transport 20 tonne loads. These vehicles will have unfettered priority along the access route from the development site to the layby entrance on Loxwood Road. HGVs associated with the importation of CD&E wastes to the CMRF will be a mixture of 18 tonne GVW rigid vehicles to transport max 10 tonne loads (for construction and demolition

wastes) and 32 tonne GVW rigid vehicles for 20 tonne loads of excavation wastes. The inbound 32 tonne GVW vehicles may also be used to backload the outbound movements of clay and recyclates, thereby minimising the overall number of vehicle movements. A traffic management system will limit the inbound vehicles in transit through Pallinghurst Woods to max 2, with the inbound vehicles using the passing places to give way to the outbound vehicles that will have priority. All vehicles will be weighed in and out of the development site.

4.8 Power to the development site will be provided by a generator and foul water will be self-contained. Fuel will be stored in a bunded mobile fuel storage tank. Power to the eastern access to Pallinghurst Woods (for access barriers, wheel wash and the traffic management system), just off the layby on Loxwood Road, will be a combination of mains electricity, battery power and solar power. In due course, the power to the main development site will be mains electricity with a new grid connection via overhead cables. See **Figure PS10** for more details. The new mains supply to the main development site will be agreed with the planning authority pursuant to a condition of the planning permission or will be subject to a further planning application.

4.9 The preliminary design of the bridge (location shown in **Figure PS9**) is shown in **Figure PS11**. This is not materially different to the existing bridge, which is also designed for HGVs, but the new bridge is designed to take the additional number of daily vehicle movements over a 30 year period. The detailed design of the bridge, including the means of construction / access during construction, will be submitted to the planning authority for approval pursuant to a condition of the planning permission.

4.10 The bridge will be constructed with a maximum internal width of 5m and maximum internal height of 3m. The access road over the bridge will be 3.5m wide and approach ramps will constructed on either side at a max 1 in 14 gradient. The access road and approach ramps will be surfaced with an asphalt layer laid over sub-base with kerbs on the approach ramps. A continuous safety barrier will be installed at the edge of the access road along the approach ramps and over the bridge. The surface under the bridge will be concrete. Parapets will be installed into the reinforced concrete slab. It is anticipated that bridge construction works will commence at least 6 months before the commencement of clay extraction operations in Phase 1. Due to the location of the bridge and its low-lying position over the land drain, the bridge will not be visible to users of the nearest public rights of way.

4.11 The CMRF building shape, size and elevation is shown in **Figure PS12**. The building will have a 40m x 35m footprint with a height of 7m to the eaves and 8.5m to the apex. The steel frame cladded building will have a 1 in 12 roof slope with a 6m wide x 5m high fast action roller shutter door to the south side of the building with an adjacent pedestrian door. The fast action roller shutter door will only be opened to allow HGVs to enter and leave the building. The external wall, door and roof cladding will be black ash with alternate clear roof panels to maximise daylight inside the building. The floor of the building will be a reinforced concrete slab with 4m high internal concrete push walls around the perimeter of the building. All of the process equipment will be located and operated inside the building. The noise model is based on the worst case and assumes that an internal dust extraction system operating with large electric fans will extract the dust generated inside the building for filtration in a static bag filter plant prior to recirculation and/or exhaust. However, the dust extraction and ventilation system will be replaced by a water-

based Mist Air system that will completely remove dust from the atmosphere inside the building. The machinery and electric lighting will initially be powered by the electricity generator, switching to mains supply in due course. Building construction would commence within 6 months of planning permission being issued or before clay excavation commences, whichever occurs last.

4.12 The outside temporary storage area adjacent to the CMRF building will consist of a concrete slab measuring 35m x 8m with a stone laid area in front of the concrete slab measuring 27m x 35m. Recovered waste fractions that are produced from the CMRF will be stored in lidded steel hook lift containers measuring up to 8m long x 2.5m wide x 1.5m high. The containers will be filled inside the building and quarantined for analysis before being used for the clay pit restoration. The filled containers will be stored on the outside concrete slab, which will be able to accommodate up to 10 of the lidded steel containers. The stone area next to the concrete slab is to enable hook lift vehicles to manoeuvre to load/unload the containers.

4.13 The layby adjacent to the site access on Loxwood Road will be reconfigured in accordance with the terms of a Section 106 Agreement to the satisfaction of the planning authority. The proposed new road layout and junction is shown as **Figure PS13**.

5. Proposed site operations

5.1 The proposed development falls into two distinct but synergistic operations:

- A 6-hectare clay pit, which will provide 375,000 tonnes of clay for local building and construction needs over a 30-year period, and;
- A Construction Materials Recycling Facility (CMRF) which will take in 25,000 tonnes per annum of CD&E waste for recycling back into useful aggregates and other recyclates, including the use of suitably inert materials for the restoration of the clay pit. Soils and overburden from the extraction area will also be used to restore the clay pit site.

5.2 All of the proposed activities will be operated by LCP. Clay will be extracted from the site and phases will be restored between 0800 to 1800hrs Monday to Friday and 0800 to 1300hrs on a Saturday. Materials will only be imported into and exported from the site during the same hours Monday to Friday. The gates at the access to the site will be locked shut when the site is unmanned. There will be no working except pumping of water and essential maintenance outside the operational hours. Any temporary changes to the operational hours will be agreed in writing with the planning authority.

5.3 Wherever possible, vegetation will be removed outside the months of March to August, which includes the breeding bird season. If it is necessary to remove vegetation during the breeding bird season then all works will be preceded by a nesting survey carried out by a qualified ecologist. Prior to the felling of any trees the trees will be reassessed and where necessary bat surveys will be undertaken to check for any new roosts. If bats are identified mitigation under licence from Natural England will be carried out.

5.4 All of the trees that will be retained on site will be protected for the duration of the works according to BS5837 as far as it is practicable. Protection measures will include the implementation of appropriate Root Protection Zones.

5.5 Translocated soils will be stripped prior to the construction of clay pit haul roads and the commencement of extraction in each phase. Soil will only be stripped when the soils are in a dry and friable condition to prevent damage to the soil structure during handling. Soil handling will cease during rain or when it is likely that wind conditions will create significant airborne dust.

5.6 Overburden and soils will be transported using a tracked dumper or other alternative plant. The clay will be extracted using long reach excavators working from the surface of the clay or from a clay bench in the excavation. The slopes excavated around the periphery of Phases 1 to 7, 14 to 17 and 20 to 30 will be 1 to 1 with a 3m wide bench at 3m depth intervals. Cross sections are shown in **Figure PS5**. The excavators will be used to load the clay onto stockpiles and to load HGVs. All mobile plant used at the site will be diesel powered and fitted with appropriate silencers and noise attenuation.

5.7 HGV movements will not exceed 42 movements per day from 21 vehicles. This worst-case scenario is based on most of the movements being from 18 tonne GVW rigid vehicles. On some days, vehicle movements may be 50% lower than this, due to the use of more 32 tonne GVW rigid vehicles. The different scenarios are shown in **Figure PS14**.

5.8 HGVs will be restricted to the surfaced roads on the main development site and the access road. These roads will be maintained in a condition that prevents the movement of mud onto the road beyond the site entrance on Loxwood Road and minimising the generation of noise and dust. This will be achieved by the installation of mud control grids and a wheel wash. If necessary, a road sweeper will be used to remove mud from the layby on Loxwood Road.

5.9 It is proposed that a liaison committee is established with attendance by representatives of the local parish council, the planning authority and LCP to discuss the site operations, work undertaken since the last meeting, and work proposed. The liaison committee meetings will provide an opportunity for the local community and LCP to discuss the operations, identify any concerns and quickly resolve any issues. It is proposed that meetings are held every 6 months.

6. Proposed working and restoration sequence

6.1 The clay at the site will be extracted in a series of 30 Phases / cells. Phases 1 & 2 will be extracted in year 1 with the remaining 28 Phases extracted in years 2 to 29. The extracted clay will be exported off site during years 2 to 32. The proposed phasing of the clay extraction is shown in **Figure PS5** and the sequence of working and restoration is shown in **Figure PS6**. The restoration of Phase 1 will commence in year 2 when the extraction commences in Phase 3. At any stage, 3 phases will be work in progress but only the area equivalent to two phases will actually be excavated. The working of 3 phases is shown in **Figure PS15**. Restoration of the 30 Phases will take place over 30 years commencing in year 2 and finishing in year 31. The final restoration work will be carried out during years 32 and 33, which will include the decommissioning of the CMRF building and the conversion of the surface water lagoon to a partitioned fishing lake and habitats pond.

6.2 On the grant of planning permission, the new development site roads, the CMRF building, amenity building, adjacent container storage pad, weighbridge, new bridge and wheel wash will be constructed. Soil stripping and the first phase of the tree felling will commence prior to Phases 1 & 2. The overburden will be stripped progressively in advance of the clay extraction operations and stored for restoration.

6.3 Mineral extraction will continue as shown in **Figure PS6**. The clay stockpile area is sufficient to store 25,000 tonnes of clay for weathering, which is equivalent to two years of exportation. This will reduce to 12,500 tonnes by the end of year 2. The new bridge and layby junction will be constructed in year 0 and will take a maximum of 6 months. Clay extraction could start before the bridge construction starts i.e., once the excavator and dumper truck have been delivered to site. All other construction work would commence after the bridge and layby junction has been completed.

6.4 Restoration will continue as shown in **Figures PS6** and **PS7** with the restoration phase always 2 phases behind the extraction phase. Due to the lower density, when measured in tonnes, the amount of compacted material required for restoration may be less than 12,500 tonnes per annum or less than 375,000 tonnes during the lifetime of the project. However, when measured in cubic metres, the amount of material required for restoration will be the same as the amount of clay extracted from the clay pit. The final restoration ground levels will be the same as the initial ground levels prior to excavation.

6.5 Advanced planting that forms part of the landscaping plan will commence in year 0 for completion by year 2. The landscaping plan is shown as **Figure PS7**.

6.6 The areas of the site subject to restoration with broad leaved tree plantation will be subject to a 10-year aftercare period from the completion of the restoration. Aftercare schemes will be submitted to the planning authority for approval pursuant to conditions of the planning permission.

6.7 There will be extensive mitigation in place to compensate for the loss of the trees needing to be removed, and the habitats affected, particularly those in area 3 shown in **Figure PS4**, through the biodiversity net gain plan and through the mitigation recommended in the Ecological Impact Assessment (EcIA) report, which are produced as appendices to the Environmental Statement and summarised in the ecology chapter in the Environmental Statement. This mitigation is possible as LCP's majority investor and his family also owns the surrounding 300 acres of

woodland, which can be utilised for a variety of mitigation purposes, not just arboricultural but also ecological. This will be covered by appropriate Section 106 agreements. The proposed mitigation and enhancement measures are shown in **Figure PS16**.

7. Planning policy context

Introduction

7.1 The objective of the planning system is to facilitate development having regard to relevant planning policies, government guidance and other material planning considerations. Appropriate development is that which is suitable for the location in which it is proposed, does not overly conflict with surrounding land uses and which does not result in lasting detriment to the environment or amenity. The contribution which a particular development will make towards the achievement of strategic national and local planning policy objectives - such as economic development, employment and sustainable use of resources - are significant material considerations that should be taken into account in determining applications.

7.2 Planning law in the UK is the subject of the Town and Country Planning Act 1990 as amended, the Planning and Compulsory Purchase Act 2004 and the Planning Act 2008 as amended by the Localism Act 2011 and associated regulations. Land use planning in the UK is a plan led system.

7.3 The planning system is hierarchical in nature and encompasses policies at national, regional and local levels. Despite *today's* minerals developments potentially being *tomorrows'* restoration project, waste planning policies used to be viewed separately from minerals, with more control exercised over the latter by central government. Much of this changed after the introduction of the Localism Act, 10 years ago, which has resulted in a greater degree of joined up thinking between the two policy areas, but it is still far too early to tell whether this new system is delivering the benefits originally forecast by central government. West Sussex County Council's 2019 review of the local waste plan missed a number of key issues and they were not picked up by the minerals and waste monitoring reports either.

7.4 A further issue is that the more common bedfellows are large sand & gravel quarries restored with waste, rather than smaller clay pits. This is just a function of how the different minerals markets work and who the operators are. However, the more modern approach to progressive restoration rather than restoration at the end of the quarry life has become more commonplace and this modern approach applies to sand, gravel and clay. In many respects, the underlying geology of a former clay pit is a better overall environmental option than a sand & gravel quarry that may have to be clay lined prior to restoration with suitably inert wastes.

7.5 Today, Government requires that the local planning policies for waste and minerals should focus on sustainability, the roles for each different level of administration – national, regional and local, development plan procedures and development control. For clay there is the need to address the continuing change to the economics and geography of the industry, such as the shifting emphasis from a restricted number of clay resources and the need for a diverse supply. Simply put, even though more and more different clays are now being blended together to produce a wider variety of brick colours and textures, continuity of local building styles and materials will ensure that individual character of settlements and 'sense of place' is maintained in local communities, but this requires continuity of local clay supplies.

7.6 Comparing the Department for Communities and Local Government's (DCLG) 2006 'Minerals Policy Statement 1' with the local mineral planning policies today, provides some indication of how this situation changed from the approach taken by

a Labour government to that taken by a Conservative led coalition government from 2010, emanating in the 2018 West Sussex Joint Mineral Local Plan (JMLP) and the subsequent 2019 National Planning Policy Framework (Ministry of Housing, Communities and Local Government). Likewise, the West Sussex Waste Local Plan was issued in April 2014 and the National Planning Policy for Waste was issued after that, in October 2014.

7.7 Back in 2006, the DCLG were careful to explain that "brick clay" is defined as "*clay, shale and mudstone used in the manufacture of structural clay ware, including bricks and associated products (such as clay roof tiles and pipes), and including minerals known and recorded in official statistics as 'common clay', 'shale' and 'fireclay'. It also applies to brickearth and to clays used for environmental and engineering purposes such as lining, daily cover and capping at landfill sites, and the lining of canals, lakes and ponds*". Prior to July 2018, the DCLG's 2006 guidance applied to local minerals planning authorities, via DCLG's 2012 National Planning Policy Framework. The more recent 2019 government guidance and the JMLP do not provide a definition for 'brick clay'.

7.8 This should be understood in context with the need to maintain at least 25 years supply of brick clay. This is a minimum requirement not a target. More than 25 years supply is required to ensure long term planning and to provide the right conditions to support new investment decisions in plant and equipment that rely on the supply of brick clay, which is a mineral resource of local and national importance.

7.9 <u>The National Planning Policy Framework 2019</u>

At a national level, the objectives of the planning acts together with government policy in respect of planning, are delivered through guidance published in the National Planning Policy Framework 2019 (NPPF) and the accompanying Planning Practice Guidance Notes (PPGNs).

The NPPF recognises that minerals are essential for supporting sustainable economic growth and our quality of life. As a result, it is important that there is a sufficient supply of minerals to provide the infrastructure, building, energy and goods that the country needs, whilst ensuring that permitted mineral operations do not have unacceptable adverse impacts on the natural and historic environment or human health.

Specifically, in **Section 2 of the NPPF titled 'Achieving Sustainable Development'** , paragraph 11 of the NPPF states that there is a presumption in favour of sustainable development :

> "*Plans and decisions should apply a presumption in favour of sustainable development… For decision taking this means approving development proposals that accord with an up-to-date development plan without delay*…"

The NPPF also recognises that (paragraph 203), "*since minerals are a finite natural resource, and can only be worked where they are found1, it is important to make best use of them and to secure their long-term conservation through the mechanism of mineral safeguarding*".

1 In this context "worked" is taken to mean 'extracted'.

Under the heading **'Building a Strong Competitive Economy' in section 6** , paragraph 80 of the NPPF guidance states that "*planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development*."

The need for economic growth has taken on more importance recently with the major downturn in the local (and UK) economies due to the Covid-19 virus, so the policy to 'support economic growth' has seldom had greater need. The proposed development aims to create approximately 12 new jobs[2] and not just create jobs displaced from elsewhere, so its economic benefit is significant, both directly and indirectly to the local and wider economy.

The proposed development is further supported in '**Supporting a prosperous rural economy**' where in paragraph 83 the NPPF states '*Planning policies and decisions should enable:*

a) *the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
b) *the development and diversification of agricultural and other land-based rural businesses*;

The existing site is currently utilised by the developer solely for commercial and recreational forestry purposes, the proposed development usefully diversifies the forestry business into another sector, and helps therefore to ensure that the commercial forestry business is kept viable, in addition to providing new sustainable growth through a new business in the rural area.

The NPPF also has the aim of **'Promoting Healthy and Safe Communities' in Section 6**, where it states that decisions should aim to "*enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling*." (Paragraph 91c) .

Further, it goes on to say in paragraph 92 that "*to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

> *a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
>
> *b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community*"

And further, "*Access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities*." (Paragraph 96)

2 An additional 6 HGV driving jobs will be created offsite

The development project will – following restoration – create a new open space, new public rights of way pathways (PROWs), and new wetland habitats to attract more diverse wildlife which, in turn, become more interesting areas for the public to visit – helping to promote exercise through walking, and thereby improving the health and wellbeing of the community. The addition of a habitats pond and a small fishing lake would provide further recreational opportunities in the locality.

The operation inevitably involves the consideration of transport, both through the incoming of waste materials and outgoing of products, in addition to the transport associated with people working on the site. In **Section 9 – 'Promoting Sustainable Transport'** paragraph 108 states that *"in assessing specific applications for development, it should be ensured that:*

> '*a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
>
> *b) safe and suitable access to the site can be achieved for all users;*
>
> *and*
>
> *c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree*."

It goes on to state in Paragraph 109 that: "*development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*'

There is no other economic means other than road transport in which to bring in CD&E wastes, and dispatch the resultant restoration materials, to and from the site. The long-distance transport of such materials is prohibitively expensive, so the aim will be to collect waste materials predominately sourced from construction and demolition and excavation projects in the local area under the 'proximity principle'.

Staff who live locally will be actively encouraged to walk or cycle to work, and car pooling will also be encouraged. A site vehicle is planned to shuttle staff between the entrance and the development site at the beginning and end of each working day, to prevent cars from traveling along the woodland access route.

In relation to highway safety, a detailed transport / traffic assessment has been undertaken showing that the development will not have an unacceptable impact on highway safety, and that the additional traffic on the Loxwood road is deemed to be not significant. The conclusions of the report are summarised below:

- The amount of traffic generated by the proposal represents around a 3% increase of traffic on the immediate highway network.
- The site access junction with Loxwood Road has the ability to cater for the turning requirements of the likely vehicles that will be operating.
- Adequate visibility can be provided in accordance with the requirements of Manual for Streets 2.
- The surrounding highway network both east and west of the site is suitable in width to accommodate the traffic likely to be generated, whilst the

junctions at the A281 Guildford Road and B2133 The High Street both have adequate junction geometry.

- The highway implications of the proposal are therefore considered not to cause any demonstrable harm to highway safety.

There is a section of the NPPF – **Section 11**- dedicated to the subject of '**Making Effective Use of Land'**, where in paragraph 118b it is stated that "*Planning policies and decisions should encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside"*.

During the operational phase of the development, a biodiversity plan will be put in place to ensure the development leads to net environmental gains. This is possible because the surrounding 300 acres of woodland are owned by the Danhash family in common control with LCP. Plans to create more woodland and open space habitats are documented in the BNG which can be found in the environmental statement.

The restoration plans for the site following the operational phase are well suited to this aim. The restored site will provide new habitat creation through the development of a new fishing lake, with an associated habitats pond and wetland areas, further enhancing biodiversity; and through improving public access to the woodland and the new wetland areas to be created via a new PROW footpath to access the new facilities at the end of the project.

In all planning applications it is important to address how the development will **'Meet the Challenge of Climate Change, Flooding and Coastal Change' – as outlined in Section 14** of the NPPF. Planning authorities are urged in paragraph 148 to

> "*encourage the reuse of existing resources"* in order to support the transition to a lower carbon future.

The CMRF development helps greatly in this regard by taking in waste construction materials and recycling them back into 'new' construction materials, re-using these existing resources in a 'circular economy' approach, thereby reducing the need for virgin materials. Resources such as aggregates, bricks and metals will all be returned back into the chain of utility.

As part of climate change preparations, it is also important to address how the development will meet the challenge of potential flooding – Paragraph 163 in Section 14 of the NPPF states: "*When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

a) *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*

b) *the development is appropriately flood resistant and resilient;*

c) *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*

d) *any residual risk can be safely managed; and*

e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan*."

An assessment of flood risk has been undertaken by Caulmert on the application site, and it concludes that the development site is not in an area at risk of flooding due to its location in the landscape, being classified as 'Less Vulnerable' according to NPPF (Table 2: Flood risk vulnerability classification). The full report assesses the flood risk to the application site and the surrounding area and, further, any potential change that using inert materials to restore the site might have on this assessment overall. The report considered existing drainage, groundwater, overland flow and surface runoff. None of these were considered to pose a significant flood risk to the proposed development, or to increase the risk of flooding elsewhere.

The site plan incorporates a settlement pond to capture and store site rainwater before discharging it under Sustainable Drainage System (SuDS) principles into the local waterway network. This discharge will be under the control of a water discharge permit issued by the Environment Agency.

The report also states that the proposed development remains low risk against future flooding when taking account of climate change. The Flood Risk Assessment is contained within the Hydro-Geological Assessment in the environmental statement.

In Section 15 – 'Conserving and enhancing the natural environment' , Paragraph 175 of the NPPF gives guidance in relation to nature conservation and biodiversity "*When determining planning applications, local planning authorities should apply the following principles:*

a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*

b) *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*

c) *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*

d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity*.'

The application is supported by an Ecological Impact Assessment which is detailed elsewhere in the Environmental Statement. The ecological report shows that there will be no significant harm to biodiversity, whilst proposing several mitigation measures that will be put in place to ensure that this is the case. The project has also developed a biodiversity gain plan which will run concurrently with the development operation, delivering overall improvements to biodiversity in the area owned by the landowner. The site itself is not covered by any international, national or local designations, and the nearest SSSIs are some way distant.

Although parts of the site are flanked by ancient woodland, as designated by Natural England, no designated ancient woodland exists on the development site itself, and measures will be in place (such as root buffering zones) to ensure that these woodland assets around the site are not damaged. In addition, although the roadway runs through one section of ancient woodland at Pephurst Wood before then running through Hursts Wood and Caddicks Copse – it is important to note that the project is utilising an existing wide gravelled roadway currently used for timber removal through these sections of woodland. This roadway has been in use for many years (IRO 100 years) and served as the road through the entire Pallinghurst Estate, so no further ancient woodland is set to be removed, and direct impacts to these areas are therefore limited.

The restoration project will – as required in paragraph 175c – provide an opportunity to further incorporate biodiversity improvement and will result in further net gains for biodiversity through the creation of the wetland habitat.

The Ecological Impact Assessment concludes that by implementing appropriate ecological mitigation, enhancement and safeguarding strategies, the development of the application site will not result in any significant change to the integrity of any habitat. See the Environmental Statement for more details.

Paragraph 178 of the NPPF sets out guidance on the ground conditions and pollution of a development site and the surrounding area. It states that: "*Planning policies and decisions should ensure that:*

a) *a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*

b) *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*

c) *adequate site investigation information, prepared by a competent person, is available to inform these assessments*.'

The site itself has no previous development and no previous planning history, so poses no risk to development. A desk study site investigation was carried out by Geotechnical Engineering Ltd in 2017 in order to give the developer (and other third party organisations carrying out more detailed work) background information on site conditions and the likely issues to be found. Their report noted that there were no historical underground workings recorded within 1km of the site. The report went on to say that '*the site is located in an area that is not considered to be affected by coal mining, assessed on a 1km buffer zone from the site boundary. A "rare" possibility of non-coal mining activities is recorded on-site in relation to*

iron ore, although there is no data pertaining to the presence of non-coal mining cavities beneath the site; the local geology is not particularly favourable for such mining and the risk of this being present on site is therefore considered to be remote. Brine or gypsum extraction is not recorded within 1km of the site. With regards to natural subsidence on site, a negligible hazard risk relates to ground dissolution of soluble rocks, a very low hazard risk relates to landslides and collapsible deposits, a low risk relates to shrink-swell clays and running sands, and a moderate risk relates to compressible deposits. The hazard risks for running sands and compressible deposits both correspond to the tract of Alluvium in the western plot and are not characteristic of the site as a whole, otherwise being of a negligible hazard risk in both cases'. It is considered therefore that the site is not at risk from inherent land instability issues due to these causes.

A more recent Hydro-Geological Assessment has been prepared by Caulmert as part of the EIA and its findings are included within that report and summarised in the Environmental Statement. The assessment considered all water related impacts of the proposed scheme including:

- water quality impacts associated with importation of inert restoration materials to enable the proposed restoration, as well as any additional quality impacts due to site operation;

- additional flood risk and drainage impacts following restoration to the proposed restoration plan.

The assessment concludes that no significant effects on groundwater and surface water are expected. Potential water quality impacts will be addressed by standard conditions applied to the development site through the environmental water discharge permit. Water quality effects due to inert filling are expected to be insignificant and this will also be controlled as part of the site environmental permit.

The restoration of the claypit voids utilising suitably inert materials from the CMRF will be under the control of a permit from the Environment Agency. No potentially polluting infill materials will be allowed to be utilised for restoration purposes, as materials destined for this purpose will be laboratory tested and cleared as suitable before use under the terms of the permit.

In terms of slope stability during both extraction and restoration the Operator will follow all best practice and adhere to the relevant standards in the Health & Safety Quarries Regulations 1999.

Paragraphs 180 and 181 of the NPPF give guidance on planning application decisions in relation to noise, air quality and light. The document states that: "*Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

a. *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*

b. *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*

c. *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.*" (Paragraph 180)

And that:

> "*Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas*." in paragraph 181.

In relation to noise, as part of the ES a full noise study has been carried out, the summarised conclusions of which are:

- *Based on assumptions outlined in this assessment, which have been informed by details provided by Protreat and err on the side of worst case, the predicted levels at the noise sensitive receptors are equal to or below the lowest applicable criteria.*
- *For the CMRF operation the predicted noise rating levels at the sensitive receptors are equal to or below the lowest applicable criteria at all but one property. At Longhurst, the predicted rating level exceeds the target criteria by 1 dB but is still below the limit at which any significant impact might occur.*
- ***Accordingly, the noise emissions from the operation of the site are considered to be national and local policy compliant***. [Emphasis added].

In relation to air quality, the development site is not near any existing Air Quality Management (AQM) Zone.

There is the potential for dust generation inside the CMRF building, but the dust generated by these indoor recycling activities will be mitigated appropriately using a mist air system to ensure dust does not pose a threat to the environment or the workers within the building. The mist air system will also be used during the restoration of the clay pit void. Further details are set out in the Dust Management Plan in the environmental statement.

The proposals will introduce artificial lighting to the site in winter months for the purposes of site safety. All lighting will be designed to be inward and downward facing, and operated only within the hours of operation, early mornings and evenings. The lighting in the clay-pit (if used) will be set as low in the excavation as is safely possible in order to further minimise the potential of light pollution, however the claypit operation is planned to operate normally during daylight hours, so lighting should not be required the vast majority of the time. Similarly the lighting on the exterior of the building will be placed on the east and south facing sides so as to minimise light pollution off site – away from the direction of the potentially sensitive receptors. The roadway to the development site will itself remain unlit as is the current situation.

The NPPF (in paragraph 183) provides advice as to the jurisdiction of the regulatory regimes and what should – and should not - be considered as part of planning proposals. This is relevant to this planning application since a permit is also required from the Environment Agency for the CMRF operation and the restoration stages of the project when the permit is surrendered. The guidance states that : "*The focus of planning policies and decisions should be on whether proposed*

development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities".

It is expected therefore that this guidance will be followed rigorously by WSCC, and that the focus of the authority in evaluating the planning proposal will be on the acceptable use of the land, rather than on factors that will be controlled through the environmental permit, such as noise and air quality impacts.

In **Section 16 'Conserving and Enhancing the Historic Environment'** , there is guidance on conserving and protecting the natural environment, where – in paragraph 189 – it states "*in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance*"

And in paragraph 192 :

"*in determining applications, local planning authorities should take account of:*

a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) *the desirability of new development making a positive contribution to local character and distinctiveness*."

The Archaeological Report and the Landscape and Visual Assessment (LVIA) reports appended in the environmental statement identify that there are no significant heritage assets on site, either in terms of listed building, Scheduled Ancient Monuments, registered parks and gardens or conservation areas, but that there are a number of heritage assets – mainly listed buildings which are within 2km of the site, mainly on the west side in the parish of Loxwood, the nearest (Yew Tree and Elm Cottages) being some 1.1Km distant, but additionally to the south where Pephurst Farm (Grade 2 listed) lies approximately 162m from the proposed site entrance at Pephurst Wood. None of these properties has a direct view of the site and all are shielded from the operations due to the topography. Pephurst Farm may have partial glimpses of the site exit road where it joins the main Loxwood Road.

The LVIA assessed the landscape character and visual impact of the proposed operation and restoration scheme in relation to these properties. The noise assessment also considers the impacts on these heritage assets and whether they will be adversely affected by noise. The site is well protected with existing dense surroundings of mature trees which serve to visually screen the activity within the site, and which will shield these listed buildings from the mineral workings and fill operations, and any associated impacts of noise, dust and light which may impact on their setting. This mature woodland will be retained throughout operations and will be enhanced as part of the mitigation and restoration schemes. Therefore, whilst there are a number of listed buildings within a few km of the site, it can be concluded that this proposed development will cause negligible harm to these

buildings and their settings, and any features of special architectural or historic interest which they possess. Similarly, in relation to the two conservation areas in the vicinity at Erbanhoe Common and the Mens, the site will not present any change.

The application site is located within an area that is not subject to any national landscape designation, and no Sites of Special Scientific Interest (SSSIs) are located within a 2 km radius of the survey area. The desk study exercise for the ecological survey identified no European statutory sites within 5 km of the survey area, no UK statutory sites within 2 km and no non-statutory sites within 1 km.

The closest Ancient Scheduled Monuments are also recorded in the LVIA to be quite distant from the site, as are the South Downs National Park and the Surrey Hills AONB. The nature of the proposed development and the topography and vegetative buffer, means that there will be no adverse impacts on any of these assets.

Perhaps the most relevant section of the NPPF in relation to this project is **Section 17 – 'Facilitating the Sustainable Use of Minerals**', where paragraph 205 of the NPPF regarding the determination of minerals planning applications states that:

> "*great weight should be given to the benefits of mineral extraction including to the economy*".

7.10 Benefits to the Local Economy:

The 'Loxwood Neighbourhood Plan for 2013-2029' identifies that the parish of Loxwood is predominantly rural and has no large or medium scale industry other than farming. According to the Office of National Statistics (ONS) Census 2011 figures, 1,308 people are between the ages of 16 and 74 (72%) and 917 (70%) of these are economically active. Those noted as being in employment at that time numbered 885 (68%). The remainder were not necessarily "out of work" as this group also includes those who are retired, or people who are home based.

Although classified by the CDC Local Plan as a "Service Village", the vast majority of economically active adults work away from the village. "Service Villages" are defined as villages that either provide a reasonable range of basic facilities (e.g. primary school, convenience store and post office) to meet the everyday needs of local residents, or villages that provide fewer of these facilities but that have reasonable access to them in nearby settlements. The few businesses that exist within the Parish are retail outlets or service based businesses e.g.- Village convenience store; post office; butchers; public houses and so on. Many smaller businesses are home based such as:- Physiotherapists; landscaping; general building/ handyman trades; painting/decorating and cleaning.

There are two businesses within the manufacturing sector and these are:- Skandia Hus Timber Structure manufacturer and Indigo Cabinet Design. These two manufacturing businesses are however also described as relatively small. The result of this level of economic activity is that the majority of working people in the parish must travel outside the area to work. The Community Led Plan survey conducted in September 2012 indicated of those surveyed and in employment, only 14 % worked in Loxwood.

The reason this is important, is that the new development will provide much needed local employment, with c. 12 jobs being created, bringing money into the local economy and removing the requirement for those who work at the site to have to drive outside the parish to find work. It is a well recognised fact that the creation

of jobs in the local economy inevitably leads to further economic advantage, due to the requirement for local supplies and services for the new development, further enhancing the economic benefits to the parish.

The development therefore serves the purpose of being a much needed economic boost to the parish, in addition to helping with the fight against climate change by helping to reduce the need for road transport and commuting. This point on reduction in transport miles also applies to the collection of local construction wastes, as any building wastes currently generated have to be transported outside the area for recycling.

Further guidance on facilitating the sustainable use of minerals is included in this section where is stated in 203 that:

> "*It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation"*

Weald Clay is a well known brick making resource which underlies the proposed clay extraction. Whilst it is not planned to establish a large excavation, the planned 6 hectare site will nonetheless provide a significant volume of much needed clay for brickworks (and other engineering uses) off site over the period of the next 30 years. This is seen as helping WSCC to demonstrate that it is complying with its duties in relation to supplying mineral resources both for the county and wider uses.

7.11 National Planning Policy for Waste

The National Planning Policy for Waste (NPPW) document was adopted in October 2014 and replaces Planning Policy Statement 10: Planning for Sustainable Waste Management. The document follows the Waste Management Plan for England and sets out detailed waste planning policies and how these should be rolled out into local waste plans. All local planning authorities should therefore have regard to its policies when discharging their responsibilities to the extent that they are appropriate to waste management. In West Sussex, this will be reflected in the West Sussex Local Waste Plan, which is considered later in this section.

The proposed development accords with many of the requirements of the NPPW policy document, some of which are outlined below.

In section 3 it is stated that authorities should look to "*drive waste management up the waste hierarchy, recognising the need for a mix of types and scale of facilities*". It is also stated in section 4 that authorities should "*consider a broad range of locations…… looking for opportunities to co-locate waste management facilities* ***together and with complementary activities***". [Emphasis added]

Whilst the CMRF facility is not looking to source wastes from a wide area, its small scale will still provide a much needed and beneficial local resource for waste treatment. As the proposed development seeks to recover reusable materials from construction wastes, whilst utilising the un-recyclable materials directly on site for restoration through the co-located CMRF, it would manifestly seem to satisfy both the aim of driving waste up the hierarchy and the requirement for co-location with a complementary activity.

Appendix A of the Policy for Waste document identifies the Waste Hierarchy. This lists in priority order, the treatments for waste as: Prevention; Preparing for re-use; Recycling; Other Recovery; and finally Disposal. 'Recycling' is defined as materials which can be reprocessed back into products, materials or substances. 'Other Recovery' is defined as 'waste which serves a useful purpose by replacing other materials that would otherwise have been used'. 'Prevention and Re-use' are above the line in the inverted waste hierarchy pyramid, i.e. they apply to materials that have not yet been discarded and have therefore not become waste. Therefore, recycling / recovery is the highest point achievable once materials have become waste.

The development seeks to satisfy both the 'recycling' and 'other recovery' objectives through the recycling of waste construction materials and the utilisation of the unrecyclable product as fill for the clay pit void space - which would otherwise have to be back filled with other imported materials.

7.12 National Planning Practice Guidance

The National Planning Practice Guidance was launched in March 2014 and replaced an array of guidance documents, including the Technical Guidance to the National Planning Policy Framework.

The Practice Guidance notes that planning for the supply of minerals has a number of special characteristics that are not present in other development, including that:

- minerals can only be worked (i.e. extracted) where they naturally occur, so location options for the economically viable and environmentally acceptable extraction of minerals may be limited;
- working is a temporary use of land, although it often takes place over a long period of time;
- working may have adverse and positive environmental effects, but some adverse effects can be effectively mitigated.

The guidance states that the suitability of each proposed site, whether an extension to an existing site or a new site, must be considered on its individual merits, taking into account issues such as:

- Need for the specific mineral;
- Economic considerations (such as being able to continue to extract the resource, retaining jobs, being able to utilise existing plant and other infrastructure);
- Positive and negative environmental impacts; and
- The cumulative impact of proposals in an area.

The issues of the economic viability of the project, its location, and the physical need for the clay to be extracted as a result of this development are of course of vital importance. Other minerals such as sand & gravel travel quite some distance from their places of origin to the sites where they are to be used, so in this respect clay should be considered no differently. Whilst there are no plans to have a brickworks next to the clay-pit, if the clay is required elsewhere in the county then this should be no barrier to development, as it would similarly be no barrier to a sand-pit development. Furthermore, subject to this development being permitted,

LCP intends to build a small brickworks to produce handmade bricks elsewhere in the county.

As an example of the potential need for the clay, the Ibstock brick works at West Hoathly will run out of clay in 7 years time, and will either have to apply for a further extension in an AONB, transport the clay from their Bexhill quarry some 36 miles distant, or perhaps even close the brickworks. WSCC has a duty to protect the AONB, but they also have a duty to maintain a minimum of a 25 year 'stock' of minerals. The Planning Inspector's comments on this issue are in the section in relation to Policy M5 of the JMLP below.

This potential need is of course just an example, there are several brickworks in the county and the developer is actively engaged with several potential users of the Loxwood clay in order to secure a market for the material prior to commencement of mineral extraction. In addition, clay provides an excellent resource to be used in flood defence schemes.

7.13 Regional Plans

National policies are dutifully reflected in the associated regional policies of West Sussex, and these are commented upon in more detail below. There are several applicable local plans, both county and district, which cover the proposed activities of this development. These are:

- The West Sussex Joint Minerals Local Plan (JMLP – July 2018)
- The West Sussex Waste Local Plan (WLP – April 2014)
- Chichester Local Plan (2014-2029)
- Loxwood Parish Neighbourhood Plan (2017)

Each of these is considered in more detail in the next sections.

7.14 The West Sussex Joint Minerals Local Plan (JMLP)

West Sussex County Council and the South Downs National Park Authority (SDNPA) worked in partnership on the preparation of the West Sussex Joint Minerals Local Plan. The Plan covers the period to 2033 and is the most up-to-date statement of the Authorities' land-use planning policy for minerals. In broad terms, with regard to provision of minerals, the strategy is to "*achieve a steady and adequate supply by safeguarding existing minerals reserves and minerals resources, and allocating additional areas where minerals can be worked to meet a specific demand*". Further, over the plan period, the Authorities must ensure that a steady and adequate supply of minerals is achieved in order to meet market demand.

There are several different sections of the JMLP which apply to the development proposal, with policy M5 being the most relevant policy;

Policy M5: Clay

(a) Proposals will be permitted for the extraction of brick clay provided that:

(i) they would help maintain a stock of permitted reserves of at least 25 years of permitted clay reserves for individual brickworks; and

(ii) the clay required for appropriate blending for manufacture of bricks is no longer available adjacent to the brick making factory.

(b) Proposals for the extraction of clay, for uses other than brick making, will be permitted provided that:

(i) there is a need for the clay for engineering purposes; and

(ii) the clay cannot be used for brick-making; or

(iii) the resource is within an existing sand and gravel quarry and the extraction of clay would be ancillary to the extraction of sand and gravel.

(c) Proposals that accord with Part (a) or (b) will be permitted provided that:

(i) They are located outside the High Weald AONB/South Downs National Park unless there are exceptional circumstances and that it is in the public interest, in accordance with Policy M13, to locate within those areas;

(ii) they are extensions of time and and/or physical extensions to existing clay pits or, where this is not possible, they should be sited as close as possible to the site where the clay will be used;

(iii) where transportation by rail or water is not practicable or viable, the proposal is well related to the Lorry Route Network

Assessment

Policy M5 forms part of Section 6.5 of the JMLP, which acknowledges that National Policy requires Mineral Planning Authorities to provide for a 25-year stock of '*permitted reserves for the maintenance, and improvement of existing plant, as well as for new plant, and in the case of bricks, new kilns*'. WSCC are required to take account of the need for provision of brick clay from a number of different sources, to enable appropriate blends to be made. The JMLP identifies three active brickworks which have in excess of 25 years of clay reserves. In the case of the remaining two brickworks, one has 24 years and the brickworks at West Hoathly has less than 10 years reserves (2016 data). There is further acknowledgment that West Hoathly is supplied by clay from an adjacent quarry that has a consent until 2028.

To safeguard brick making, the strategy accepts the principle of '*new sites, if existing supplies are exhausted or if a particular source of clay is required to enable appropriate blends to be made*'.

Moreover, the establishment of a clay pit with 30 years of clay reserves, would replace the loss of the 30-year clay reserve (from 2012 until 2042) at the former Rudgwick clay pit and brickworks close to LCPs site. This former clay pit and brickworks was designated as a safeguarded site in the 2003 West Sussex Minerals Local Plan and in minerals planning policy terms, should not have been granted planning permission for restoration of that clay pit 30 years earlier than originally intended.

R Harrison & Sons Limited acquired the freehold of the former Rudgwick Brickworks from Wienerberger Brick in 2012. Wienerberger had acquired Rudgwick in 2006 following the acquisition of Baggeridge Brick plc and the closure of the site resulted in the loss of some 51 jobs.

Wealden Clay had been previously extracted from the Quarry and formed into stockpiles for use in the adjacent brickworks premises. In addition, materials were imported to the site to assist in the clay products manufacture including coke breeze and sand. The Harrison family decided to acquire the former Brickworks consisting of buildings and land to continue the expansion of their dairy farming business. West Sussex County Council granted planning permission to R Harrison & Sons Ltd in 2015, which enabled them to restore the 8.8 hectare former clay pit site with 590,000 tonnes of imported inert wastes over a very short 4 to 5 year period (80 HGV movements a day 6 days a week).

LCP's proposed development would replace the clay reserve that was lost to the county when the safeguarded Rudgwick site closed 30 years earlier than it should.

WSCC also recognises that '*the extraction of clay for other uses such as engineering purposes (e.g. flood defence or landfill engineering), will be permitted provided it does not reduce the level of brick making clay reserves at individual brickworks which are safeguarded under policy M9*'.

The Planning Inspectorate produced a report on his examination of the JMLP and paragraphs 66 to 70 of that report are relevant. The Inspector weighed up the pros and cons of agreeing to the principle to extend West Hoathly planning permission for approximately 3 years. There is a presumption against permission because of the brickworks location in an AONB, but this had to be balanced against the loss of 40 jobs if the brickworks closed or the only other alternative to transport clay from Ibstock's nearest other claypit in Bexhill, East Sussex. The Inspector was persuaded by the fact that there were no other 'claypit proposals' on the table. He concluded that 'out of county' clay from Bexhill was by no means certain and even if it was a possibility, the road transportation over 60 miles through the AONB was less palatable than extending West Hoathly's permission by 3 years.

As noted in the various relevant sections of this report, the subject of this proposed development is not in an AONB, a fact which may have been potentially material to that original decision. Permitting the development at Loxwood could help to extend the lifespan of the two brick works that have less than 25 years life remaining.

In addition to the specific policy on clay, there are several other – more general – policies which apply to this development.

Policy M8

M8 states ' *Proposals for primary and/or secondary mineral processing will be permitted provided that:*

(a) the proposed operations:

(i) are linked to the operations on the site;

(ii) will remain ancillary to the principal development at the site;

(iii) are of a duration that is tied to that of any primary extraction operation

Primary processing is described as '*processing includes washing, crushing and screening at both mineral extraction quarries and at rail depots and wharves where material is delivered'*.

Assessment

Whilst the primary resource on site is the clay, almost inevitably when extracting the clay other types of mineral resources will be present. It is likely that such resources as siltstone and mudstones are interwoven with the clay, and these will need to be appropriately separated and processed for mineral applications off-site. As per policy M8, these minerals will only be recovered during the active excavation of the majority clay resources, and their recovery will not be a primary operation – representing only a fraction of the volume of the clay present. In addition, as they are an incidental resource to the clay, when the clay recovery operations cease, so too will the recovery and processing of these secondary minerals.

Processing of the secondary minerals will include sorting, crushing and potentially washing in order to produce secondary aggregates suitable for applications off-site. These operations will take place inside the CMRF building.

Policy M9: Safeguarding Minerals

(a) Existing minerals extraction sites will be safeguarded against non-mineral development that prejudices their ability to supply minerals in the manner associated with the permitted activities.

(b) Soft sand (including potential silica sand), sharp sand and gravel, brick-making clay, building stone resources and chalk reserves are safeguarded against sterilisation. Proposals for non-mineral development within the Minerals Safeguarded Areas (as shown on maps in Appendix E) will not be permitted unless:

(i) Mineral sterilisation will not occur; or

(ii) it is appropriate and practicable to extract the mineral prior to the development taking place, having regards to the other policies in this Plan; or

(iii) the overriding need for the development outweighs the safeguarding of the mineral and it has been demonstrated that prior extraction is not practicable or environmentally feasible.

Assessment

The Development site is identified in the maps shown in Appendix E of the JMLP as part of the Weald Clay reserve and, therefore, in a Mineral Safeguarded Area, because it is outside of an urban area. Mineral sterilisation on the site will not occur as a result of its co-location with the CMRF as both are integrally commercially linked, with the CMRF providing valuable materials for the continual restoration of the site in accordance with the site restoration plan, and of WSCC vision set out in section 2.2 of the JMLP :

"*West Sussex will be a place where mineral sites are restored to the highest standards, leading to larger, better managed and connected green infrastructure and areas of habitat including lowland heath, woodland and wetland habitats and conserved and enhanced populations of priority*

species. Restored sites will increase opportunities for recreation and responsible tourism and for habitat creation"

As discussed earlier, the restoration phase will significantly enhance biodiversity following the closure of the claypit. Plans for wetlands and a small fishing lake, in addition to associated planting of wetland plant species will provide increased habitat diversity in the area, as will the habitat creation through the planned BNG programme. The plan to open these new amenities to local public use following restoration, with the introduction of new PROWs, significantly increases the opportunities for recreation.

Policy M12: Character

Proposals for mineral development will be permitted provided that:

(a) they would not have an unacceptable impact on the character, distinctiveness, sense of place of the different areas of the County, the special qualities of the South Downs National Park, and the setting and character of the Chichester Harbour and High Weald Areas of Outstanding Natural Beauty and the setting of protected landscapes;

(b) they would not have an unacceptable impact on the separate identity of settlements and distinctive character of towns and villages (including specific areas or neighbourhoods) and development would not lead to their actual or perceived coalescence; and

(c) they reflect and, where possible, reinforce the distinctive attributes of the main character areas (including the retention of important features or characteristics).

Assessment

As noted in the LVIA, the site location has no impact whatsoever on the South Downs National Park or the High Weald AONB, being quite distant from all such designated sites. In addition, the site is not in close location to, or visible from, any town or settlement. The shielded location within almost completely surrounding woodland means that, with regard to the requirement to reflect attributes of the main character areas, the site will have little impact on the surrounding countryside, and it is of course located in a region already historically well used for clay extraction.

The LVIA reflects that the sites potential for use as a clay-pit is well in keeping with the surrounding historical landscape, where such sites have been common place for many years.

Policy M14: Historic Environment

Proposals for minerals development will be permitted provided that:

a. heritage assets, and their settings, are conserved and, where possible, enhanced, in a manner appropriate to their significance, unless there are no alternative solutions and there are overriding reasons which outweigh the need to safeguard the value of the heritage assets;

b. where appropriate, the further investigation and recording of any heritage assets to be lost (in whole or in part) is undertaken and the results made publicly available.

Assessment

As noted in the LVIA, whilst there are no listed buildings immediately adjacent to the site, there are many listed properties – mainly in Loxwood – within 1 to 2km of the site. The closest include the Grade II listed buildings of The Sir Roger Tichborne Inn; Four Houses; Chestnut Mead; Yew Tree Cottage; Elm Cottage; Pound Cottage; Little Pound Farmhouse; Pancake Cottage; Hillgrove and Pephurst Farmhouse. The listed building of Crabtree corner is located on Loxwood Road but is not close to the development.

Due to the topography of the landscape and the separation distances, there are no potential visual effects of the development upon any of these properties, other than Pephurst Farm which has potential partial glimpses of the exit onto Loxwood Road, and Crabtree Corner which is on Loxwood Road itself. Site traffic would not pass Pephurst Farm if a routing agreement determines that access would always be from the east, and the low number of vehicles involved has deemed the impact at Crabtree Corner to be minimal. It is not considered therefore that the development unduly affects these heritage assets.

In relation to the potential for archaeological assets off-site to be affected, a detailed archaeological study has been carried out which concluded that "*The impact on all of the Listed buildings is considered to be less than significant*" in relation to traffic movements. This report also notes that "*Given the available evidence there is a low probability for archaeology of all periods except the Post medieval period to be present on Site*" in relation to the development site. Some features of local interest were however recorded and these are detailed in the Archaeology report. It is therefore planned to carry out a "Written Scheme of Investigation (WSI)" for any potentially locally interesting archaeological assets, such as an earthwork survey of the woodland banks to the north and east of the extraction area. This will in essence create a 'preservation by record' of the assets in advance of operations.

Policy M15: Air and Soil

Proposals for mineral development will be permitted provided that:

> *(a) there are no unacceptable impacts on the intrinsic quality of, and where appropriate the quantity of, air and soil;*
>
> *(b) there are no unacceptable impacts on the management and protection of such resources, including any unacceptable impacts on Air Quality Management Areas; and*
>
> *(c) they are not located in areas subject to land instability, unless problems can be satisfactorily resolved, or are undertaken in a manner which could give rise to instability in future.*

Assessment

The impacts on air and soil are dealt with in more detail in the Environmental Statement, and will be subject to the controls of an environmental permit, but in summary the impacts are thought to be minor in nature.

The development does not impact upon any AQM zones.

The site sub-soils (clay) will be subject to replacement with suitably inert materials from the CMRF, enhanced where necessary with the retained stripped topsoil and

other sub-soils in order to restore the land to at or near original levels. Impacts to air from the limited machinery on site, and the impacts of dust will be controlled through the environmental permit – these controls are outlined in the accompanying Environmental Statement. The site is not in an area subject to instability, and restoration works will ensure that such conditions do not arise following site closure and remediation.

Policy M16: Water Resources

Proposals for mineral development will be permitted provided that they would:

> *(a) not cause unacceptable risk to the quality and quantity of water resources*
>
> *(b) not cause changes to groundwater and surface water levels which would result in unacceptable impacts on:*
>
> > *(i) adjoining land;*
> >
> > *(ii) the quality of groundwater resources or potential groundwater resources; and*
> >
> > *(iii) the potential yield of groundwater resources, river flows or natural habitats such as wetlands or heaths; and*
>
> *(c) protect and where possible enhance, the quality of rivers and other watercourses and water bodies (including within built-up areas*).

Assessment

The impacts on hydrology and hydrogeology are dealt with more fully in the Environmental Statement where there is an analysis and flood risk assessment which demonstrate the absence of impacts to surface and groundwater from the proposed operations either on, or off site. The hydrogeological assessment demonstrates the very limited effects of the proposed development on the water environment and notes how these may be mitigated to an acceptable level. The report notes that there is no groundwater on site, and the discharge regime will follow SuDS principles to ensure that there are no effects on surface water levels either on or off site.

The capture of site water and its discharge to the local water systems through SUDS principles, will be within the control of the site environmental discharge permit.

Policy M17: Biodiversity and Geodiversity

Proposals for minerals development will be permitted provided that:

> *(a) There is no significant harm to wildlife species and habitats, or significant harm is effectively mitigated where it cannot be avoided, or (as a last resort) there is suitable compensation where there is still significant residual harm;*
>
> *(b) there are no unacceptable impacts on areas or sites of national biodiversity or geological conservation importance unless the benefits of the development clearly outweigh both the impact on the features of interest, and on the wider network of such designated areas or sites;*

(c) there are no unacceptable impacts on areas, sites or features of regional or local biodiversity or geological conservation importance unless the benefits of the development clearly outweigh both the impact on the features of interest and on the wider network of such designated areas or sites;

(d) there is no loss or deterioration of irreplaceable habitats, including Ancient Woodland and aged or veteran trees, unless the benefits of the development clearly outweigh the loss;

(e) where possible, there are net gains in biodiversity, including, the creation, enhancement, and management of habitats, ecological networks, geodiversity and ecosystem services shall be secured consistent with wider environmental objectives, including Biodiversity Opportunity Areas and the South Downs Way Ahead Nature Improvement Area; and

(f) where necessary, the investigation, evaluation, and recording of important sites, areas, and features is undertaken and, where appropriate, representative examples are preserved.

Assessment

The purpose of this policy is to protect and enhance the natural environment and resources of West Sussex. Minerals development can have adverse impacts on sites of international, national, regional and local importance and have the potential to affect biodiversity and/or geodiversity. This aspect is therefore covered in greater detail in the Environmental Statement and the Ecological Impact Assessment. In summary, investigations have concluded that there is no significant impact from the development on any nearby SSSI's or RAMSAR sites, and no impact on any other nationally or regionally designated area. There are of course some local impacts, as would be expected when developing an area of woodland, such as the loss of habitat for reptile and invertebrate species, but these are all subject to appropriate mitigation and part of a Biodiversity Net Gain plan for the site and its environs. The details of these can be found in the Environmental Statement.

It should be noted that, if no development took place on the site at all, and nature was allowed to take its course, the habitats most at risk i.e. the scrubland areas, would in any case be lost, as recently planted trees grew and the scrubland habitat lost. The development process has already therefore proven to be beneficial, in discovering these ecological assets and protecting them, through the BNG and mitigation schemes to be undertaken, helping to conserve these species and protect the biodiversity present.

There will be no loss of designated ancient woodland, though several mature trees will necessarily be lost as the site is cleared for development. There is more information on this, including the mitigation to be undertaken, in the accompanying environmental statement. The ecological studies have not found any habitats of national biodiversity importance, though there are some impacts on species of potentially local and county importance – mitigation for these impacts is again detailed in the Environmental Statement.

The aim of the restoration project will be to further enhance the biodiversity of the area, through the installation of aquatic and wetland environments, and the replanting and reforestation of the remaining areas of the site. Taken in context with the BNG programme and the proposed mitigation strategy, the development

as a whole will therefore entail a net positive effect on the local environment over the entire project life.

Policy M18: Public Health and Amenity

Proposals for mineral development will be permitted provided that:

> *(a) lighting, noise, dust, odours, vibration and other emissions, including those arising from traffic, are controlled to the extent that there will not be an unacceptable impact on public health and amenity, and;*
>
> *(b) the routes and amenity of public rights of way are safeguarded, or where temporary or permanent re-routeing can be justified, replacement routes of comparable or enhanced amenity value are provided*.

Assessment

These aspects are dealt with in some detail in the accompanying Environmental Statement but, in summary, there should not be any emissions from site which cannot be managed or mitigated to acceptable levels, through the controls of the environmental permit where such controls are required.

The impacts of noise (and vibration), lighting and dust have already been discussed above, but in summary they are not thought to be significant, and can be mitigated to a satisfactory degree, so as not to cause nuisance. The traffic report similarly notes that the vehicular impact of the proposals is not significant.

In relation to public rights of way (PROW) several changes are planned, mainly for safety. For site security and hence safety to PROW users it will be prudent to suspend use of footpath 792_1 from its junction with footpath 797 up to its junction with bridleway 801. This closure does not overly affect walkers in the area as access is still easily available via the remaining section of footpath 792_1 and the Sussex Border Path. The 100m stretch of Footpath 795 that runs parallel to the private right of way west of bridleway 3240 should be separated by a fence to ensure the safety of the footpath users. The safety of the public will be ensured through fencing and/or the provision of designated walkways to separate people and traffic.

Policy M19: Flood Risk Management

> *(a) Proposals for mineral development will be permitted provided that:*
>
> > *(i) mitigation measures are provided to an appropriate standard so that there would not be an increased risk of flooding on the site or elsewhere for the life of the development including any restoration and aftercare;*
> >
> > *(ii) they are compatible with Shoreline Management Plans and/or Catchment Flood Management Plans and the integrity of functional floodplains is maintained;*
> >
> > *(iii) appropriate measures are used to manage surface water run-off including, where appropriate, the use of sustainable drainage systems (SUDS);*
> >
> > *(iv) they would not have an unacceptable impact on the integrity of sea, tidal, or fluvial flood defences, or impede access for future maintenance and improvements of such defences.*

(b) Proposals for minerals development in 'areas at risk of flooding', taking account of climate change, will not be permitted unless they pass the Sequential Test and, where applicable, the Exception Test set out in national policy.

Assessment

This aspect is covered in detail in the appended Environmental Statement, which shows that the site is in the low risk category for flooding, even allowing for potential climate change effects, and all potential impacts in relation to this policy are therefore able to be mitigated.

The site will not increase the risk of flooding elsewhere, and will incorporate a settling pond for collection of rainwater, which will discharge to local watercourses under SUDS principles and under the control of an environmental permit issued by the EA, ensuring that the local flood management plans are not compromised.

Policy M20: Transport

Proposals for mineral development will be permitted provided that:

(a) where practicable and viable, the proposal makes use of rail or water for the transportation of materials to and from the site;

(b) transport links are adequate to serve the development or can be improved to an appropriate standard without an unacceptable impact on amenity, character, or the environment; and

(c) where the need for road transport is demonstrated:

(i) materials are capable of being transported using the Lorry Route network with minimal use of local roads, unless special justification can be shown;

(ii) vehicle movements associated with the development will not have an unacceptable impact on the capacity of the highway network;

(iii) there is safe and adequate means of access to the highway network and vehicle movements associated with the development will not have an unacceptable impact on the safety of all road users;

(iv) satisfactory provision is made for vehicle turning and parking, manoeuvring, loading, and, where appropriate, wheel cleaning facilities; and

(v) vehicle movements are minimised by the optimal use of the vehicle fleet.

Assessment

This policy aspect is covered in more detail in the associated Traffic and Transport section of the accompanying Environmental Statement. In summary, whilst it's not possible to use rail or water transport due to the site's location, the vast majority of the transport of incoming wastes, and despatch of clays and recyclates, will be on the local and strategic lorry route networks, with local roads only used for the unavoidable short initial and end sections of the journeys. Further, the traffic assessment has demonstrated that there is no significant impact from the development on the capacity or safety of local roads, so the transport links are

deemed to be adequate for the proposal. A wheel wash is to be installed at the entry to site in order to ensure that mud and other materials are not carried through onto the carriageway.

The site itself is not distant from the lorry route network, being less than 3km from the A281 Horsham Road and the local lorry route. Where possible, transport will be optimised and recyclates will be delivered on vehicles going out to collect wastes to bring back onto site.

Policy M22: Cumulative Impact

Proposals for minerals development, including the intensification of use, will be permitted provided that an unreasonable level of disturbance to the environment and/or to residents, businesses and visitors will not result, either individually or as a cumulative effect (simultaneously and/or successively) alongside other development and allocations. Planning conditions may be used to coordinate working, thereby reducing the cumulative impact.

Assessment

The effect of the development as an individual entity on the surrounding environment is dealt with extensively in the EIA, but in summary the level of disturbance caused by the development both locally and in the surrounding area is very limited.

In relation to any cumulative effects, as previously described, the development site is well isolated from any other development, and there are no known developments existing or proposed within the vicinity, or along the access road, so as a result there will be no anticipated cumulative impacts at this location.

Policy M23: Design and Operation of Mineral Developments

Proposals for minerals development, including ancillary development, will be permitted provided that, where appropriate, the scale, form, layout (including landscaping), and operations take into account the need to:

(a) integrate with and, where possible, enhance adjoining land-uses and minimise potential conflicts between land-uses and activities;

(b) have regard to the local context including:

(i) the varied traditions and character of the different parts of West Sussex and the South Downs National Park;

(ii) the characteristics of the site in terms of topography, and natural and man-made features;

(iii) the topography, landscape, townscape, streetscape and skyline of the surrounding area;

(iv) views into and out of the site;

(c) include measures to:

(i) maximise water and energy efficiency;

(ii) avoid or at least minimise greenhouse gas emissions,

(iii) minimise the use of non-renewable energy, and maximise the use of lower-carbon energy generation (including heat recovery and the recovery of energy from gas); and

iv) ensure resilience and enable adaptation to a changing climate.

Assessment

Many of the impacts this policy is looking to minimise are discussed in the Landscape and Visual Assessment (LVIA) report, and earlier in the planning statement dealing with the site and project description. Being quite isolated, the project has no impact on adjoining land uses which will be unaffected by the development.

The LVIA describes in detail how well the development is in keeping with the local character context and the historical landscape, which contains many examples of historic clay workings. As described earlier in this section, being isolated, many of these impacts are lessened to a great degree by topography and woodland cover, so the skyline and views into site are largely unaffected. The topography of the restored landscape will be the same as the original following restoration and replanting.

The Environmental Statement includes a short section on climate change which describes the developments effects on water, greenhouse gases and energy impacts.

In relation to water efficiency, very little water will actually be used on site, but efforts will be made to use captured and appropriately treated water wherever practical. As the site is well away from normal water services, there are no foul or storm drain systems available for disposal of waste water, so these will be captured on site and disposed of appropriately. Foul water will be diverted to a cesspit or septic tank, whilst storm water will be dealt with through the same systems to be used for the treatment of water collecting in the clay pits.

All of the mobile heavy plant and equipment to be used on site for excavation and soil moving, and in operation of the site delivery vehicles will – out of necessity – have to be fossil fuelled. This is because no renewably fuelled alternatives are yet commercially available. However, all of the fixed plant and equipment will be electrically operated and eventually fed by a new power supply to the site. The developer has committed to investigating the use of a 'green tariff' for the supply of this electricity.

Energy saving initiatives will be employed on site, including ensuring equipment is all turned off when not in use; lighting will be through energy saving LED lights; Heating in the CMRF will be limited, and staff will be protected from cold through PPE rather than heating as much as possible; The CMRF will be appropriately insulated, and equipment will be properly maintained.

All items of mobile plant will be well maintained and efficiently operated in order to minimise emissions and maximise energy efficiency. In addition, the developer has committed to investigate which forms of renewable energy might be viable and appropriate for the site buildings, such as photovoltaics and ground source heat pumps. Wind energy is not thought to be viable at this site due to the dense surrounding woodland.

It is also important to note that LCP's majority shareholder owns and operates most of the surrounding 300 acres of woodland, which will be replanted in some areas, leading to a good degree of carbon offsetting for the operations as a whole.

The development has not been deemed to be susceptible to the effects of climate change, either through the effects of rainfall or temperature changes.

Policy M24: Restoration and Aftercare

Proposals for mineral extraction and temporary minerals infrastructure development will be permitted provided that they are accompanied by comprehensive restoration and aftercare schemes that:

> *(a) ensure that land is restored at the earliest opportunity including, where appropriate, by phased, or progressive restoration;*
>
> *(b) make provision for high quality and practicable restoration, management, and aftercare;*
>
> *(c) are appropriate to their locations, maximising benefits taking into account local landscape character, the historic environment, biodiversity gain, priority habitat creation, and wider environmental objectives;*
>
> *(d) where appropriate, re-instate, and/or re-route, and where possible, improve public rights of way and maximise public amenity benefits;*
>
> *(e) provide for the removal of all buildings, machinery and plant when no longer required in connection with the principal use unless their removal conflicts with the agreed restoration scheme;*
>
> *(f) ensure that soil resources are retained, conserved and handled appropriately during operations and restoration;*
>
> *(g) preserve, maintain and where appropriate, manage, hydrogeological and hydrological conditions to prevent unacceptable impacts on groundwater conditions or increased flood risk*.

Assessment

Although mineral extraction is a temporary land use, the nature of it can often involve semi-permanent or longer-term physical change to land. It can also have a potentially significant impact upon the environment and local communities. An important way of managing such impacts is to ensure that sites are worked in a phased manner and restored at the earliest opportunity, which is the plan for this development. As already noted, the restoration of each cell in the claypit will be progressive i.e., as the cell is finished it will immediately start to be refilled and restored.

Mineral working must not result in the dereliction of land after the operation has ceased, so the restoration plan ensures that the land is returned to its original condition where required, alongside biodiversity enhancement with associated wetlands.

PROWs will be established around the new landscape features following restoration, where no PROWs previously existed, maximising the amenity and public benefit of the development.

The CMRF will be dismantled and recycled at the end of its useful life, and the site as a whole will be returned back to a natural woodland, with the addition of some wetland habitats to improve the areas biodiversity.

Policy M25: Community Engagement

Proposals for minerals development will be permitted provided that, where necessary, a site liaison group is established by the operator to address issues arising from the operation of a minerals development or facility.

Assessment

The developer recognises that it is beneficial to have early discussions with local communities in proximity to a proposed development, and to reflect the outcome of those discussions in the design of proposals as far as practicable. Whilst it has been difficult to carry out public meetings in light of the recent Covid-19 crisis, the developer has engaged with the community through the provision of 3 comprehensive webinars, where the development has been explained, and potential impacts discussed. These webinars also included polls asking for public opinion on issues such as vehicle movements. Both verbal and written questions from local people were taken through these webinars, which were all responded to.

When operational, the site will have a person designated to community liaison and for regular meetings with representatives from the local community.

Policy M26: Maximising the use of Secondary and Recycled Aggregates

Proposals for development will be permitted provided that opportunities for the use of secondary and recycled aggregates, and building products made from secondary and recycled aggregates are maximised.

Assessment

The parallel waste activity to recover bricks and aggregates from construction and demolition waste, is useful in the developments adherence to this policy. The CMRF will take in general construction wastes and, through several mechanical and manual processes, will segregate and recycle these wastes into marketable bricks and aggregates for re-use in the local economy.

Where appropriate the CMRF building and access road will be built and maintained with secondary aggregates rather than 'virgin materials'.

7.15 West Sussex Waste Local Plan (WLP) – 2014

West Sussex County Council and the South Downs National Park Authority worked in partnership on the preparation of the West Sussex Waste Local Plan. The Plan covers the period to 2031 and is the most up-to-date statement of the Authorities' land-use planning policy for waste. It provides the basis for making consistent land-use planning decisions about planning applications for waste management facilities. The WLP is now part of the statutory 'development plan' for West Sussex, and planning applications must be determined in accordance with the statutory development plan unless material considerations indicate otherwise.

At the time of adoption the plan identified a need for further new facilities (additional capacity of approximately 0.68mtpa to 2031) for the transfer, recycling, and treatment of commercial and industrial waste and construction, demolition and excavation waste. The plan was reviewed in May 2019 with the conclusion being that the plan remained relevant and effective.

The policies within this plan which are of relevance to the development are outlined below:

Policy W1: Need for Waste Management Policies

a. *Proposals on unallocated sites for the storing, sorting, bulking and onward movement of waste will be permitted provided that they are needed to meet the shortfall in transfer capacity of 140,000 tonnes per annum. Proposals on unallocated sites to deliver capacity over and above this shortfall will be permitted where it can be demonstrated that there is a market need, consistent with the principle of net self-sufficiency.*

b. *Proposals on unallocated sites for facilities for the recycling and composting of non-inert waste will be permitted provided that they are needed to meet the shortfall in capacity of 270,000 tonnes per annum. Proposals on unallocated sites to deliver capacity over and above this shortfall will be permitted where it can be demonstrated that there is a market need, consistent with the principle of net self-sufficiency.*

c. *Proposals on unallocated sites for the recycling of inert waste will be permitted where it can be demonstrated that there is a market need, consistent with the principle of net self-sufficiency.*

d. *Proposals on unallocated sites for built facilities for the recovery of non-inert waste will be permitted provided that they are needed to meet the shortfall in capacity of 270,000 tonnes per annum. Proposals on unallocated sites to deliver capacity over and above this shortfall will only be permitted where it can be demonstrated that it would reduce disposal to land of waste arising in West Sussex.*

e. *Proposals for non-inert waste landfilling operations on unallocated sites will not be permitted unless they are needed to meet the shortfall in management capacity of 605,000 tonnes over the plan period. Proposals on unallocated sites to deliver capacity over and above this shortfall, will not be permitted unless there is a demonstrable need to dispose of non-inert waste arising within West Sussex, consistent with the principle of net self-sufficiency and the objective of 'zero waste to landfill'* in West Sussex by 2031.*

f. *Proposals for inert waste landfilling operations will not be permitted unless it can be demonstrated that the waste cannot be managed through recovery operations and that there is a need to dispose of waste, consistent with the principle of net self-sufficiency and the objective of 'zero waste to landfill'* in West Sussex by 2031.*

Assessment

It is considered that the development – or to be more precise the CMRF aspect of the development - will be in accordance with this policy as the intention is to utilise this facility for the recycling of waste. Policies 'e' and 'f' are not considered to apply to this development. The requirement to demonstrate a market need is therefore the main consideration under this policy.

Market Need

This is tackled in more detail in the 'Needs' section of the Planning Statement, however there are currently 73 unpermitted sites with waste exemptions operating

within 5km of the development site. None of these are referred to in the WLP. More than half of these (38) use wastes for construction purposes

In addition, WSCC latest review of its own WLP in May 2019 indicated that, county-wide, West Sussex is short of some 350Kt of C&D treatment capacity (shown in Figure 3 of the review). This large shortfall figure, and the data in Figure 13 showing that the amounts (and percentages) of CD&E waste going to landfill have been increasing annually, shows that there is a definite market need for this development, and the operation will contribute significantly toward meeting that shortfall.

Policy W3: Location of Built Waste Management Facilities

(a) Proposals for built waste management facilities, on unallocated sites, to enable the transfer, recycling, and recovery of waste will be permitted provided that:

(i) it can be demonstrated that they cannot be delivered on permitted sites for built waste management facilities or on the sites allocated for that purpose in Policy W10; and

(ii) they are located in the Areas of Search along the coast and in the north and east of the County as identified on the Key Diagram; or

(iii) outside the Areas of Search identified on the Key Diagram, they are only small-scale facilities to serve a local need.

(b) Proposals that accord with part (a) must:

(i) be located within built-up areas, or on suitable previously-developed land outside built-up areas; or

(ii) be located on a site in agricultural use where it involves the treatment of waste for reuse within that unit; or

(iii) only be located on a greenfield site, if it can be demonstrated that no suitable alternative sites are available; and

(iv) where transportation by rail or water is not practicable or viable, be well-related to the Lorry Route Network; large-scale facilities must have good access to the Strategic Lorry Route.

Assessment

It is worthwhile going through these points in a little detail, as they are key to understanding why the development site is located where it is.

(a) Proposals for built waste management facilities, on unallocated sites, to enable the transfer, recycling, and recovery of waste will be permitted provided that:

(i) it can be demonstrated that they cannot be delivered on permitted sites for built waste management facilities or on the sites allocated for that purpose in Policy W10

The majority of the allocated sites specified in the WLP have not been developed. More details are provided in the planning Needs section and the appendix referred to therein.

The development is a two fold entity, incorporating both a clay pit and a construction materials recycling facility (CMRF). The two halves of this development are intrinsically linked and are synergistic, and neither venture can optimally survive without the other. The CMRF serves a double purpose: firstly, to recycle local construction materials, and secondly to ensure that any remaining suitably inert materials can be used to restore the adjacent clay pit.

Adopting the 'proximity principle' on wastes is meant to ensure that the movement of wastes are minimised wherever possible. Utilising this principle, the residual suitably inert materials generated by the waste recovery process are used on site without the need for further transport. The proximity principle is important, it makes little environmental sense to 'double handle' the residual materials by transporting them for the restoration of another site or disposal at an allocated site in the south of the county. Transporting the residual waste materials for restoration or disposal elsewhere means many more lorry miles, more pollution and increased environmental impacts. It is much better to move the local construction and demolition wastes to this CMRF and then utilise the residual wastes on site without needing to transport them significant distances for this purpose. For these reasons, it is not viable, or environmentally sensible to site the CMRF on an existing allocated waste site, as its unrecyclable residual materials are to be used in-situ for restoration – hence point a.(i) is satisfied.

> *(ii) they are located in the Areas of Search along the coast and in the north and east of the County as identified on the Key Diagram*

The development is well situated within the designated Area of Search as shown in the diagram taken from the WLP, which is now shown as **Figure PS17**, thereby meeting the criteria for point a.(ii).

The development also satisfies point b.(ii) as the treatment of the incoming waste leads to unrecyclable material being used on-site for the restoration of the clay pit.

Whilst it is of course the case that the proposed development is on a greenfield site, and that other sites are available; as noted above, the co-location of the CMRF on this site provides significant environmental benefits in relation to the reduction of road haulage and transport miles, making it far more suitable than the possible alternatives. Establishing the CMRF on an existing allocated waste site, and then moving the materials for restoring the claypit right across the county does not make environmental sense, making such sites unsuitable for the development as a whole.

The lorry route network is also within easy reach, being approximately 3Km from the site - in compliance with point b.(iv) .

Policy W4: Inert Waste Recycling

Proposals for the processing and recycling of inert waste will be permitted provided that:

> *(a) they are located in accordance with Policy W3; or*
>
> *(b) they can be accommodated at active landfill sites or mineral workings where:*
>
> > *(i) the duration of operations is tied to that of the primary operation; and*

(ii) where transportation by rail or water is not practicable or viable, they are well-related to the Lorry Route Network.

Assessment

As stated above, the development accords with Policy W3, and is in compliance with Policy W4 in so much that it is located at a proposed mineral working site, and is tied in duration to the mineral working operations. As described above, the site is approximately three kilometres from the lorry route network, and so is well connected to this network.

Policy W8: Recovery Operations involving the Depositing of Inert Waste to Land

Proposals for recovery operations involving the depositing of inert waste to land (including for the continuation in duration, or the physical extension of, existing operations) will be permitted provided that:

(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.

Assessment

As elsewhere described in this report, the development has a clear restoration plan which will bring increased biodiversity and geodiversity to the area, leading to improvements in the landscape for both people and wildlife alike. The waste materials to be used for restoration of the claypit will derive from the recycling activities in the CMRF and will be materials that cannot be further recycled or which have no further chain of utility available, other than the intended purpose of restoration.

These kinds of materials are routinely used in restoring quarries and clay pits across the UK under license from the Environment Agency. The CMRF will be permitted by the Environment Agency and the suitably inert materials used for the restoration of the clay pit will be subject to the terms specified in the waste recovery plan that forms part of the bespoke environmental permit. The restoration of the site will be to a high-quality standard in accordance with Policy W20. There would be no unacceptable impact on natural resources and other environmental constraints, and

the utilisation of these materials negates the need to restore the claypit with virgin materials that would otherwise have to be used.

The reason for siting the CMRF on site is in order to avoid transporting restoration materials across the county– this would be both costly and environmentally damaging – hence the CMRF is synergistic to the clay pit and does not in any way sterilise the site for use solely as a source of clay. Activities in the CMRF will continue only as long as the restoration scheme needs the residual wastes produced, at which time the plant will close as transporting these residual wastes across the county would not be viable or warranted.

Policy W9 – Disposal of waste to land does not apply to this development. As the proposed development is a recovery operation, under a Waste Recovery Permit from the EA, Policy W8 applies, as described in section 6.10.6 of the LWP, where it is recognised that *"uses can include landfill engineering/cover purposes at non-inert waste sites…. the restoration of mineral workings, agricultural improvements, and other engineering projects (such as…noise attenuation bunds). Proposals for recovery operations will be judged against Policy W8"*

Policy W10: Strategic Waste Allocations

(a) The following sites are allocated to meet identified shortfalls in transfer, recycling and recovery capacity. Accordingly, they are acceptable, in principle, for the development of waste management facilities for the transfer, recycling, and/or recovery of waste (including the recycling of inert waste):

- *Site north of Wastewater Treatment Works, Ford (Policy Map 1);*
- *Hobbs Barn, near Climping (Policy Map 2);*
- *Fuel Depot, Bognor Road, Chichester (Policy Map 3);*
- *Brookhurst Wood, near Horsham (Policy Map 4); and*
- *Land west of Wastewater Treatment Works, Goddards Green (Policy Map 5).*

(b) The following site is allocated to meet an identified shortfall in non-inert landfill capacity Accordingly, it is acceptable, in principle, for that purpose:

- *Extension to Brookhurst Wood Landfill Site, near Horsham (Policy Map 4).*

(c) The development of a site allocated under (a)-(b) must take place in accordance with the policies of this Plan and satisfactorily address the 'development principles' for that site identified in the supporting text to this policy.

(d) The sites allocated under (a)-(b) will be safeguarded from any development either on or adjoining the sites that would prevent or prejudice their development (in whole or in part) for the allocated waste management use or uses.

Assessment

It is clear from the recent WSCC waste plan review (May 2019) that the allocated waste sites are not all in use as planned, potentially opening up options for sites

outside those which were allocated. The status of the 5 sites currently allocated in the plan is summarised below:

Ford (Grundon site - BN18 0HY)

The allocated site north of the wastewater treatment works at Ford (Policy map 1 on the Waste Local plan) has been the subject of interest for Grundon Waste Management, a large waste collection company. Grundon successfully applied for planning consent to develop a 200Kt 'Waste to Energy' plant utilising gasification technology on the site in 2015 (planning permission ref. WSCC/096/13 dated 9th January 2015). To date, this development has however only been partially implemented, with the limited operation of a small MRF facility on the site (approximately 20,000 tonnes per annum) collecting and sorting skip waste.

The original planning consent for the waste to energy plant was subject to a legal agreement, under Section 106 of the Town and Country Planning Act 1990, to secure a number of obligations, including a lorry routing agreement – it is this routing agreement which appeared to have held up the full development of the site. A further planning application (WSCC/027/18/F) was approved in August 2019 which proposed a new access road which would allow more HGV movements and therefore the full 200Kt development. It is not known if or when the full development will take place. If the development does go ahead, it will be targeting materials suitable for the generation of Refuse Derived Fuel (RDF) and will not contribute toward any potential shortfall in the recovery of CD&E waste which is largely incombustible.

Hobbs Barn, off Grevatts Lane, near Climping

This site (Policy Map 2 on the Waste Local Plan) is an extension to an existing small industrial estate and was subjected to an approved planning permission for the development of a waste transfer station and Materials Recycling Facility to process 50Kt of mixed skip waste, on behalf of Home Farm Ltd (application number WSCC/067/15/CM – June 2016). It is apparent that this planning permission has not been followed through, as the site is currently used as a lorry park, and a dumping ground for building waste. There is no evidence of the permitted development mentioned in the plan at the site, as confirmed in WSCC review of the WLP.

Fuel Depot – Bognor Road, Chichester

This site just east of Chichester, (Policy Map 3 on the waste Local Plan) has been the subject of several planning applications - though to date no development has taken place. There is an approved planning application (WSCC/058/13/0 – Sept 13) for a waste transfer station which is mentioned in the WSCC monitoring report of 2016, but this does not appear to have been built, as the site is currently empty.

Instead, there are two non-waste related ongoing planning applications for the site being considered by Chichester District Council – the first (14/04284/OUT) has been in planning since late 2014 and obtained permission in July 2016. The permission is for B2/B8/Trade uses and ancillary roadside catering units, alongside a large discount food retail unit. Documents discharging conditions that were imposed on this application have been received as recently as May 2019, but some conditions remain outstanding.

The latest application (19/00619/FUL - March 19) is for eight units with a mix of different uses, including a Premier Inn hotel, a Beefeater restaurant, a drive-thru, a gym and other trade and business units. Work on this permission is still live and ongoing.

Both applications have left a one-hectare corner of the site available for waste development purposes as required by the Waste Local Plan, however the development of a waste site adjacent to food outlets and/or a hotel is highly unlikely, as waste companies are not likely to take a chance on the potential complaints of noise and odours from their operations from these sensitive receptors. This site is therefore likely to be lost to waste development.

Brockhurst Wood near Horsham

This site (Policy Map 4 on the Waste Local Plan) has been mostly developed and continues to be a location of interest for waste management expansion. Biffa have developed a 50kt road sweepings and aggregate washing plant at the site (WSCC/003/14/NH) which has been operational since 2016.

Britanniacrest also sought planning permission for an incinerator on the allocated site. It is currently used by them as a waste transfer station for commercial and industrial wastes. The application for a Recycling, Recovery and Renewable Energy Facility was initially refused, but was granted on appeal. As with the Grundon proposal, it is not known when/if this development will go ahead. As with the Ford site, if the development does go ahead, it will be targeting materials suitable for the generation of Refuse Derived Fuel (RDF) and will not contribute toward any potential shortfall in the recovery of CD&E waste which is largely incombustible.

Goddards Green – Land West of the Sewage Treatment Works (West of RH14 5AL)

There appears to be no development, or interest in development, on this identified site and the land is currently being used as pasture. This absence of development is confirmed in WSCC review of the WLP in May 2019.

With the allocated sites still not fully deployed, policy W1 of the WLP states '*proposals on unallocated sites for the recycling of inert waste, will be permitted where it can be demonstrated that there is a market need, consistent with the principle of net self-sufficiency*'. The market need for recovery of CD&E waste exists, both locally and county-wide as shown above, so it is anticipated that this development will be considered favourably by WSCC despite not being on an allocated site.

See **Appendix PSA** for a detailed report regarding the assessment of these 5 sites as carried out in 2019 and updated in April 2021.

Policy W11: Character

Proposals for waste development will be permitted provided that they would not have an unacceptable impact on:

> *(a) the character, distinctiveness, and sense of place of the different areas of the County and that they reflect and, where possible, reinforce the character of the main natural character areas (including the retention of important features or characteristics); and*

(b) the separate identity of settlements and distinctive character of towns and villages (including specific areas or neighbourhoods) and development would not lead to their actual or perceived coalescence.

Assessment

The development site sits within an identified resource for brick-making clays, in an area which has long been used for historical mineral extraction and small-scale brick making, so the clay operation is well suited to the historical local character; it is also within the 'Area for Search' for waste facilities, so – in both respects – the site is located within recognised geographical context. As described elsewhere, in the LVIA and in the environmental impact assessment, due to the topography of the surrounding land, and the surrounding of the local woodland, the site will in any case be hidden from all but the closest of views. In addition, the development is of relatively small scale, and quite isolated, so there is no impact on the separate identities of the surrounding villages, and the local character will be largely unaffected.

Policy W12: High Quality Developments

Proposals for waste development will be permitted provided that they are of high quality and, where appropriate, the scale, form, and design (including landscaping) take into account the need to:

(a) integrate with and, where possible, enhance adjoining land-uses and minimise potential conflicts between land-uses and activities;

(b) have regard to the local context including:

(i) the varied traditions and character of the different parts of West Sussex;

(ii) the characteristics of the site in terms of topography, and natural and man-made features;

(iii) the topography, landscape, townscape, streetscape and skyline of the surrounding area;

(iv) views into and out of the site; and

(v) the use of materials and building styles;

(c) includes measures to maximise water efficiency;

(d) include measures to minimise greenhouse gas emissions, to minimise the use of non-renewable energy, and to maximise the use of lower-carbon energy generation (including heat recovery and the recovery of energy from gas); and

(e) include measures to ensure resilience and enable adaptation to a changing climate.

Assessment

Every effort has been made to ensure that the development accords with this policy, (which mirrors policy M23 in the JMLP) during both operation and following restoration. The site location within the developers own land has been carefully selected so as to minimise disruption and maximise restoration potential, with the restored landscape featuring new water features, enhancing the area for both local

people and wildlife alike. When restored the site will feature new public footpaths around the newly created features in order to create exercise opportunities and to enable the maximum future enjoyment of the site to all.

In relation to water efficiency, where possible, surface water will be captured and appropriately treated for use in the mist air system. As the site is well away from normal water services, there are no foul or storm drain systems available, foul water will be diverted to a septic tank or cesspit, whilst surface water will be stored in the lagoon and either treated for use or treated for discharge in accordance with the terms of a water discharge permit.

All of the mobile heavy plant and equipment to be used on site for excavation and soil moving, will – out of necessity – have to be fossil fuelled. This is because no renewably fuelled alternatives are yet commercially available. However, all of the fixed plant and equipment will be electrically operated with a new power supply to the site in due course.

All items of mobile plant will be well maintained and efficiently operated in order to minimise emissions. In addition, the developer has committed to investigate which forms of renewable energy might be viable and appropriate for the site buildings, such as photovoltaics. It is also important to note that the developer owns and operates most of the surrounding commercial woodland, this is replenished frequently, leading to a good degree of carbon offsetting of the operations as a whole.

The site is well away from any recognised flood plain and will not therefore be susceptible to rises in water levels attributable to climate change. Water falling onto site will be captured and settled before eventual release back into the local watercourses under license from the Environment Agency, such releases being controlled via a SUDS plan so as not to jeopardise any potential flood plans in the receiving watercourse.

The views into the site are detailed in the LVIA. The exterior of the CMRF building will be designed, textured and coloured to blend in with the surrounding woodland.

Policy W13: Protected Landscapes

(a) Proposals for waste development within protected landscapes (the South Downs National Park, the Chichester Harbour Area of Outstanding Natural Beauty (AONB), and the High Weald AONB) will not be permitted unless:

(i) the site is allocated for that purpose in an adopted plan; or

(ii) the proposal is for a small-scale facility to meet local needs that can be accommodated without undermining the objectives of the designation; or

(iii) the proposal is for major waste development that accords with part (c) of this Policy.

(b) Proposals for waste development located outside protected landscapes will be permitted provided that they do not undermine the objectives of the designation.

(c) Proposals for major waste development within protected landscapes will not be permitted unless:

(i) there is an overriding need for the development within the designated area; and

(ii) the need cannot be met in some other way or met outside the designated area; and

(iii) any adverse impacts on the environment, landscape, and recreational opportunities can be satisfactorily mitigated.

Assessment

As described in detail in the LVIA, the development is not located in, nor is it visible from, any designated protected landscapes, therefore it does not impact upon these or any of the nearby AONB's.

Policy W14: Biodiversity and Geodiversity

Proposals for waste development will be permitted provided that:

(a) areas or sites of international biodiversity importance are protected unless there are no appropriate alternative solutions and there are overriding reasons which outweigh the need to safeguard the value of sites or features, and provided that favourable conservation status is maintained;

(b) there are no adverse impacts on areas or sites of national biodiversity or geological conservation importance unless the benefits of the development clearly outweigh the impact on the objectives of the designation and on the wider network of such designated areas or sites;

(c) there are no adverse impacts on areas, sites or features of regional or local biodiversity or geological conservation importance unless the benefits of the development clearly outweigh the impact on the objectives of the designation;

(d) where development would result in the loss of or adversely affect an important area, site or feature, the harm is minimised, mitigated, or compensated for, including, where practicable, the provision of a new resource elsewhere which is of at least equivalent value;

(e) where appropriate, the creation, enhancement, and management of habitats, ecological networks, and ecosystem services is secured consistent with wider environmental objectives including Biodiversity Opportunity Areas and the South Downs Way Ahead Nature Improvement Area; and

(f) where necessary, the investigation, evaluation, and recording of important sites and features is undertaken and, where appropriate, representative features are preserved.

Assessment

This policy largely mirrors policy M17 in the JMLP and narrative is included in that section to highlight how the development conforms to these requirements. The accompanying Environmental Statement and Ecological Impact Assessment demonstrates that the site will not be impacting directly upon any currently nationally or regionally designated site or directly upon any protected species. A Biodiversity Net Gain plan has been drafted which will tackle many of the aspects of the above policy, this can be found in the EIA/ES sections of the application in addition to specific mitigations for some flora and fauna impacts.

Policy W15: Historic Environment

Proposals for waste development will be permitted provided that:

> *(a) known features of historic or archaeological importance are conserved and, where possible, enhanced unless there are no alternative solutions and there are overriding reasons which outweigh the need to safeguard the value of sites or features;*
>
> *(b) it would not adversely affect currently unknown heritage assets with significant archaeological interest; and*
>
> *(c) where appropriate, the further investigation and recording of any heritage assets to be lost (in whole or in part) is undertaken and the results made publicly available*.

Assessment

As part of this planning application, the developer has commissioned an archaeological study of the site in accordance with the relevant standards. The results of that study are recorded separately in the environmental statement, but in summary nothing of any national or regional importance with regard to site archaeology or heritage has been found on site. There are some features of potentially local importance which will be recorded through a formal "Written Scheme of Investigation" to create preservation by record of these assets.

In addition, the LVIA which also supports this application has identified that, whilst there are many historical and listed buildings within 2km of the site, and several scheduled monuments i.e.

- Drungewick Manor – 2.3km S/SE from the development site
- Wephurst Glass House – 4.3Km south west from the development site
- The Ringwork in Broomhall Copse – 3.2 Km NE of the development site
- The Medieval moated site and associated pillow mound at Wildwood Copse – 2.4Km directly north of the site

Due to the undulating nature of the topography, there is no inter-visibility between any of these monuments and the site, and hence the proposed development is very unlikely to have any impact upon the setting of any of these scheduled monuments.

Policy W16: Air, Soil, and Water

Proposals for waste development will be permitted provided that:

> *(a) there are no unacceptable impacts on the intrinsic quality of, and where appropriate the quantity of, air, soil, and water resources (including ground, surface, transitional, and coastal waters);*
>
> *(b) there are no unacceptable impacts on the management and protection of such resources, including any adverse impacts on Air Quality Management Areas and Source Protection Zones;*

(c) the quality of rivers and other watercourses is protected and, where possible, enhanced (including within built-up areas); and

(d) they are not located in areas subject to land instability, unless problems can be satisfactorily resolved.

Assessment

The appended Environmental Statement, Soil report and Hydrological reports go into great detail about the impact the project might have on the environmental impacts to air, soil and water. These policies largely mirror those of policies M15 and M16 in the JMLP, so further narrative on these issues can be found in that section.

Whilst the site is inside a nitrate vulnerable zone – as is the majority of the County – the developments contribution toward nitrate pollution is negligible due to the small-scale nature of the proposed operation. In a similar vein, due to the small-scale nature of the proposal, the impacts to air are reported to be minimal in the accompanying Environmental Statement. The site is nowhere near any Air Quality Management Zones so the developments impacts on those areas can also be dismissed. The impacts of site operations on noise and dust are dealt with separately under the review of policy W19 below, and will be subject to the controls of an environmental permit.

There are plans in place to protect the quality and quantity of the soils which will be disturbed on site. There are no significant water courses running through the site, and a water catchment and discharge plan has been produced following SUDS principles, indicating how the site plans to control the discharge of captured water off site – which will be subject to the conditions of a water discharge permit issued by the Environment Agency. A flood risk assessment and water environment assessment has been carried out and the impact of site operations on local watercourses can be shown to be minor and controllable. These reports are in the Environmental Statement section.

In relation to land stability, the existing site does not suffer from issues with instability. The backfilling of the voids with material from the CMRF will similarly take place under best practice standards and will not lead to site instability following site closure and restoration. Filled voids will be compacted when appropriate.

Policy W17: Flooding

(a) Proposals for waste development will be permitted provided that:

(i) mitigation measures are provided to an appropriate standard so that there would not be an increased risk of flooding on the site or elsewhere;

(ii) they are compatible with Shoreline Management Plans and/or Catchment Flood Management Plans and the integrity of functional floodplains is maintained;

(iii) appropriate measures are used to manage surface water run-off including, where appropriate, the use of sustainable drainage systems (SUDS); and

(iv) they would not have an unacceptable impact on the integrity of sea, tidal, or fluvial flood defences, or impede access for future maintenance and improvements of such defences.

(b) Proposals for waste development in 'areas at risk of flooding' will not be permitted unless they pass the Sequential Test and, where applicable, the Exception Test set out in national policy.

Assessment

The Hydrological Report details the sites controls and responses to the handling and discharge of waters into the local catchment areas. Water collected on site will be stored in an on-site settlement lagoon before treatment (if applicable) and controlled discharge to the local stream under a water discharge permit issued by the Environment Agency. This permit ensures that the site will not cause significant effects in the local water environments either through flooding or through a deterioration in water quality.

The site itself is not in, or in close proximity to, any known flood protection areas, with the summary of the appended Flood Risk Report concluding:

- The Proposed Development falls wholly within Flood Zone 1 of the EA's indicative flood outline;
- There are parts of the existing site that are at risk of surface water flooding, however these do not significantly affect the development proposals;
- The Proposed Development is a 'less vulnerable' classification and does not require a Sequential Test;
- Other flood risks considered included: existing drainage, groundwater, overland flow, surface runoff. These are not considered to pose a significant flood risk to the proposed development;
- The Proposed Development remains low risk against future flooding when taking account of climate change.

Policy W18: Transport

Proposals for waste development will be permitted provided that:

(a) where practicable and viable, the proposal makes use of rail or water for the transportation of materials to and from the site;

(b) transport links are adequate to serve the development or can be improved to an appropriate standard without an unacceptable impact on amenity, character, or the environment; and

(c) where the need for road transport can be demonstrated:

(i) materials are capable of being transported using the Lorry Route Network with minimal use of local roads, unless special justification can be shown;

(ii) vehicle movements associated with the development will not have an unacceptable impact on the capacity of the highway network;

(iii) there is safe and adequate means of access to the highway network and vehicle movements associated with the development will not have an adverse impact on the safety of all road users;

(iv) satisfactory provision is made for vehicle turning and parking, manoeuvring, loading, and, where appropriate, wheel cleaning facilities; and

(v) vehicle movements are minimised by the optimal use of the vehicle fleet

Assessment

As described in the Transport section of the appended Environmental Statement, and further in the response to policy M20 in the JMLP, transport via road is the only viable option available to this site as - due to the site location - there are no nearby waterways or railways which could be used. Transport by road is therefore the only available option.

The site is well located close to the Lorry Route Network – within 3km – and the local 'C' classed road leading from the lorry route is a good width two way road more than capable of allowing lorries to pass. There is more on these aspects in the traffic report and stage 1 road safety audit, which also details the visibility issues which have been considered as part of that study. Lorries will not normally be permitted to enter the site from the West – through Loxwood – due to the potential of disturbance to residential areas. All traffic could be routed in from the East to make best use of the site's close location to the A281 Horsham Road on the lorry route network, access on and off this road has been shown to be acceptable.

The relatively low levels of increased traffic due to the proposals will have negligible impact on the amenity or character of the surrounding area, which – as noted in the LVIA report - is already diminished by the existing Loxwood Road, and frequent use of the lay-by for car parking for commercial and leisure dog walkers - making the area semi suburbanised and detracting from landscape quality.

The access road through the woodland will cut across just one little used footpath (792) and the bridleway (3240). The usage of all PROWs was surveyed for 1 week period during August 2020 and the results are shown in **Appendix PSB**.

The excavation of clay can be quite a muddy operation, so an appropriately designed and operated lorry wheel wash will be installed on site to help prevent mud being deposited on the public highway and to maintain road safety.

It is planned to use waste collection lorries whenever possible to deliver recycled materials from the CMRF on their way to a waste collection, optimising the use of transport as much as possible. Opportunities for back-loads will be considered wherever possible, and lorries delivering clay will not normally leave site unless fully loaded.

Policy W19: Public Health and Amenity

Proposals for waste development will be permitted provided that:

(a) lighting, noise, dust, odours and other emissions, including those arising from traffic, are controlled to the extent that there will not be an unacceptable impact on public health and amenity;

(b) the routes and amenities of public rights of way are safeguarded, or where temporary or permanent re-routeing can be justified, replacement routes of comparable or enhanced amenity value are provided; and

(c) where necessary, a site liaison group is established by the operator to address issues arising from the operation of a major waste management site or facility.

Assessment

A detailed noise assessment has been carried out for the site, which shows that the development will be within local and national policy limits in relation to noise impacts. This report is appended to the Environmental Statement. The site is quite isolated in its location, with the nearest property being some 580m distant from the centre of the site, with woodland in between the site and the receptor, so noise effects have been shown to be minor at the nearest receptor and negligible / absent in the conurbation of Loxwood.

Despite this, there will be noise supressing efforts on site to ensure that the possibility of nuisance due to this aspect is not caused at the nearby receptors and any potentially noisy equipment in the CMRF building will be located in such a manner as to minimise their noise off site, particularly in the direction of the nearest receptors. The site will be subject to an environmental permit and control of these issues will be subject to conditions specified in that permit.

In respect of lighting, for much of the year outdoor lighting will not be necessary due to the site only being operational during daylight hours. In winter, lighting will be required on site early morning and late afternoon – this lighting will be directed downwards and shielded as much as possible, and will be turned off at night when the site is unoccupied in order to prevent disturbance both to people and wildlife.

Dust suppression measures will be deployed inside the CMRF building and when restoring the clay pit void. For further details see the Dust Management Plan in the Environmental Statement.

Apart from Footpath 792_1, which runs along the northern boundary, the section of woodland in which the main development site is located, does not contain any PROW's or any other designated rights of way. Neither does the majority of the roadway from the development site to the main entrance on Loxwood Road. The roadway does however run parallel to a short section of footpath 795 (approximately 90m long as shown on **Figure PS9**) which belongs to a neighbouring landowner the Harrisons. This pathway has been allowed to become overgrown in recent years, meaning walkers are utilising private right of way to get from bridleway 3240 onto footpath 795 to the west. This lack of maintenance will need to be corrected and a fence erected to ensure walkers stay off the access road that is a private right of way.

Policy W20: Restoration and Aftercare

Proposals involving temporary waste development will be permitted provided that they are accompanied by comprehensive schemes that:

(a) make provision for high quality and practicable restoration, management, and aftercare;

(b) are appropriate for their locations, maximising benefits taking into account local landscape character, the historic environment, biodiversity, and wider environmental objectives;

(c) where appropriate, maximise public amenity benefits including re-instatement of, and where possible, improvement of public rights of way;

(d) provide for the removal of all buildings, machinery and plant when they are no longer required in connection with the principal use; and

(e) ensure that that land is restored at the earliest opportunity including, where appropriate, phased, or progressive restoration.

Assessment

As stated elsewhere in this document, the duration of clay excavation is expected to be 30 years and the lifetime of the site as a whole is expected to be approximately 33 years, in order to give time to complete the restoration operations. The voids created by the clay excavation are to be infilled with the suitably inert materials from the CMRF, supplemented with existing overburden or soils if required in order to recreate adequate growing conditions for the restocking of the woodland on completion. The creation of the small pond proposed will significantly enhance both biodiversity and amenity in the area, creating new habitats for both wildlife to utilise and people to enjoy. Public walkways around the new features will be incorporated into the restoration plan.

The development of the clay pit is proposed to be carried out in a phased operation, with individual 'cells' of clay being extracted and then subsequently progressively filled, such that the land is restored at the earliest opportunity back to it's original condition. The rate at which the restoration occurs will ensure that the restoration programme is always 1 to 2 years behind the excavation programme.

The CMRF will be dismantled at the end of the restoration period, and no plant or machinery will remain, other than those required to complete the restoration scheme. As the waste operations will be subject to an environmental permit from the Environment Agency, the development will also comply with the documented restoration clauses as part of the permit surrender process.

It is envisaged that the landowner's woodland aftercare programme will commence at the end of the restoration to manage the woodland in the same manner that it has been managed during the last 30 years.

Policy W21: Cumulative Impact

Proposals for waste development, including the intensification of use, will be permitted provided that an unreasonable level of disturbance to the environment and/or local communities will not result from waste management and other sites operating simultaneously and/or successively. Phasing agreements may be sought to co-ordinate working, thereby reducing the cumulative impact.

Assessment

The relatively isolated location of the development in a woodland location means that there is not anticipated to be any potential for cumulative impact in the immediate area. There are no other waste handling facilities in the immediate locale (Restoration for Agriculture operate 5km away in Rudgwick, Horsham District), and no planning applications for such sites in the area are pending. The majority of the

land surrounding the site and roadway are owned by the developer, and no further projects other than this one are planned, so there will be no threat of cumulative impacts from this source. The land to the North of the site is owned by others, but it contains no development – either existing or proposed. The impact of the site itself on the local environment is dealt with in the accompanying Environmental Statement.

7.16 Chichester Local Plan

The development site sits within the Chichester District Council (CDC) area, so in addition to the national and regional plans, it is necessary to consider the Chichester Local Plan for 2014-2029. This district plan segregates the district into three distinct areas, of which the proposed development sits in the 'North of the Plan' area. This part of the Plan area is described as '*predominantly rural with few sizeable settlements, characterised by undulating landscape with a high proportion of woodland, typical of the Low Weald'*. Whilst the plan has the key objective of '*conserving the rural character of the area, with its high quality landscape and Environment'* , it also recognises that there is an identified need (14.2 in the plan) '*to accommodate some small-scale development to address local housing and employment needs'*.

The plan sets out different visions for the three differing areas under CDC control, with the relevant vision for the development area being:

Vision for Places - North of Plan Area

- *For the North of the Plan area, the emphasis will be primarily upon maintaining the rural character of the existing villages, whilst enabling the local communities to become more self-reliant in meeting their local needs. The conservation and enhancement of the historic environment, the high-quality landscapes and the agricultural and other rural activities that support it will remain paramount.*
- *Whilst recognising that the area will look predominantly to centres outside the Plan area for major shopping, employment, leisure and other services, wherever possible opportunities will be sought to maintain and enhance local services such as shops, schools and health facilities, and provide for local employment.*
- *Some limited development will take place, balancing the need to retain the rural character of the area with the issue of addressing local housing needs and affordability. New housing and employment will be focused mainly in the larger villages to help support local facilities and sustainable settlements. It will remain an area popular with self-employment and jobs created through tourism and rural diversification*.

The plan notes objectives for helping to realise this vision for CDC, with the relevant objectives for realising this vision being:

Greener living (section 3.24)

- Reduce waste, increase recycling, support the recovery of value and energy from waste, and protect water quality within the plan area.

In relation to environmental resources, the plan has the following objective which is very supportive of the proposed development and its recycling and restoration objectives:

Environmental resources (section 3.25)

- *Minimise the shorter-term disruption caused by mineral workings, whilst maximising the long-term benefits of restoration and after use, for example, the creation of additional water retention areas and new wildlife habitats. Encourage the recycling of construction waste to minimise the amount of new material that is required*.

In relation to CDC policies, the following were designated as being of importance to the potential development in the pre-application advice obtained from WSCC.

Policy 1 - Presumption in Favour of Sustainable Development

When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

1. *Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*

2. *Specific policies in that Framework indicate that development should be restricted*

<u>Assessment</u>

The presumption in favour of sustainable development is welcomed, as is the desire to act proactively to ensure this proposal will be approved, and to secure improvements to the economic conditions prevalent in the area – through the employment to be created for the local populace and the money this will bring into local businesses. As outlined throughout this section, it is believed that the development accords with policies in both the CDC, WSCC and National plans.

Policy 25 - Development in the North of the Plan area

Provision will be made for small scale development in the North of the Plan area through Neighbourhood Plans and/or the Site Allocation DPD, in accordance with Policies 2 and 5. The Council will encourage and support development proposals and other initiatives that:

- *Conserve and enhance the rural character of the area, the quality of its landscape and the natural and historic environment;*

- *Safeguard existing local facilities and expand the range of local facilities; and*
- *Improve accessibility to facilities in nearby centres outside the North of the Plan area.*

Assessment

Whilst its vision for the north of the area mentions providing for local employment, the specific development policy has relatively limited ambition for economic growth in the north of the plan area, seeking only for *'limited growth focused on meeting locally generated housing requirements'* (14.4). Policy 2 referred to above states that within the parish of Loxwood, '*Provision will be made for small scale employment, tourism or leisure proposals*' which matches the vision for both the development and its restoration plans. Policy 5 addresses housing needs and is not seen as relevant to this application.

As shown earlier in the related sections of this document, the development has little impact on the rural character or the visible landscaping of the area, being surrounded by woodland and well hidden within the topography. The effects on the natural world are described in the Environmental Statement, and – as described in the archaeological section and in the LVIA – the development does not significantly affect any historic assets. In so much as the development brings new prosperity to the area, it helps to safeguard local facilities by bringing money into the local area whilst providing a new facility to recycle any local construction wastes that may be generated.

Policy 39 - Transport, Accessibility and Parking

Planning permission will be granted for development where it can be demonstrated that all the following criteria have been considered:

1. *All development provides for the access and transport demands they create, through provision of necessary improvements to transport networks, services and facilities, either directly by the developer or indirectly in the form of financial contributions;*
2. *Development is located and designed to minimise additional traffic generation and movement, and should not create or add to problems of safety, congestion, air pollution, or other damage to the environment;*
3. *The proposal has safe and adequate means of access and internal circulation/turning arrangements for all modes of transport relevant to the proposal;*
4. *The proposal encourages development that can be accessed by sustainable modes of transport, in part, through the creation of links between new development and existing pedestrian, cycle and public transport networks;*
5. *The proposal provides for safe, easy and direct movement for those with mobility difficulties;*
6. *The proposal does not create residual cumulative impacts which are severe; and*
7. *Proposals provide for high quality linkage direct from the development to the broadband network.*

Developments with significant transport impacts must submit a Transport Assessment in accordance with the NPPF, and a Travel Plan including defined targets, implementation, funding, and monitoring regime.

Where development is likely to have an impact on an Air Quality Management Area, an air quality assessment will be required. The level of car parking provision should be in accordance with current West Sussex County Council guidance. This, together with residential parking and the level of cycle parking, will be assessed on a flexible site by site basis depending on the provision of public transport and access to local facilities.

Assessment

The traffic section tackles many of the issues raised in this policy in relation to the travel of people and materials to and from the proposed facility – the full report can be found in the ES section – though in summary the traffic impacts on the local roads have been deemed to be not significant. The location of the site acts as a local outlet for waste construction materials, so that these do not have to be taken longer distances for recycling, thereby minimising traffic movements.

The site design incorporates appropriate turning and manoeuvring spaces for all vehicles using the site, and appropriate passing places along the access road, to ensure that lorries can safely pass without the need to reverse.

A travel plan has not been deemed necessary by the transport assessment, due to the small scale of the development, though car parking has been considered and a small car park is planned at the CMRF. As the development is within cycling and walking distance of the nearest settlement, these modes of getting to the site will be encouraged, where this is not possible a shuttle bus will be provided to minimise car use.

It should be noted that as access to the development site is already quite well served with pathways that can be cycled or walked, that these sustainable access modes to the development are already well supported. Disability access will be considered when designing the development, as required by legislation.

The development accords with all relevant national policies and directives relating to disabled persons and those with mobility needs. In relation to broadband connections, this is not thought to be suitable for this particular development as the 4G network is already very good in the area and installing a broadband connection to this remote location will cause more disruption than is therefore warranted.

As previously described, the development is not in, and does not impact upon, any AQMA.

Policy 42 - Flood Risk and Water Management

Flood and erosion risk will be taken into account at all stages in the planning process to avoid inappropriate development in areas at current or future risk, and to direct development away from areas of highest risk. Development in areas at risk of flooding as identified by the Environment Agency flood risk maps will be granted where all the following criteria are met:

1. *The proposal meets the sequential and exception test (where required) in relation to the National Planning Policy Framework;*

2. *A site-specific flood risk assessment demonstrates that the development will be safe, including the access and egress, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall;*

3. *The proposal incorporates specific requirements of the site, and protection, resilience and resistance measures appropriate to the character and biodiversity of the area;*

4. *Development would not result/exacerbate coastal squeeze of any European sites or prevent managed realignment that may be required to ensure no adverse effect on European sites as a result of coastal squeeze;*

5. *The scheme identifies adaptation and mitigation measures;*

6. *Appropriate flood warning and evacuation plans are in place; and*

7. *New site drainage systems are designed taking account of events which exceed the normal design standard i.e. consideration of flood flow routing and utilising temporary storage areas.*

All development will be required to ensure that, as a minimum, there is no net increase in surface water run-off. Priority should be given to incorporating Sustainable Drainage Systems (SuDS) to manage surface water drainage, unless it is proven that SuDS are not appropriate. Where SuDS are provided arrangements must be put in place for their whole life management and maintenance.

In locations where strategic flood defence or adaptation measures are necessary within the site itself, proposals will be required to demonstrate how measures have been incorporated as an intrinsic part of the scheme in a manner which meets the requirements to manage flood risk.

All development proposals must take account of relevant Surface Water Management Plans, South East River Basin Management Plan and Catchment Flood Management Plans and related flood defence plans and strategies. Financial contributions may be required from development on sites where measures to address flood risk or to improve the environmental quality of watercourses have been identified by these plans and strategies and in accordance with the overall objective of the Water Framework Directive.

The reports prepared as part of the criteria above must demonstrate that the development is safe and will not increase flood risk elsewhere; will reduce overall flood risk and take into account contingency allowances, addressing climate change as set out in the NPPF Technical Guidance and the relevant Shoreline Management Plans and Coastal Defence Strategy.

<u>Assessment</u>

The development site is not in an area at risk of flooding as identified in the appended hydrological report which has been carried out by Caulmert Ltd. The hydrological assessment concludes that:

- The Proposed Development falls wholly within Flood Zone 1 of the EA's indicative flood outline;

- There are parts of the existing site that are at risk of surface water flooding, however these do not significantly affect the development proposals;
- The Proposed Development is a 'less vulnerable' classification and does not require a Sequential Test;
- Other flood risks considered included: existing drainage, groundwater, overland flow, surface runoff. These are not considered to pose a significant flood risk to the proposed development;
- The Proposed Development remains low risk against future flooding when taking account of climate change.

There will be no net increase of surface water run-off, as the site design incorporates a settlement pond for rainwater capture. This water will be discharged under SuDS principles under a permit from the Environment Agency. As a result the development will not increase the risk of flooding elsewhere.

Policy 45 Development in the Countryside

Within the countryside, outside Settlement Boundaries, development will be granted where it requires a countryside location and meets the essential, small scale, and local need which cannot be met within or immediately adjacent to existing settlements. Planning permission will be granted for sustainable development in the countryside where it can be demonstrated that all the following criteria have been met:

1. *The proposal is well related to an existing farmstead or group of buildings, or located close to an established settlement;*
2. *The proposal is complementary to and does not prejudice any viable agricultural operations on a farm and other existing viable uses; and*
3. *Proposals requiring a countryside setting, for example agricultural buildings, ensure that their scale, siting, design and materials would have minimal impact on the landscape and rural character of the area.*

Applications for retail development in the countryside will be considered where it has been demonstrated that the appropriate sequential and/or impact assessments have been undertaken. Local/small scale farm shops will be permitted provided they sell goods that have predominantly been produced on the farm.

Assessment

As discussed in the section relating to the JMLP, minerals have to be sourced where they are situated and so the location of this development is therefore fixed in its countryside location. The potential waste throughput of the CMRF has been purposely designed to be relatively small scale in comparison to most waste operations, in order to serve the local need under the proximity principle.

Whilst the settlement of Loxwood is well protected from the environmental effects of the development due to topography and woodland cover, it is nevertheless close enough to allow easy access to the site for local workers. The site itself has never been a farm, and whilst the development will remove 6 hectares of previously utilised commercial forestry, the development does not prejudice this operation, as this will carry on in the large forestry surrounding the site which is also owned by the developer. The CMRF will be sympathetically designed to blend in with the

woodland surroundings but, as described in the LVIA, it will in any case not be visible anywhere other than very local footpaths, thereby having a minimal impact on its surroundings.

Policy 47 - Heritage and Design

The Local Planning Authority will continue to conserve and enhance the historic environment through the preparation of conservation area character appraisals and management plans and other strategies, and new development which recognises, respects and enhances the local distinctiveness and character of the area, landscape and heritage assets will be supported. Planning permission will be granted where it can be demonstrated that all the following criteria have been met and supporting guidance followed:

1. *The proposal conserves and enhances the special interest and settings of designated and non-designated heritage assets including:*
    a. *Monuments, sites and areas of archaeological potential or importance;*
    b. *Listed buildings including buildings or structures forming part of the curtilage of the listed building;*
    c. *Buildings of local importance, including locally listed and positive buildings;*
    d. *Historic buildings or structures/features of local distinctiveness and character;*
    e. *Conservation Areas; and*
    f. *Historic Parks or Gardens, both registered or of local importance and historic landscapes.*
2. *Development respects distinctive local character and sensitively contributes to creating places of a high architectural and built quality;*
3. *Development respects existing designed or natural landscapes; and*
4. *The individual identity of settlements is maintained, and the integrity of predominantly open and undeveloped character of the area, including the openness of the views in and around Chichester and Pagham Harbours, towards the city, the Cathedral, local landmarks and the South Downs National Park, is not undermined*.

Assessment

As described in the appended LVIA the development does not directly or indirectly impact upon any monument, conservation area or designated landscape. There are 2 listed buildings which may be affected to a small degree – Pephurst Farm and Crabtree Corner - due to extra traffic on Loxwood Road, but this effect is not considered significant as these buildings are already situated on this busy stretch of road, and the site traffic adds very little to the number of traffic movements per day.

In relation to the impacts on the local character, as previously described, the development is shielded from all aspects by the topography and woodland, so impacts are negligible on any settlement. The local character is, in any case, well used to the operation of claypits, and several examples are found within the

immediate landscape. The area has long been a source of clay and of brick making activities, as noted in the LVIA, so in this respect the development is not at all out of keeping with historical land uses.

Policy 48 - Natural Environment

Planning permission will be granted where it can be demonstrated that all the following criteria have been met:

1. *There is no adverse impact on:*
    a. *The openness of the views in and around the coast, designated environmental areas and the setting of the South Downs National Park; and*
    b. *The tranquil and rural character of the area.*
2. *Development recognises distinctive local landscape character and sensitively contributes to its setting and quality;*
3. *Proposals respect and enhance the landscape character of the surrounding area and site, and public amenity through detailed design;*
4. *Development of poorer quality agricultural land has been fully considered in preference to best and most versatile land; and*
5. *The individual identity of settlements, actual or perceived, is maintained and the integrity of predominantly open and undeveloped land between settlements is not undermined*.

Assessment

In respect to the natural environment, it has to be recognised that minerals can only be sourced from where they are present, and any minerals operation will inevitably involve changing the existing landform, it is therefore important to source these minerals from where they lie in as sensitive a way as possible. For this reason, the development site has been located deep within the land owned by the developer in order to protect the surrounding countryside from adverse visual and other environmental effects, whilst at the same time enabling the recovery of valuable building materials in both the clay and of course the recycled construction materials.

In addition to providing a local recycling service, the CMRF provides essential restoration materials in-situ for the clay pit, so the two operations are intrinsically and synergistically linked.

The LVIA has quite detailed information on the character of the surrounding area, and notes that there is no significant impact upon the rural character of the area as the development is located in such a way as to be unnoticeable to any but the closest of footpath users. There are no impacts upon the setting of the South Downs National Park.

The small scale of the operation similarly has little impact upon the rural feel of the local roads, as HGV traffic movements are only maximum 42 per day. This relatively small increase in traffic is stated to be not significant in the traffic assessment. With respect to the tranquillity of the area, again the developments location has been chosen so as to minimise these impacts, and the Environmental Statement has a section on how the potential noise impacts have been modelled and minimised.

Being located in quite isolated woodland, the development does not affect the individual identity of any settlement, and neither does it affect the predominantly open aspects of the surrounding countryside outside the woodland setting.

Policy 49 - Biodiversity

Planning permission will be granted for development where it can be demonstrated that all the following criteria have been met:

1. *The biodiversity value of the site is safeguarded;*
2. *Demonstrable harm to habitats or species which are protected or which are of importance to biodiversity is avoided or mitigated;*
3. *The proposal has incorporated features that enhance biodiversity as part of good design and sustainable development;*
4. *The proposal protects, manages and enhances the District's network of ecology, biodiversity and geological sites, including the international, national and local designated sites (statutory and non-statutory), priority habitats, wildlife corridors and stepping stones that connect them;*
5. *Any individual or cumulative adverse impacts on sites are avoided;*
6. *The benefits of development outweigh any adverse impact on the biodiversity on the site. Exceptions will only be made where no reasonable alternatives are available; and planning conditions and/or planning obligations may be imposed to mitigate or compensate for the harmful effects of the development*.

Assessment

The accompanying Environmental Statement details the impacts on biodiversity, and what the development plans to do in relation to ensuring overall Biodiversity Net Gain (BNG), thereby safeguarding the sites biodiversity value. There are no protected species or habitats present in the development area, impacts to species affected by the proposals will be appropriately mitigated through a comprehensive ecological plan.

The ecological studies carried out have shown that – because this is primarily a woodland environment - there are inevitably going to be effects on some flora and fauna which naturally inhabit the area. The BNG proposal ensures however that the biodiversity of the woodland is maintained. The ecological report also suggests mitigation measures which will be put in place to ensure that any habitat lost is replaced locally to minimise harm to native species. The design of the development will ensure that wildlife corridors are maintained, by retaining buffer zones of woodland around the site perimeter and maintaining woodland around the site in the wider context.

In relation to the restoration project, it is clear that the ecology and biodiversity of the area will be increased by the plans for the development site, both during operation through the Biodiversity Net Gain plan, and following the cessation of mineral excavation. The addition of significant wetland areas planned in the redeveloped scheme will add considerably to the biodiversity currently in the area.

Policy 52 - Green Infrastructure

Development will be expected to contribute towards the provision of additional green infrastructure and protect and enhance existing green infrastructure. Planning permission will be granted where it can be demonstrated that all the following criteria have been met:

1. *The proposals maintain and where appropriate contribute to the network of green infrastructure i.e. public and private playing fields, recreational open spaces, parklands, allotments and water environments;*
2. *The proposals contribute to improving the health and well-being of the local and wider community;*
3. *Where appropriate, the proposals incorporate either improvements to existing green infrastructure or the restoration, enhancement or creation of additional provision/areas;*
4. *Where appropriate, the proposals incorporate either improvements to existing ecology and biodiversity or the restoration, enhancement or creation of additional habitat and habitat networks;*
5. *Where appropriate, the proposals incorporate either improvements to existing trees, woodland, landscape features and hedges or the restoration, enhancement or creation of additional provision/areas;*
6. *Where appropriate, the proposals create new green infrastructure either through on site provision or financial contributions. Where on-site provision is not possible financial contributions will be required and be negotiated on a site by site basis; and*
7. *The proposals do not lead to the dissection of the linear network of cycleways, public rights of way, bridleways and ecological corridors such as ancient woodlands, hedgerows, ditches and water environments.*

Such provision will be required in accordance with adopted policies and strategies relating to green infrastructure and biodiversity network provision. Development that will harm the green infrastructure network will only be granted if it can incorporate measures that avoid the harm arising or sufficiently mitigate its effects.

Assessment

The development site lies within the well managed surrounding woodland of the developer and is planned to remain largely unaffected by these proposals, maintaining the access to these green and open spaces, and maintaining the existing amenity access. As discussed earlier in this document, the restoration plans for a new pond, wetland areas and associated new PROW, will significantly enhance the utilisation of the area for locals following closure of operations and site restoration. This new public access will bring new and interesting green infrastructure to the locale, helping to encourage healthy walking in the area.

The Biodiversity Net Gain plan will run concurrently with the operation to enhance the biodiversity within the woodland – more information on this is in the Environmental Statement. In addition, the site has been designed to ensure that the natural corridors that exist will be retained through the retention of woodland surrounding the site, and in protected areas around the boundary. The

development does not lead to any diminishment of the surrounding ancient woodland setting, so these ecological corridors will remain.

7.17 Loxwood Neighbourhood Plan

The Loxwood Neighbourhood plan is a document setting out the parish of Loxwood's aspirations for development from 2013-2029. The document is however primarily aimed at the control and sustainable development of housing, so does not specifically target policies aimed at employment and the development of businesses.

The sections most relevant to the proposed development would be:

Loxwood Local Plan – Policy 12

- *Development within the rural area will be in accordance with the NPPF paragraph 55, the CDC Emerging Local Plan and the General Permitted Development Order.*
- *New agricultural or business development on land already in agricultural or commercial use outside the Settlement Boundary will be supported subject to the following criteria:-*
    - *The scale and nature of any proposal would enhance the overall site setting and its design will be such as to minimize the overall impact of the proposed development on the surrounding rural landscape and be sensitive to its setting by means of size, bulk and location.*
    - *The proposals would not have an unacceptable impact on the local road network*
    - *The proposals would not cause unacceptable conflicts with agriculture and other land-based activities*
    - *The proposals would not have any significant harmful impact on the amenities of neighbouring residents and other users*.

Loxwood Local Plan – Policy 14

- *New retail/business start-ups or the expansion of existing businesses will be supported, provided they can be shown to be viable, sustainable and benefit the local economy and the wellbeing of the parish.*
- *They should be sensitive to the local setting and not have a detrimental impact on the surrounding environment.*
- *The provision of viable small business premises or retail properties within new developments will also be supported where economically sustainable and in accordance with this policy.*
- *Such development should:-*
    - *Give broad, positive support for the development and growth of the local economy though flexible and responsive planning and encourage local economic innovation.*
    - *Meet the needs of existing and future local businesses, including quality workspace, car parking and storage*.

Section 15. The Natural Environment

- *The Neighbourhood Plan will encourage sympathetic management of the countryside and natural outdoor environment in and around the parish to enhance the quality of the landscape, improve local biodiversity and provide other benefits to the community's quality of life.*
- *The Plan will expect developments to retain features of high nature conservation or landscape value, including mature trees, species rich hedgerows, natural habitats, ponds and existing areas of woodland.*

Assessment

Whilst the Loxwood Local Plan seeks mainly to control the development of housing, within the economy and business section, there is a statement which broadly supports the development, in that it notes that there is "*clear broad support for a stronger local economy which will provide greater positivity, flexibility and responsiveness thus encouraging new business start-ups or expansion of those few local businesses within the parish. Consequently, their needs should be accommodated wherever possible and practicable and they should be encouraged to remain within the community and to grow. The Parish also needs to attract new enterprises to boost and diversify the local economy*". This is supported by policies 12 and 14 as noted above, which seek to encourage new business start-ups which could bring in employment and significantly benefit the parish.

In relation to policies 12 and 14, the development has been designed to be small scale, with the CMRF throughput limited, and the claypit footprint being no more than 1/3 the size of a football pitch – both limiting the developments impacts and thereby not having any significant detrimental impacts on the local environment. As previously discussed, the traffic assessment has noted that traffic impacts on local roads are deemed to be not significant, and the sites relatively isolated location does not significantly impact upon the amenities of Loxwood or its residents.

In relation to policy 15, whilst mitigation measures will be put in place for any ecological impacts, the impact of the development should also be recognised as being temporary. The restoration plans, and plans for new PROW, ensure that over the lifetime of the plan, the development proposal will actually enhance the local landscape and provide new areas of woodland access for locals to enjoy, where no legal access existed before. The comprehensive BNG programme further ensures that the existing biodiversity of the area will be improved rather than reduced. Habitats lost on the development site will be more than compensated for in the immediate surrounding woodland also owned by the developer, this mitigation being under the control of highly experienced environmental and ecological consultants.

It is of course not possible to retain the existing areas of woodland on the site, as it needs to be cleared for the claypit. However, as discussed earlier in this document, it should be noted that the majority of these trees are less than 20 years old and not of any significant arboricultural interest. The removal of the trees on site does not affect the visual amenity of the area to the residents of Loxwood, as the trees to be removed cannot be seen from outside the site due to the topography of the area – other than in very short-range views from the one footpath which runs to the north of the site.

The restoration plans are going to return these areas back to mainly deciduous woodland following the relatively short life of the project.

Policy 18

Development in areas of flood risk zones 2 & 3 as identified by the environment agency flood risk maps will only be permitted in accordance with the NPPF.

New development outside flood risk zones 2 and 3 should be subject to a site specific flood risk assessment, where relevant, in accordance with the NPPF.

Surface water mitigation techniques should be employed to ensure that there is no net increase in surface water run-off.

Assessment

The development has undertaken a comprehensive hydrological risk assessment, including the aspects in relation to flood risk – and this is appended in the Environmental Statement. The site is in flood risk zone 1 and not at risk of flooding. Surface water captured as a result of the clay pit operation, would normally have run immediately into the local streams and then down into the Arun River. The installation of the on-site lagoon during the operational phase, means that this water will now be released in a controlled manner under SUDS principles and will therefore not add to any flooding risks elsewhere; rather the development should aid these risks as the water which would normally have run directly off the areas being excavated will be largely contained.

7.18 The Waste Local Plan 2019 Review

WSCC carried out a review of its own waste policy in 2019. This review pointed out that CD&E waste is already brought into the county from Surrey and East Sussex, which might indicate that there is excess capacity for this waste in West Sussex. However, the report also states that in 2017, 161kt of CD&E waste was imported into WS for landfill. This supports the case for the development at Loxwood, as - even if the import remains at the same level - the amount going to landfill would reduce. Likewise, the 32kt of CD&E reported as being exported to neighbouring counties could be reduced if these materials could be treated in the county.

The reference in Fig 11 stating '*the total inert recovery capacity had fallen from 3.9mt (in 2013/13) down to 1.5mt. The estimates suggest that, based on current fill rates (as set out in Appendix C of the AMR for 2017/18), capacity could be exhausted by 2020 if filling continued at existing rates and no new permissions are granted*" indicates the need for the proposed project, irrespective of the permission granted for Sandgate Quarry in 2019.

The reference in Fig 13 is also important where it is stated that '*the amounts (and percentages) of CD&E waste going to landfill have been increasing annually*', again demonstrating the need for increased CD&E recycling facilities in the county. Similarly, in Fig 3 the review notes that '*CD&E waste arisings are anticipated to be higher than that calculated when the WLP was prepared. In 2031, it is anticipated that CD&E waste arisings could be as high as 1.4 million tonnes (high growth scenario), some 350,000 tonnes higher than the original high growth forecast at 2031*' and in Fig 8 it is commented that significant recycling facilities for the non-recyclable inert material to be produced have been lost '*In 2017/18, there was a significant reduction in capacity (circa 230,000 tonnes) due to the closure of two recycling operations at former quarries that have now been restored*' .

In the review of Policy W4 there is recognition that facilities such as the proposed Loxwood Project will be required '*continued mineral extraction in West Sussex means there will continue to be a need to restore quarries, therefore aggregate recycling operations will continue to come forward (and be determined against this and other policies in the plan*)' . Whilst the review in Policy W8 further states '*There is currently sufficient inert recovery capacity in the Plan area to last around five-years*' demonstrating the need for further inert capacity to come forward for development.

7.19 PLANNING POLICY ASSESSMENT – OVERALL SUMMARY

The following section provides an overall assessment of the proposed development against relevant planning policies detailed in the sections above, and taking into account the current status of both mineral and waste developments in the county.

Principle of Development

The NPPF recognises the importance of mineral development, stating that "*it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs*"

Indeed, minerals can only be worked where they are found and the NPPF requires that best use is made of the finite resource to secure their long-term conservation.

Geological investigations have identified a proven and viable mineral resource within the application site, namely Weald clay. Laboratory testing of the material has been undertaken to establish the clay's suitability for brickmaking. The laboratory report concluded – '*The four composite core samples were of silty clay with a chemistry consistent with a brick clay. On firing at 1060 °C, all the samples exhibited a change to a reddish brown. Two of the samples Core 1A & 1B and Core 5C & 5D were a classic brick red colour. The remaining two samples were significantly darker coloured. The fired strength of the briquettes would appear to be sufficient for manufacture of bricks*'

The site is located within an area designated as containing brick clay within the WSCC Joint Minerals Local plan. Mineral extraction at the site is therefore supported, in principle, subject to a sufficient demonstration that appropriate mitigation and controls can be applied to satisfy wider planning policy requirements

The proposed development would result in the extraction of a significant volume of mineral resource over the period of 30 years, providing an invaluable contribution to maintaining landbank requirements over the emerging plan period. Following the completion of extraction operations, the land would be restored to a combination of woodland and wetlands providing biodiversity and nature conservation gain.

The WSCC JMLP states (in para 4.2.5.) that "*providing minerals to support economic growth in West Sussex is an important priority*". Further, (in para 4.2.6) it is recognised that "*mineral extraction is a temporary activity and, once sites are restored, they can enhance the local environment and landscape*"

The WSCC JMLP also identifies (in para 3.3.5) that the recycled and secondary aggregates which will be produced by the construction waste recycling plant has an important role to play in West Sussex as they can reduce the demand for primary aggregates.

Given the "great weight" to be applied to the benefits of mineral extraction; the compliance with strategic locations for mineral development; the amenity associated with the CMRF; and the long-term restoration outcomes; the principle of a mineral development co-located with a construction waste recycling facility is proposed to be a valuable addition to the local economy.

8. Need for Clay

The British Geological Survey (BGS) maps for West Sussex, show that the Development Site is located within the outcrop area of Weald Clay, which BGS confirms is a principal brick clay resource:

"The Weald Clay of south-eastern England is one of the most important brickmaking raw materials in Britain. It is worked at several sites in West Sussex for the manufacture of facing bricks and tiles. The Weald Clay consists of mudstones and silty mudstones and is up to 400 to 450 metres thick and has a very extensive outcrop within the Low Weald. Brick clay is worked at all levels within the Weald Clay and the full extent of the formation is, therefore, shown on the map". [**Figure PS1**].

To prove BGS's conclusions, in January 2017, LCP instructed Geotechnical Engineering Limited (GeoTech) to carry out a "Feasibility Assessment for Clay Extraction" considering the 300 acres of land that is controlled by the Danhash family. [see EIA Technical Report appended to the Environmental Statement].

In June 2017, GeoTech were then instructed to drill 13 boreholes and 4 of these were drilled within the Development Site boundary with a further 2 boreholes located just outside of the boundary [**Figure PS18**]. GeoTech transported the borehole samples to Lucideon and Geotech's Interpretative Report was issued on the 12 July 2017.

Lucideon (formerly the British Ceramic Research Institute) are experts in the assessment of a brick clay's suitability for brick making. Lucideon carried out a range of chemical analysis and produced a number of briquettes for firing at 1,060°C. Lucideon confirmed that the chemical composition and fired strength of the briquettes would be sufficient for the manufacture of full-size bricks.

Moreover, the establishment of a clay pit with 30 years of clay reserves, would replace the loss of the 30-year clay reserve (from 2012 until 2042) at the former Rudgwick clay pit and brickworks close to LCPs site. This former clay pit and brickworks was designated as a safeguarded site in the 2003 West Sussex Minerals Local Plan and in minerals planning policy terms, should not have been granted planning permission for restoration of that clay pit 30 years earlier than originally intended.

R Harrison & Sons Limited acquired the freehold of the former Rudgwick Brickworks from Wienerberger Brick in 2012. Wienerberger had acquired Rudgwick in 2006 following the acquisition of Baggeridge Brick plc and the closure of the site resulted in the loss of some 51 jobs.

Wealden Clay had been previously extracted from the Quarry and formed into stockpiles for use in the adjacent brickworks premises. In addition, materials were imported to the site to assist in the clay products manufacture including coke breeze and sand. The Harrison family decided to acquire the former Brickworks consisting of buildings and land to continue the expansion of their dairy farming business. West Sussex County Council granted planning permission to R Harrison & Sons Ltd in 2015, which enabled them to restore the 8.8 hectare former clay pit site with 590,000 tonnes of imported inert wastes over a very short 4 to 5 year period (80 HGV movements a day 6 days a week).

LCP's proposed development would replace the clay reserve that was lost to the county when the safeguarded Rudgwick site closed 30 years earlier than it should.

Subject to this development going ahead, LCP would then pursue a further project elsewhere in West Sussex, for the establishment of a small-scale hand produced brick works to supply bricks to the local market, that are of a type and style that is appropriate to the local character and built environment. This brickworks would be similar in size or smaller than the brickworks at West Hoathly and similar in size to the hand made brickworks in Swanage, Hampshire.

8.1 Brick Clay and the Clay Brick Market

Brick clay is the term used to describe 'clay and shale' used in the manufacture of structural clay products, such as facing and engineering bricks, pavers, clay tiles for roofing and cladding and vitrified clay pipes. In the manufacture of bricks, the term 'clay' is used relatively loosely, as the clay mineral content of the raw materials may vary from 20% to 80%.

Fireclay is also used from opencast coal mining. Some clay and shale is used for engineering purposes, such as lining and capping landfill sites, lining ponds and general construction purposes. Some of these latter uses may place a commercial value on the clay and shale, that is up to 10 x higher than the extraction cost, which forms the cost base for brick manufacture. Large tonnages of clay and shale are also used in the manufacture of cement. Smaller amounts are used in a process to make lightweight aggregate for block making. Up until 20 years ago, it was estimated that around 90% of the clay and shale was used for facing bricks, albeit the outputs from clay pits that are tied to a particular brickwork, are commercially confidential.

As a general rule of thumb, approx. 3 tonnes of clay and shale is used to manufacture 1,000 bricks. The decline in demand for 'brick clay' from over 16 million tonnes in 1974 to less than 8 million tonnes by 2005, is broadly in line with the demise of common clay bricks which have been replaced in the inner leaves of cavity walls in houses, by concrete blocks, and in internal walls by blocks and plasterboard. Therefore, the correlation between brick production and house building has become less well defined.

Cement is used to produce the concrete blocks that have replaced clay bricks used for the inner walls in houses and so some clay and shale is now used for the concrete blocks instead of the bricks. Cement is essentially a mixture of calcium silicates and calcium aluminates. Cement is produced by taking the calcium from limestone or chalk and the silica / alumina from clay mudstone. The resultant cement clinker that accounts for 95% of the cement, is then ground and mixed with the 5% gypsum – calcium sulphate. As of 2018/19, 1.4 million tonnes per annum of clay mudstone was used to produce cement. This compares with the 6.15 million tonnes of clay that was used to produce bricks. When ignoring all of the other non-brick uses for brick clay, it is clear that during the last 20 to 30 years, brick clay use for bricks has reduced from 90% to c. 80%.

After the financial crisis in 2008, brick output further declined from 8 million tonnes, in 2005, to less than 4 million tonnes and the recovery in recent years up to the end of 2019, was still 15% down on 2005 levels. Before the decline in 2005, all of the counties in the south east of England accounted for 12% of Great Britain's clay brick output.

The introduction of new and more demanding standards for bricks in terms of durability is placing greater constraints on the types of clays that can be used. Developers, architects and planners are demanding that new housing and other buildings have a 'traditional' appearance sympathetic to local vernacular styles.

With the relative low unit value of brick clay on an ex works basis, the demand for new and lighter brick colours, means there is an increasing trend towards clay blending, which results in the transportation of clay from one clay pit to a brickworks located elsewhere. This is contrary to how things worked in the past, where brickworks relied on raw material from a captive, on-site clay pit. This trend is driven by the need to improve locally sourced clays to allow manufacture of bricks which both meet the highest technical specifications and give the consumer maximum choice of colours and textures.

Although virtually all clay movements tend to be by road, compared to the movement of aggregates, the volumes are small, and the haulage distances are relatively short. In any case, the manufactured products are almost always transported to the market, i.e., building sites, by road.

Brick Clay Reserves

In mineral planning, the terms 'reserves', 'mineral reserves' or 'permitted reserves' refer to the tonnage of a mineral that has a valid planning permission for mineral extraction. There has been no definitive survey of the size (tonnage) of permitted reserves of brick clay in Great Britain. However, in the course of preparing their development plans, Mineral Planning Authorities (MPA), such as West Sussex, are required to undertake assessments of the reserves in their area. However, it is not possible to publish such data due to commercial confidentiality concerns.

In 2000, the former government department for Transport, Local Government and the Regions (DTLR), commissioned a survey which concluded that the area of surface planning permission for clay shale was 8,430 hectares. However, gross figures for total reserves that derive in part from old permissions will include land that is non-mineral bearing or deposits that are no longer commercially viable. The reserve figure will also mask significant imbalances by clay quality leading to shortfalls of specific clay types.

The British Geological Survey assessed this using their spatial data and concluded the area was more like 7,300 hectares and the Wadhurst and Weald clay accounted for just 6% of the total brick clay resource in Great Britain.

This has to be borne in mind when any MPA reports that a particular brickworks with an on-site claypit has more than 50 years of reserves. In reality, the true level of reserves may be 10 to 20 years less than that, which is not much more than the minimum requirement to maintain 25 years of reserves.

Byproducts

Brick clay sites also often produce saleable aggregate from overburden and interburden, thus optimising the use of all mineral resources at a site, albeit this is more common for sites located in carboniferous mudstones in the Midlands. Sand and gravel is also occasionally produced from the superficial deposits overlying brick clays. Clay and shale are exempt from the Aggregates Levy and these materials may be used as a source of bulk fill where they are unsuitable for brick manufacture.

8.2 National Planning Policy Framework – February 2019 (NPPF)

This document replaces the first National Planning Policy Framework published in March 2012 and includes clarifications to the revised version published in July 2018.

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise, and the National Planning Policy Framework (NPPF) is now a material consideration in planning decisions.

The JMLP was issued before the latest NPPF and the 2019 Waste Local Plan Review was based on monitoring reports up to March 2018, i.e., nearly 12 months before the issue of the NPPF. One further monitoring report for the 12-month period ending March 2019, has been issued since the NPPF was published. WSCC have confirmed (June 2020) that the March 2020 monitoring report will probably be issued in June 2021.

Paragraph 204 of the NPPF states that when developing noise limits, it must be recognised that some noisy short-term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction. However, the predicted noise levels from LCP's operation will be within the acceptable standards.

LCP's proposal will continue to inject money into the local economy over a 30-year period of operation, both in terms of money spent on goods and services supplied, employment created and in terms of income generated by the sales of mineral clay and from the recycling of construction and demolition waste.

Paragraph 205 of the NPPF states - when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. This paragraph also states that as far as is practical, the planning authority should provide for the maintenance of landbanks of non-energy minerals from outside National Parks, Areas of Outstanding Natural Beauty and World Heritage Sites, scheduled monuments and conservation areas. LCP's site is not within, or near to, a designated site.

Paragraph 208 on page 60 states that minerals planning authorities should plan for a steady and adequate supply of industrial minerals by:

> a) co-operating with neighbouring and more distant authorities to ensure an adequate provision of industrial minerals to support their likely use in industrial and manufacturing processes;
>
> b) encouraging safeguarding or stockpiling so that important minerals remain available for use;
>
> c) maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment[3]; and
>
> d) taking account of the need for provision of brick clay from a number of different sources to enable appropriate blends to be made. [**NB: WSCC's convoluted M5 Policy does not really support this objective].**

At the heart of the NPPF is a presumption in favour of sustainable development, which is summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs[4].

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in

[3] At least 25 years for brick clay

[4] Resolution 42/187 of the United Nations General Assembly

mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- An economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.
- A social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.
- An environmental objective - to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development. For decision-taking this means approving development proposals without delay.

Greenfield development

The planning application for LCP's proposed development demonstrates that this is a small-scale development that will have no significant visual impact and the land will be returned to its original state with a bio diversity net gain during the lifetime of the development. LCP's site is **greenfield** but not green belt. The following extracts from the NPPF demonstrate that if development could be permitted in green belt then a lower bar must exist for green field.

Paragraph 146 of the NPPF states that mineral extraction developments are NOT inappropriate in the Green Belt if they preserve its openness and do not conflict with the purposes of including land within it. The Government's revised 'Green Belt Guidance' was published on the 22 July 2019 - Paragraph: 001 Reference ID: 64-001-20190722:

Assessing the impact of a proposal on the openness of the Green Belt (as defined in the NPPF), where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- *openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- *the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- *the degree of activity likely to be generated, such as traffic generation.*

Paragraph: 002 Reference ID: 64-002-20190722:

Where it has been demonstrated that it is necessary to release Green Belt land for development, strategic policy-making authorities should set out policies for compensatory improvements to the environmental quality and accessibility of the remaining Green Belt land. These may be informed by supporting evidence of landscape, biodiversity or recreational needs and opportunities including those set out in local strategies, and could for instance include:

- *new or enhanced green infrastructure;*
- *woodland planting;*
- *landscape and visual enhancements (beyond those needed to mitigate the immediate impacts of the proposal);*
- *improvements to biodiversity, habitat connectivity and natural capital;*
- *new or enhanced walking and cycle routes; and*
- *improved access to new, enhanced or existing recreational and playing field provision.*

Paragraph: 003 Reference ID: 64-003-20190722:

Identifying the scope for compensatory improvements is likely to require early engagement with landowners and other interest groups, once the areas of land necessary for release have been identified. Consideration will need to be given to:

- *land ownership, in relation to both land that is proposed to be released for development and that which may be most suitable for compensatory improvements for which contributions may be sought;*
- *the scope of works that would be needed to implement the identified improvements, such as new public rights of way, land remediation, natural capital enhancement or habitat creation and enhancement, and their implications for deliverability;*
- *the appropriate use of conditions, section 106 obligations and the Community Infrastructure Levy, to secure the improvements where possible. Section 106 agreements could be used to secure long-term maintenance of sites.*

8.3 <u>West Sussex Joint Minerals Local Plan – Duty to Cooperate Statement – issued May 2017</u>

This 301-page document sets out the process that is reinforced in the NPPF that was issued 2 years later. This document seeks to demonstrate that WSCC and the South Downs National Park Authority met the statutory requirements imposed by the Localism Act 2011 in relation to the Duty to Cooperate during the preparation of the Joint Minerals Local Plan. This required the joint authorities to consult with other Minerals Planning Authorities in south east and further afield, to determine whether minerals could be imported into West Sussex from the neighbouring counties, e.g. East Sussex and Hampshire. Enquiries were also made with other county authorities who are a considerable distance from West Sussex, e.g. Staffordshire, Cheshire, Derbyshire, Nottinghamshire and North Yorkshire.

The supply of clay to the brickworks in West Hoathly was identified as a Strategic Priority:

A site at West Hoathly is allocated for clay extraction to provide additional supplies of brick clay to the brickworks. The Authorities investigated the availability of alternative supplies of brick clay as part of the exceptional circumstances test as the site would be major development in the AONB. In particular further information was sought from East Sussex County Council to ascertain whether brick clay could be imported from its plan area.

The relevant strategic objectives are - "to promote the prudent and efficient production and use of minerals, having regard to the market demand and constraints in the Plan area".

In relation to supply from Little Standard Hill Farm [East Sussex]*, there is a condition attached to the planning permission that states that the clay should only be used in connection with the production of bricks at Ashdown Brickworks. If permission was sought to remove the conditions, the operator would need to demonstrate that the reserves were no longer needed in the long-term at Ashdown brickworks and that the proposals were acceptable in terms of other policies. With regard to Ashdown Brickworks, it is estimated that there are sufficient reserves for the next 48 years (information provided with 2003 planning application). Although there isn't anything specific relating to extracted clay not being permitted to be exported from Ashdown brickworks, the East Sussex, South Downs and Brighton and Hove Waste and Minerals Plan (2013) seeks to sustain the manufacture of brick, tile and clay products in the Plan Area. The export of clay to a site outside the Plan area is not likely to be supported if it were to significantly prejudice the future of any of the existing sites in East Sussex by the substantial reduction of clay reserves.*

<u>On the 15 January 2016, a senior planner at WSCC emailed their counterpart at ESCC to ask the following question:</u>

To help WSCC/SDNPA progress the preparation of their Joint Minerals Local Plan I would be very grateful if you would respond to the questions below which relate to the possibility of clay being imported into West Sussex from East Sussex, to supply an existing Ibstock brickworks at West Hoathly. Currently the brickworks is supplied by clay from an adjacent excavation and WSCC/SDNPA are considering whether to allocate an extension to the brickworks in the Plan. An important factor in the authorities' assessment of the site's suitability is its location within the High Weald Area of Outstanding Natural Beauty and therefore its consistency with paragraph 116 of the NPPF.

Responses to the following questions are needed to inform this assessment.

> *1. Are you aware of any sites within East Sussex County Council that could, theoretically, supply Wadhurst Clay to the brickworks at West Hoathly?*
>
> *2. Ibstock have suggested that, at some point in the future, it may be possible for the brickworks to be supplied from their Ashdown and Little Standard Hill sites. With regard to this, are there any constraints (in East Sussex) which would hinder such activity and, if so would it be possible for these constraints to be overcome? (Please consider development management and supply constraints).*
>
> *3. Please provide any other comments on the deliverability of West Hoathly brickworks being supplied by Imports of clay.*

<u>The planner at ESCC sent the following reply on the 25 January 2016:</u>

Q1. Ibstock currently has four sites in East Sussex: Chailey Brickworks (active); Ashdown Brickworks (active); Little Standard Hill (implemented but no current extraction); and Horam Brickworks (implemented but no current extraction – the brick manufacturing development has not been commenced). The ability to supply the specific type of Wadhurst Clay required would have to be verified with the operator. There are two other active clay extraction sites within East Sussex, but these are for handmade tiles/bricks and, therefore, the reserves available are limited.

Q2. In relation to clay being supplied from Ashdown Brickworks and Little Standard Hill, please note the following:

- *In relation to Little Standard Hill Farm, condition 2 of MR/11 states: "The clay extracted from the site shall be used **only** for or in connection with the production of bricks or other clay products at the Ashdown Brickworks, except with the prior written approval of the Director of Transport and Environment." Therefore, in the event that Ibstock were to seek to remove this restriction, they would need to demonstrate that:*

1. The reserves were no longer needed in the long term at Ashdown brickworks; and

2. That the proposals are acceptable in terms of WMP 18 (transport) and DM policies, particularly WMP25 (general amenity) and WMP 26 (traffic impacts).

- *Ashdown Brickworks has a long history of brick making with records dating back to 1900. Various permissions have been granted, the latest relevant permission being MR/10 granted in 2003. The applicant estimated that there was sufficient reserves for the next 48 years. This permission allows the winning and working of minerals to 2052. Whilst there isn't anything specific relating to extracted clay not being permitted to be exported from Ashdown Brickworks, Condition 11 of MR/10 states: "No topsoil or subsoil shall be sold or removed from the site for any other purpose." However, the reason for this is to ensure there is sufficient material for restoration purposes, rather than relating to clay that is extracted. There are also other conditions controlling the use of this site. It should be noted that the Highway Authority considered that the application proposed extraction and production rates at a constant level, so the traffic situation would not significantly change from existing levels. Accordingly, the Highway Authority did not object to the application*

Q3. In relation to supplying minerals to adjoining areas, the NPPF contains the following references on the sourcing of clay:

"MPAs should plan for a steady and adequate supply of industrial minerals by co-operating with neighbouring and more distant authorities to co-ordinate the planning of industrial minerals (includes clay) to ensure adequate provision is made to support their likely use in industrial and manufacturing processes; provide a stock of permitted reserves to support existing plant for at least 25 years for brick clay, ….and taking account of the need for provision of brick clay from a number of different sources to

enable appropriate blends to be made." Previous national policy indicated that clay should be extracted as close as practicable to the brickworks that it supplies.

In terms of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013 (WMP), Policy WMP 13 seeks to sustain the manufacture of brick, tile and clay products in the Plan Area. Resources at Ashdown Brickworks and Little Standard Hill are also safeguarded in the WMP. The Policies do not address the potential export of clay from existing sites, except in the case of use for flood defences. However, by implication and in terms of Policy WMP4 (sustainable minerals provision), the export of clay to a site outside the Plan area is likely not to be supported if it were to significantly prejudice the future of any of the existing sites in East Sussex by the substantial reduction of clay reserves available to that site and/or compromising restoration plans (Policy WMP17). Sustainable transport and traffic issues are also key considerations at the Ashdown Brickworks site.

Similarly, the response from Surrey County Council stated:

Depending on which sites are allocated, this option may prevent a 25-year landbank at those existing sites having less than 25 years of clay reserves remaining. We have lost a lot of brickworks in Surrey over the past 10 to 15 years. We now have only two remaining sites in the south west of the county where clay extraction and the associated brickworks are situated together. After having been mothballed for many years, many brickworks across the country are re-opening following a massive shortage of bricks although we remain heavily reliant on imports. The surge in demand may justify investment in plant and machinery at sites where the existing plant is outdated and in need of modernisation but such investment is very expensive.

In terms of clay, you seem to imply that the landbank is below 25 years at two of your sites, given that you say that it is beyond 25 years at 3 of your 5 sites. On this basis, is there merit in having a more definitive option to maintain a 25-year landbank at existing sites throughout the plan period. In Surrey, we identified areas of search around our existing brickworks for possible clay extraction in the longer term although my understanding is that we do not have much information on the quality of the clay reserve identified - hence us going down the 'area of search' route.

Comment: LCP's site is on the Surrey / Sussex border, the NPPF imposes a Duty to Cooperate and Surrey also has a clay shortfall.

8.4 Draft Joint Minerals Local Plan, Planning Inspectorate's (PINS) Report – issued 30 May 2018, i.e. before the NPPF was published.

The draft Joint Minerals Local Plan was subject to a 6-week public consultation period followed by a public hearing that lasted from the 19 to 28 September 2017.

The non-technical summary in PINS report highlighted the changes to the draft local plan:

- Amendments to remove reference to landbanks in relation to silica sand and clay and to reference a stock of permitted reserves.
- A change to ensure that the strategy for clay includes the safeguarding of brick-making clay.

- Amendments to the supporting text of Policy M10 to refer to brickworks as part of safeguarded minerals infrastructure and buffers of 250 metres to sensitive receptors rather than 150 metres.
- Changes to the development principles for the Extension to West Hoathly Brickworks site allocation.
- Changes to Policy M23 to ensure that the policy relates to the operation of mineral workings, as well as their design and to provide clarity on what evidence will be required in support of future proposals in terms of a working programme.

The detail that lies behind this summary is relevant to LCP's planning proposal. It is also worth noting that although PINS report was produced just 9 months before the NPPF, there are some considerable differences between the two.

Paragraph 15 states:

I have amended the wording of MM1 to include Areas of Outstanding Natural Beauty (AONB) following representations on the MM consultation, as there are some mineral resources, particularly clay, in such areas.

Paragraph 52 states:

It has been suggested that the proposed extension to West Hoathly Brickworks will not result in a stock of permitted reserves of at least 25 years to the Brickworks. However, the allocation was the only one put forward and it would, nonetheless, make an important contribution to the stock of permitted reserves. Policy M5 also includes criteria that would allow for other sites to come forward in the future, if needed. I consider this to be an appropriate and sound approach. [Emphasis added]

Comment: this 9 hectare clay pit extension in an AONB with a large number of ecological and archaeological issues to overcome, compares to LCP's 6 hectare clay pit on a site that is **NOT** in an AONB and is not a designated site.

Paragraph 53 states:

Policy M5 does, however, refer to maintaining a landbank, whereas national policy requires the maintenance of a stock of permitted reserves. To ensure consistency with national policy, changes to Policy M5 (MM37), the supporting text (MM35) and to the monitoring framework (MM38) are required for soundness. A change (MM36) is also required to the supporting text to make clear that part of the strategy for clay is to safeguard the brick-making clay resource, this will ensure compliance with national policy.

Comment: It is not at all clear that the final wording in the JMLP, subsequently issued, did in fact address the points raised in Paragraph 53.

The following paragraphs related to "Issue 3" - *Whether the site selection process, including its methodology and criteria is justified, effective and consistent with national policy and whether the Extension to West Hoathly Brickworks site allocation is acceptable in environmental terms and in all other regards.*

Paragraph 65 states:

The proposed extension to West Hoathly Brickworks would provide the brickworks with up to 3 years of supply and is approximately 9 hectares in size. The site is

located within the High Weald AONB. Paragraph 116 of the NPPF sets out that major development within AONBs should not be allowed unless there are exceptional circumstances and where it can be demonstrated it is in the public interest. The same paragraph also sets out a number of considerations that are of relevance to the consideration of whether exceptional circumstances exist. These are: the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated. These criteria are also reflected in Policy M13 of the Plan.

Paragraph 66 states:

The 'NPPF' [**this is the earlier version of the NPPF**] *at Paragraph 146, sets out that minerals planning authorities should plan for a steady and adequate supply of industrial minerals by providing a stock of permitted reserves of at least 25 years for brick clay and for cement primary and secondary materials to support a new kiln. The need to secure a stock of suitable reserves of some 25 years demonstrates the importance of the resource, which is at the least of regional importance. It is clear that the site allocation is needed to contribute to securing a stock of permitted reserves for the West Hoathly brickworks. Turning to the local economy, the Authorities MSSR identifies that some 40 people are employed by the brickworks. Should the brickworks have to close because of a lack of a clay source, this would result in a notable impact on employment. In addition, the output from the brickworks is a major contributor to the local and regional economy.*

Paragraph 67 states:

The Authorities' evidence on potential alternatives within the MSSR is contradictory. The report in Appendix 8 identifies that there may be potential to import clay from sites in East Sussex, namely Little Standard Hill, Ninfield and Ashdown Brickworks, Bexhill and therefore exceptional circumstances do not exist. However, the main body of the report at Paragraph 3.52, states that there is uncertainty that any permission to export clay from East Sussex would be allowed and therefore, to guarantee the continued operation of the brickworks, and to safeguard the associated employment at the site, it is in the public interest to allocate the site [i.e. West Hoathly]*.*

Paragraph 68 states:

At the hearing sessions, the Authorities accepted that Paragraph 116 of the NPPF [**earlier version**] *states that to justify major development in an AONB, exceptional circumstances must exist and it must be demonstrated that it is in the public interest. The Authorities did, however, at the hearing session set out that there is significant uncertainty with regard to the potential to export clay from East Sussex to the West Hoathly Brickworks and on that basis, and having regard to all other matters associated with Paragraph 116 of the NPPF, they argued exceptional circumstances, which is in the public interest do exist.*

Paragraph 69 states:

The importation of clay from the existing sites at Little Standard Hill, Ninfield and Ashdown Brickworks, Bexhill to West Hoathly brickworks would result in a significant increase in vehicle movements to the site over a long distance.

Additionally, it appears that the likely route from the two sites in East Sussex to West Hoathly would be via the A22, which runs through the Ashdown Forest Special Area of Conservation (SAC). It is unclear whether alternative routes would be possible or viable.

Paragraph 70 states:

*The Authorities have set out that the importation of clay to the brickworks could result in additional costs which **might** affect the viability of the brickworks. I consider that this is an important factor, bearing in mind the distance that the clay would need to be transported. Given this, I am of the view that there is a significant level of uncertainty that the importation of clay to the brickworks from East Sussex is a likely or viable option.*

Comment: this was never quantified. No market assessment was carried out to support this assumption or if it was carried out it does not appear to be in the public domain.

Paragraph 72 states:

The development principles for the site [i.e. West Hoathly] *would require that any extraction is undertaken in small areas in sequence to minimise any visual intrusion along with perimeter mounding and additional planting. I consider that this would help to ensure that any potential landscape and visual impacts were minimised. There will inevitably be some impact on the special qualities of the AONB and the potential for some cumulative impacts with the existing brickworks during the operation of the site. However, given the above, I am not of the view that there would be a significant level of harm. Further, the site would only see clay extraction for approximately 3 years and I consider that the site can be restored in such a way, in accordance with the development principles of the site, which would conserve and possibly even enhance the purpose and special qualities of the High Weald AONB in the longer term. This view is also shared by the High Weald AONB Unit in their consultation response.*

Paragraph 76 states:

I consider that the site selection process [for the West Hoathly site in an AONB], *including its methodology and criteria is justified, effective and consistent with national policy and the Extension to West Hoathly Brickworks site allocation is acceptable in environmental terms and in all other regards.*

Finally, PINS concluded the Habitats Regulation Assessment as follows:

The Habitats Regulations AA Screening Report (Revision 4) December 2016 sets out that the Plan may have some negative impact, and an appropriate assessment for the Extension to West Hoathly Brickworks should be undertaken. The appropriate assessment undertaken by the Authorities found that the site would not have any significant effects. I agree with this view. Overall, the Plan, as proposed to be modified, would not have any significant effects on European protected sites and Natural England supports this conclusion.

8.5 <u>West Sussex Joint Minerals Local Plan until 2033 (JMLP) – issued July 2018, 6 months before the NPPF</u>

The JMLP was issued within 2 months of PINS Report. LCP's proposed development site is only 7 miles / 11km outside of the broad geological zone that forms part of the High Weald triangle between Horsham, East Grinstead and Burgess Hill that is

referred to in Chapter 4.3.1 of the JMLP, but more importantly, LCP's site is outside of the High Weald AONB.

Chapter 5 of the JMLP Executive Summary – Strategy and Policy Context, states:

In keeping with the 'duty to cooperate', the Authorities are continuing to engage with adjoining Minerals Planning Authorities (MPA) and those elsewhere to ensure that a consistent approach is taken to minerals planning and that planned provision of minerals is co-ordinated, as far as is possible, whilst recognising that provision by the minerals industry is based to a significant extent on commercial considerations.

Chapter 6 of the JMLP Executive Summary – Strategic Minerals Supply, states:

In broad terms, with regard to provision of minerals, the strategy is to achieve a steady and adequate supply by safeguarding existing minerals reserves and minerals resources, and allocating additional areas where minerals can be worked to meet a specific demand…[Emphasis added].

Chapter 1.2 of the main report "The Challenge", recognises that "Minerals are essential to our way of life. They have been used to create the towns and villages in which we live and are present in the products we consume. Minerals found in West Sussex are needed to ensure that we continue to enjoy a good standard of living and are key to our future prosperity".

Chapter 2.3.12 of the main report "Transport", states that "the use of road transport will be minimised and there will be a preference for new sites or facilities to be located **as close as possible** to the Lorry Route Network (LRN) to minimise the impact of road transport on local communities and rural areas". [Emphasis added]

Comment: LCP's proposed development is only 2 miles from the LRN – the A281.

Chapter 3.3.6 states "Clay extraction in West Sussex, for the purposes of brickmaking, has a long-established history in the central and north eastern parts of the county. Wealden stock bricks continue to be produced and have a distinctive character. Clay is also used for the production of tiles and pipes, and clay can also be used in the production of cement manufacture, and lining canals and lakes. There are five active clay sites in West Sussex, some of which are small operators, which account for 20-25% of the total in the Country".

Comment: this claim is wildly inaccurate. The actual figure (based on WSCC's own monitoring data) is c. 5%.

Chapter 3.4 "Imports and Exports" acknowledges that the Information and data on imports/exports is collated every four years when Department of Communities and Local Government (DCLG) and the British Geological Survey (BGS) conduct a national survey. At the time that the JMLP was issued, the last national survey, for which results are available, took place in 2009 (AM2009). A Survey was not conducted in 2013, and instead was undertaken for 2014, but the results were not published until November 2016 (AM2014). Although this most up to date information was available 18 months before the JMLP was issued, it was not available when the draft report was published for the public consultation that lasted from April to June 2016. Therefore, when PINS issued their report and the adopted JMLP was issued, in July 2018, the aggregate and minerals imports and exports data was 9 years old. When AM2014 was published it excluded data about the clay market and only focused on the traditional sand & gravel minerals etc.

Paragraph 4.4.9 of Chapter 4 – "Landscape and Townscape Character" recognises that:

Minerals can only be worked where they occur and their extraction can potentially cause conflict through loss or changes to valued landscapes. The extraction of minerals and subsequent restoration of sites can impact on historic landscape patterns and lead to the creation of new landscapes. The South Downs National Park covers almost the whole of the chalk outcrop, almost half the Folkestone Beds, and part of the gravel resource north of Chichester. The High Weald AONB designation includes the entire Wadhurst Clay outcrop. The Chichester Harbour designation includes a partial amount of unconsolidated gravel. AONBs and National Parks are afforded the highest level of protection by National Policy, which states that exceptional circumstances and the public interest should be demonstrated prior to development being permitted within such areas.

Section 4.8.2 of the chapter on "Transport" states:

The West Sussex Transport Plan seeks to maintain and promote the Lorry Route Network (LRN) which was developed to reduce the use of unsuitable roads by hauliers and is shown on the Key Diagram. The Lorry Route Network is divided into the 'Strategic Lorry Routes', which are the preferred routes, and the 'Local Lorry Routes', which should only be used for the start or final leg of a journey or between built-up areas in West Sussex. [**Figure PS19**].

The access to LCP's proposed development site is just 2 miles from the Local Lorry Route that connects to the Strategic Lorry Route. In contrast, West Hoathly brickworks is 3.5 miles south-west of East Grinstead on the West Sussex / Mid Sussex borderline and 3 miles from the Strategic Lorry Route. LCP's site is not in a designated area, whereas the site at West Hoathly is in an AONB.

Nevertheless, section 4.8.7 states:

Mineral resources have to be worked where they occur and therefore they will not always be close to the Lorry Route Network (LRN), although access to the LRN is desirable. HGVs will be encouraged to use the LRN while maintaining access to areas which businesses need to access.

Chapter 6.5 of the JMLP, "Clay" addresses a number of specific issues and sets out Policy M5. Sections 6.5.1 to 6.5.8 state as follows:

- *Brickmaking has long been established in the central and north eastern parts of the County and clay is extracted from a number of locations. The Weald and Wadhurst clays are the principal resources which have been identified as regionally and nationally important (BGS 2007). Minerals Safeguarding Areas and Mineral Consultation Areas for West Sussex). Historically brickworks have been located close (often adjacent) to the source of clay used at the brickworks and their ongoing operation is linked to the availability of clay at those sources. The market for manufactured bricks extends beyond the Plan Area.*

- *Brick clay in West Sussex is used in the manufacture of structural products such as bricks, pavers, clay tiles and clay pipes. Historical information suggests that clay was also imported to Shoreham Cement Works from Horton (former clay pit and landfill site).*

- *There are five active brickworks within West Sussex, with their own supplies of clay, which have a total permitted reserve of 18.7mt (2016 data[5]). West Hoathly brickworks is supplied by clay from an adjacent quarry that has a consent until 2028.*

- *The relevant strategic objective is to promote the prudent and efficient production and use of minerals and to ensure a steady and adequate supply, having regard to the market demand and constraints on supply in the Plan area.*

- *National policy requires Minerals Planning Authorities to provide for a 25 year stock of permitted reserves for the maintenance, and improvement of existing plant, as well as for new plant, in the case of bricks, new kilns. The Authorities are also required to take account of the need for provision of brick clay from a number of different sources, to enable appropriate blends to be made. Three active brickworks have in excess of 25 years of clay reserves, one has 24 years and the brickworks at West Hoathly have less than ten years reserves (2016 data)[6].*

- *The strategy for clay is to safeguard brick-making clay; to allocate an extension to the claypit at West Hoathly brickworks to maintain supplies of clay to the brickworks (see Policy M11) and allow extensions, or new sites, if existing supplies are exhausted or if a particular source of clay is required to enable appropriate blends to be made. Proposals for non-allocated sites will be assessed against Policy M5.*

- *The extraction of clay for other uses such as engineering purposes (e.g. flood defences or landfill engineering), will be permitted provided it does not reduce the levels of brick-making clay reserves at individual brickworks which are safeguarded under Policy M9. Such clay might be obtained from overburden from sand and gravel sites or be extracted from an existing site that is unsuitable for brick-making purposes[7].*

- *Apart from sites which pass the 'exceptional circumstances' and 'public interest' tests, all new sites should be outside the High Weald AONB/SDNP and extensions to existing clay pits or as close as possible to the site where the clay will be used. Sites should also be well-related to the Lorry Route Network which means that they are located as close as possible to the LRN so that the use of local roads is minimised.*

Policy M5

(a) Proposals will be permitted for the extraction of brick clay provided that:

(i) they would help maintain a stock of permitted reserves of at least 25 years of permitted clay reserves for individual brickworks; and

(ii) the clay required for appropriate blending for manufacture of bricks is no longer available adjacent to the brick making factory.

[5] This is not explained in the JMLP. On the one hand, the Plan relies on the 2009 data but somehow relies on the 2016 data to support this point.

[6] Now respectively 19 years and 5-6 years.

[7] WSCC have no control over the sale of clay that is purportedly 'unsuitable for brick making purposes'

(b) Proposals for the extraction of clay, for uses other than brick

making, will be permitted provided that:

(i) there is a need for the clay for engineering purposes; and

(ii) the clay cannot be used for brick-making; or

(iii) the resource is within an existing sand and gravel quarry and the extraction of clay would be ancillary to the extraction of sand and gravel.

(c) Proposals that accord with Part (a) or (b) will be permitted provided that:

(i) They are located outside the High Weald AONB/South Downs National Park unless there are exceptional circumstances and that it is in the public interest, in accordance with Policy M13, to locate within those areas;

(ii) they are extensions of time and and/or physical extensions to existing clay pits or, where this is not possible, they should be sited as close as possible to the site where the clay will be used;

(iii) where transportation by rail or water is not practicable or viable, the proposal is well-related to the Lorry Route Network.

This policy is arguably 10 or more years out of date with the way in which the market currently works. It is also not supported by the NPPF that was published after the JMLP. The inclusion of "and" in several sub-sections of the policy, is perceived to be a protectionist measure that reflects the lack of co-operation between neighbouring counties as set out in the 'Duty to Co-operate Statement'. This could be construed to mean that if West Sussex is unable to have any of the brick clay from East Sussex, Hampshire and Kent etc., then West Sussex will ensure that its clay stays in West Sussex.

For example, despite recognising that there are particular problems with a shortage of brick clay at the West Hoathly brickworks, scheduled to run out by 2027 (with the permitted 2 to 3 year extension), it was necessary to allow for an extension in an AONB, rather than commercial pressures resulting in clay being transported over great distances from a sister site in East Sussex, travelling through the AONB.

In effect, M5(a)(i) & (ii) means further extensions should be considered rather than to grant permission for clay pits at alternative locations.

M5(b) may be helpful if the clay is not suitable for manufacturing bricks.

M5(a) and (c)(ii) arguably, only favour new applications, if extensions to existing sites are refused or the existing clay pit is exhausted and provided that the new site is as close as possible to an existing brickworks.

This one clay pit for one brick works policy bias appears to be overly restrictive, contrary to the policy set out in the NPPF and counterproductive. It also appears to be contrary to the policies applied in neighbouring East Sussex, where the 6 clay pits far outnumber the 2 brickworks.

8.6 <u>West Sussex Joint Minerals & Waste Local Plan Monitoring Report (April 2017 to March 2018) – issued May 2019</u>

Section 4.2 of the report claims as follows:

- The total brick clay reserve was 18.02 million tonnes
- Annual brick clay sales (usage) was 325,500 tonnes (110 million bricks or 5.4% of the UK clay brick market). **[Note: not 20%-25% as claimed in the JMLP]**
- Five active brickworks
- Three brickworks with more than a 25-year landbank
- Two brickworks with less than 25 years – West Hoathly 7 years and Pitsham 22 years

The current annual brick clay sales figure for the whole of West Sussex is approx. 50,000 tonnes less than the forecast output from LCP's clay pit during its entire 30 year operational life.

West Hoathly has been operational for more than 120 years on an 11 hectare site, with the brickworks occupying less than 2 hectares. Their 9 hectare claypit equates to a clay reserve of approx. 550,000 to 600,000 tonnes. When averaged over say 100 years this is 6,000 tonnes per year or 50% of the annual forecast capacity of LCP's claypit.

Comment: although the JMLP set out a policy approving the 9 hectare extension of the West Hoathly clay pit in 2018, as of June 2020, Ibstock Bricks had not applied for planning permission for this extension. It may well be that an application will be submitted before the current permitted reserves run out in 2024-25 or Ibstock are currently importing clay from their other clay pits in East Sussex to mix with the clay at West Hoathly and this clay will be used to extend the life of the brickworks.

8.7 West Sussex Joint Minerals & Waste Local Plan Monitoring Report (April 2018 to March 2019) – issued April 2020

Sections 4.1 & 4.2 report that:

- In the last 12 months, clay reserves have reduced from 18.02 to 17.8 million tonnes
- Clay sales remain at c. 300,000 tonnes per annum
- All other details as per the report to March 2018, except all brickworks with one year less of clay supply.

8.8 Clay for Flood Defence

In July 2020, Defra published HM Government's "Flood and coastal erosion risk management Policy Statement". This policy document is supported by a range of actions to double the number of government funded flood defence projects, which will drive down flood risk by 11% and better protect 336,000 properties by 2027. This also requires every region in England to develop a more comprehensive local plan to drive long-term action and investment to protect against the impacts of erosion and rising sea levels.

This policy document calls upon government, individuals, local and national public bodies, private sectors, local communities and those responsible for key infrastructure, to pull together to implement these policies. Government has pledged £5.2 billion over the next 6 years, on top of the £2.6 billion already spent, to build 2,000 new flood defences. This policy statement has been informed by the

Environment Agency's consultation exercise on the updated National Flood and Coastal Erosion Risk Management Strategy. These policies claim to avoid £32 billion in future economic damages and include a review of Shoreline Management Plans. The "Flood and Coastal Resilience Innovation Programme" commenced in November 2020, with expressions of interest required by 29 January 2021 with projects being implemented from June 2021.

The Environment Agency & National Resources Wales currently maintains over 21,800 miles of coastal and flood defence embankments in England & Wales. Threats of coastal erosion in West Sussex are particularly severe in Selsey, which could be completely submerged, and also in the areas surrounding Chichester harbour such as Bosham, Dell Quay and Shipton Green. Coastal flooding issues affect river estuaries, which impacts on inland flooding.

Clay is not the solution to every flood defence problem, but it does have a part to play. The Weald Clay beneath LCP's site is essentially aluminium silicate (70-80%) with significant levels of calcium in parts of the site. Similar to Fullers Earth, which consists primarily of hydrous aluminium silicates (kaolinite) aka calcium bentonite, Weald Clay can be used to form part of flood defence embankments, or to repair breached flood defences. Bentonite type clays may also be modified by the addition of soluble sodium carbonate to produce sodium activated bentonite. This increases the swelling ability of the clay to create a higher liquid limit, which is ideal for civil engineering projects such as flood defence. A good example being the use of Weald Clay to prevent the collapse of the flood defence on the River Rother in Sussex near to Rye, which was suffering from high seepage during high tide due to a large badger sett in the embankment. This was successfully backfilled with Weald Clay.

9. Need for CD&E Waste Recovery & Recycling Facility

9.1 Construction, Demolition & Excavation Waste "CD&E" – the Market

The April 2014 West Sussex Waste Local Plan (WLP) refers to construction, demolition and excavation waste as "CDEW", but the May 2019 review (WLPR) changed this reference to "CD&E".

The waste local plans define construction, demolition and excavation wastes as follows:

"*Waste arising from the construction and demolition of buildings and infrastructure. Materials arising in each of the three streams (i.e. Construction; Demolition; Excavation) are substantially different: construction waste being composed of mixed non inert materials e.g. timber off cuts, plasterboard, metal banding, plastic packaging; demolition waste being primarily hard materials with some non-inert content e.g. bricks, mortar, reinforced concrete; and excavation waste being almost solely soft inert material e.g. soil and stones*."

Section 2.7 sets out the various "Types of Waste Management" and para. 2.7.4 refers to the "Reuse of inert waste" and states "much inert material is currently being reused for beneficial purposes, such as engineering projects (such as golf courses), for landfill cover/engineering, for the restoration of mineral sites, and for agricultural improvement. This is preferable to sending it for disposal to land."

Para. 2.8.2 of the WLP states that in order to determine what will be needed in the future, it is necessary to set out how waste is currently being managed. This acknowledges that "there are various different sources of data that can be used which all provide different capacity estimates and there is a lack of reliable data for C&I and CDEW". Para. 2.10.4 also acknowledges there may be a capacity shortfall for CDEW.

Para. 5.3.3 states that "CDEW accounts for the majority of waste in the County (roughly 58%)."

Para. 6.5.3 states that "the processing of CDEW to produce secondary aggregates or soils usually takes place in the open, although some operations can be enclosed. Sites can vary greatly in capacity and throughputs can range from 25,000tpa to very large, strategic scale sites processing 250,000tpa. The site size required will vary depending on capacity but generally facilities require extensive areas of land (2-5 hectares) to allow the processing and stockpiling of materials."

Sections 6.9 and 6.10 of the WLP differentiate "recovery operations involving the depositing of inert waste to land" – 6.9, from the "disposal of waste to land" – 6.10. Policy W8 in section 6.9 of the WLP stands on all fours with LCP's proposed waste recovery operation, which at the bottom end of the capacity range specified in para. 6.5.3.

Policy W8: Recovery Operations involving the Depositing of Inert Waste to Land

Proposals for recovery operations involving the depositing of inert waste to land (including for the continuation in duration, or the physical extension of, existing operations) will be permitted provided that:

(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.

Para. 6.9.4 states "in considering a proposal for the depositing of inert waste to land, an important consideration is whether the proposal amounts to a 'recovery' operation or to a 'disposal' operation. Given that recovery is higher up the waste hierarchy, genuine proposals for the beneficial reuse of inert material would, in principle, be considered favourably. Accordingly, proposals for the depositing of inert waste to land will be judged against criterion (a)-(i) in Policy W8 to determine whether they are recovery operations. If a proposal is determined by the Authorities not to be a genuine recovery operation, it will be assessed as a disposal operation against Policy W9.

Whereas the WLP concluded there would be no increase in the amount of CD&E waste through to 2031, 5 years later, the WLPR accepted a more realistic scenario. The CD&E section of the WLP, from page 12 onwards, states that "the methodology applied, that underpinned the WLP, was the 'point of production' method. In 2016, the updated 'reconcile methodology' was considered to be more accurate when forecasting CD&E waste." Figure 3 referred as follows:

Figure 3

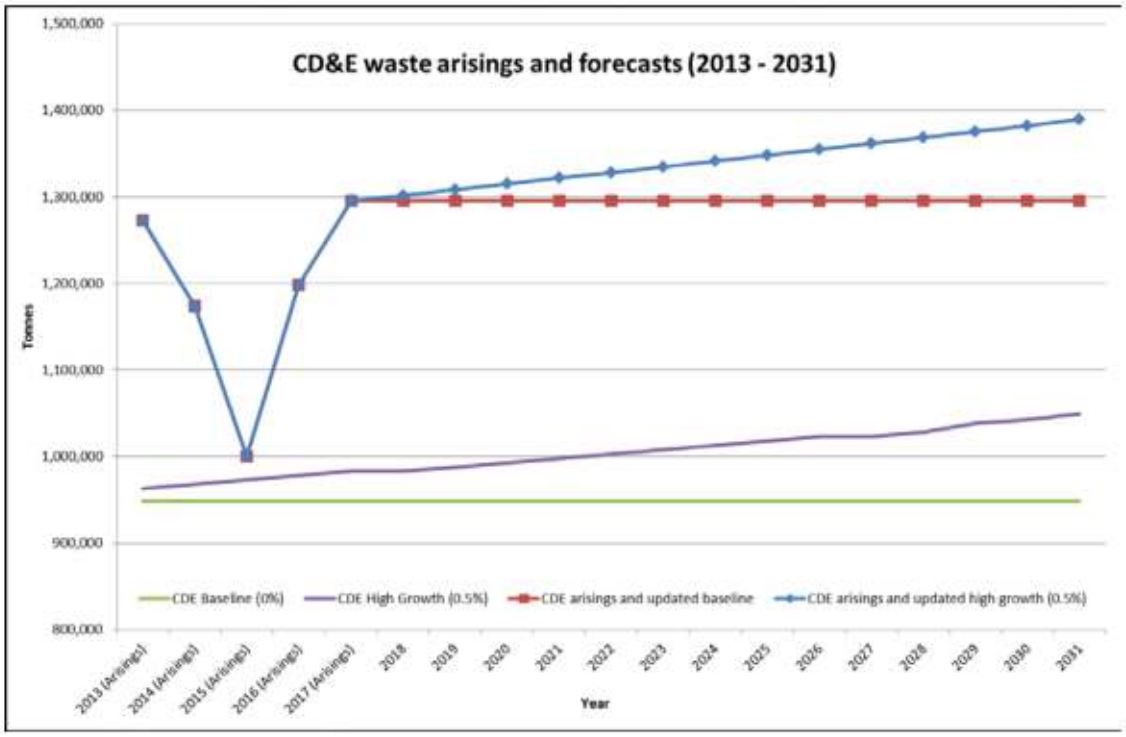
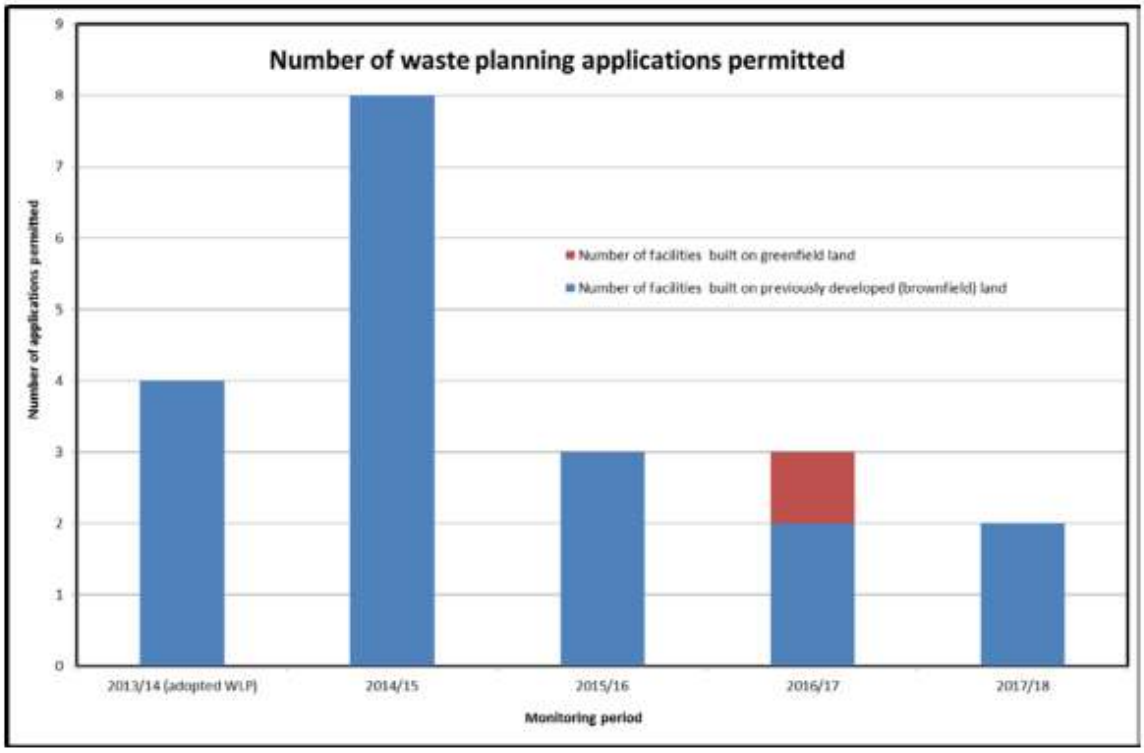


Figure 3 shows that CD&E waste arisings are anticipated to be higher than that calculated when the WLP was prepared. **In 2031, it is anticipated that CD&E waste arisings could be as high as 1.4 million tonnes (high growth scenario), some 350,000 tonnes higher than the original high growth forecast at 2031 (1.05mt).**

The mismatch between the WLP and the reality that transpired during the subsequent 5 years up to the issue of the WLPR, is clearly evident from Figure 7 in the WLPR. Whereas the WLP allocated just 5 sites as being suitable, in policy terms, for waste management activities; during the 4-year period after the WLP was issued, West Sussex County Council granted planning permission for 16 waste management activities and one of these was on greenfield land.

Figure 7



Unallocated Sites

One of these appears to have been the planning application submitted in 2014 by Restoration to Agriculture Limited (incorporated October 2014), which is a company that is partly controlled by the neighbouring landowners to LCP's proposed development site and to land owned by the Danhash family. Planning permission (ref. WSCC/038/14/RW) was granted in 2015 for the importation of 590,100 tonnes of inert waste to restore the claypit at the former Rudgwick Brickworks site, which is just 5km north-east of LCP's site. In 2018, having imported the 590,100 tonnes in just 4 years (c. 150,000 tonnes/year = 60 vehicle movements per day) Restoration to Agriculture Ltd sought to expand their original permission on to the neighbouring 3.28 hectare of greenfield agricultural land for the importation of a further 127,200 tonnes of inert waste.

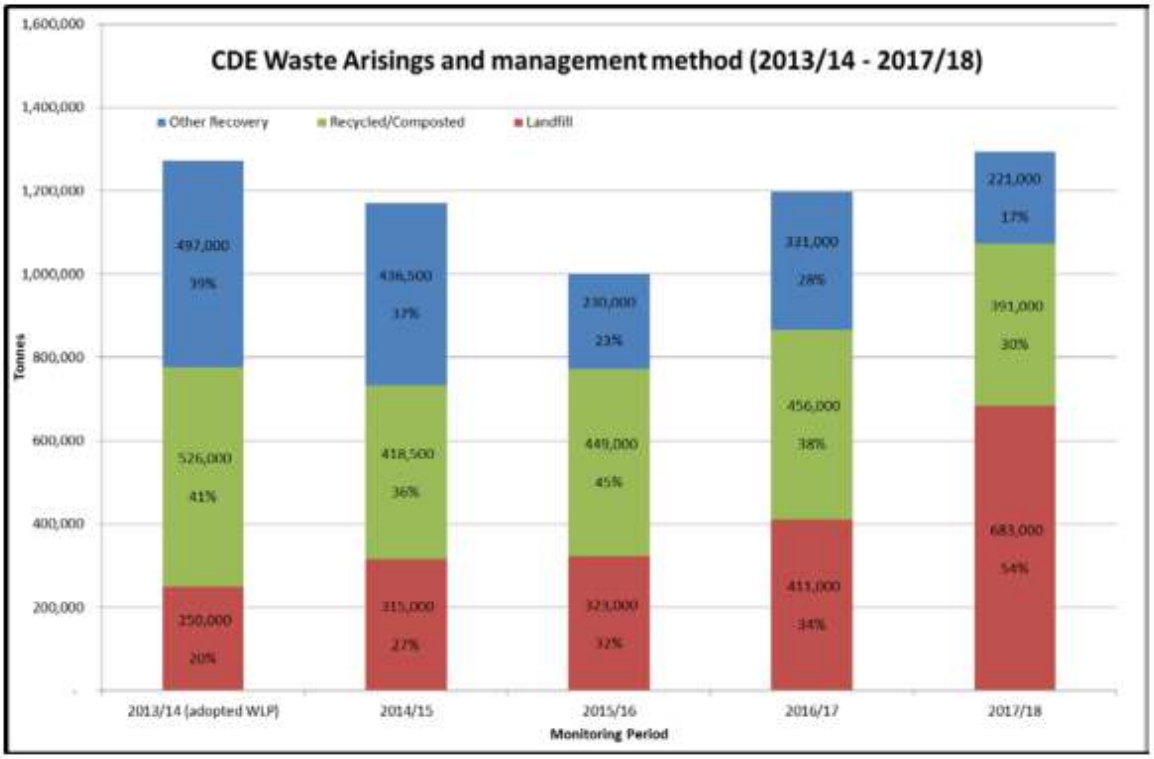
Neither the original 2014 application or the 2018 extension, were listed as allocated sites in the WLP and they were not operational before the WLP was published in 2014. In contrast, LCP's proposed facility will take nearly 30 years to import the cumulative waste tonnage sought by Restoration to Agriculture, but LCP will recycle around half of their imported waste, with only 375,000 tonnes of suitably inert waste being used to restore the clay pit void during that 30 year period. Restoration to Agriculture's proposal effectively enables the use of twice the amount of suitably inert wastes and in a period of c. 5 years instead of the 30 years proposed by LCP.

The WLPR also states that "following adoption of the WLP, there was initially an annual decline in the amount of CD&E waste arisings in West Sussex, falling to a low of around 1 million tonnes. However, in 2016/17 and 2017/18, there have been increases in CD&E waste arisings. Figure 13, below, shows the amount of CD&E waste that has been arising, and the ways in which it has been managed in any given monitoring year. It is important to note that CD&E waste is considered to be

made up of around 75% of inert waste, and the remainder being a mix of wood, plastics, metals and other materials associated with construction and demolition activities."

"In 2017/18, of the 683,000 tonnes marked as landfill, around 270,000 tonnes was deposited at non-inert landfills for restoration purposes."

Figure 13



"Figure 13 shows that the amounts (and percentages) of CD&E waste going to landfill have been increasing annually. As set out earlier, there is cross-over between 'recovery' and 'landfill', particularly for inert waste, whereby the EA permitting data presents the deposit of inert waste as 'landfill' on occasions, when it would be considered a recovery operation (in line with Policy W9) by the authorities."

9.2 Original WLP Allocated Sites

The WLP identified the need to provide for an additional 680,000 tonnes per annum of waste recycling and recovery capacity by 2031.

The Waste Plan acknowledges:

- Proposals on unallocated sites (i.e. sites not included in the WLP) for facilities for the recycling and composting of non-inert waste will be permitted provided that they are needed to meet the shortfall in capacity of 270,000 tonnes per annum.

- Proposals on unallocated sites for the recycling of inert waste will be permitted where it can be demonstrated that there is a market need, consistent with the principle of net self-sufficiency.

- Proposals on unallocated sites for built facilities for the recovery of non-inert waste will be permitted provided that they are needed to meet the shortfall in capacity of 270,000 tonnes per annum.

- Waste development is not a high-value use in comparison with other land uses and it is essential for the network of existing sites and facilities to be safeguarded as they make an important contribution to the management of waste arising in West Sussex.

- Proposals for built waste management facilities, on unallocated sites, to enable the transfer, recycling, and recovery of waste will be permitted provided that they are located in the Areas of Search (**Figure PS17**) along the coast and in the north and east of the County as identified in the enclosed Key Diagram.

- Unallocated sites must be located within built-up areas, or on suitable previously developed land outside built-up areas; or be located on a site in agricultural use where it involves the treatment of waste for reuse within that unit; or only be located on a greenfield site, if it can be demonstrated that no suitable alternative sites are available; and where transportation by rail or water is not practicable or viable, be well-related to the Lorry Route Network; large-scale facilities must have good access to the Strategic Lorry Route.

- The new unallocated sites should be well-related to where the waste arises. Therefore, there is a need for sites along the coast close to the main urban areas and for sites in the north and north-east of the County close to the main towns. These new sites will supplement the existing pattern of waste sites in those broad areas.

- The new unallocated sites should have good access to the Lorry Route Network (LRN). The sites should be located within the 3km (1.86 miles) corridor either side of the roads that form the LRN. Access from the site to the LRN should be acceptable 'in principle', that is, there should not be any technical issues, with regard to highway capacity and road safety, which cannot be overcome.

- There has been a general preference for the allocation of previously developed land. In some cases, however, it is necessary to allocate greenfield sites where alternative 'brownfield' sites are not available, or where the provision of new waste facilities can be related to areas of largescale new greenfield development.

The following table is Table 4 from the WLP, shows the potential contribution of the existing waste sites allocated in Waste Plan Policy W10(a):

Allocated Sites	Minimum		Maximum	
	mtpa*	Area (ha)	mtpa*	Area (ha)
Site north of WWTW, Ford	0.25	6.0	0.25	6.0
Hobbs Barn, near Climping	0.05	2.1	0.05	2.1
Fuel Depot, Chichester	0.05	1.0	0.05	1.0
Brookhurst Wood, nr Horsham	0.30	6.5	0.30	6.5
Land west of WWTW, Goddards Green	0.05	2.0	0.20	5.0
Total	**0.70**	**17.6**	**0.85**	**20.6**
* Theoretical figures only - the actual waste management capacity achieved on the site would depend upon the specific type of facility/facilities and the chosen technology/technologies.				

However, the Waste Plan then acknowledges:

- Table 4 shows that the sites allocated in Policy W10(a) could potentially deliver between 0.70 and 0.85mtpa of additional built waste management capacity for transfer, recycling and treatment on between 17.6 and 20.6 hectares of land. As a minimum, the allocated sites would be able to meet the theoretical capacity shortfall of 0.68mtpa, without any reliance on unallocated sites.

- With regard to the theoretical need for up to 0.61mt of new non-inert landfill capacity (see paragraph 2.10.13), the proposed extension to the Brookhurst Wood Landfill Site would meet the strategic needs of the Plan area in the medium-term (i.e., post 2015).

- As recognised elsewhere in this Plan, although the allocation of the sites in Policy W10(a) demonstrates that sufficient provision has been made to meet identified shortfalls, whether facilities will actually be built on the sites and the types of technology that may be used, will be determined by the private waste companies.

9.3 Problems with the WLP and Issues not considered for the WLPR in 2019

The main problem, 7 years on from when the WLP was published, is that a significant number of the allocated sites have not been developed.

The need for waste recovery and waste recycling can be demonstrated by the gaps in the 2014 Waste Local Plan, which were evident 5 years later, but not addressed in the 2019 review, namely:

- The number of exempt waste sites (i.e., operating without a waste permit and in some cases, possibly without planning permission) registered with the Environment Agency in the Loxwood and Rudgwick area, many of which have waste handling capacities that exceed that being proposed by LCP (**Appendix PSC**).

- The number of allocated sites in the 2014 Waste Local Plan that have not been developed (**Appendix PSA**).

- The BREXIT impact on UK waste handling capacities, which was not considered in the 2019 review of the Waste Local Plan (**Appendix PSD**). The reliance on the export of refuse derived fuel is not sustainable. Refuse derived fuel contains wastes that originate from construction and demolition wastes.

- The Circular Economy objectives that were first set out in Defra's 2018 Waste and Resources Strategy but not addressed in the 2019 review of the Waste Local Plan (**Appendix PSE**).

- The Circular Economy amendment regulations that came into force on the 1 October 2020 (**Appendix PSF**). As demonstrated in the 2018 High Court case, in Protreat Limited v Environment Agency, the 2011 Waste Regulations did not fully transpose the 2008 Waste Framework Directive in relation to the waste hierarchy. Therefore, the waste hierarchy was only a political "menu of options". The October 2020 Circular Economy amendment regulations introduced 'recycling' as a legal requirement for the first time and legally defined what type of waste activity does not constitute recycling.

The restoration of the clay pit with suitably inert materials from LCP's CMRF to provide the opportunity for waste materials originating within West Sussex to be managed close to where they arise thereby meeting the aspirations of the proximity principle and self-sufficiency.

Although LCP's site is not an existing waste site as identified in the Waste Plan, the plan accepts that other waste facilities (unallocated sites) could be developed provided these are located in the Area of Search (Policy W3), close to the major towns in the north of the County and within 1.86 miles / 3km of the Lorry Route Network (LRN).

LCP's proposed site entrance on Loxwood Road is approx. 2 miles / 3km from the junction with the A281 at Bucks Green (which is part of the LRN) but as the crow flies, LCP's site is well within 1.86 miles of the A281. LCP's site is also within the Area of Search and close to major towns in the north of the county.

LCP's greenfield site is not in the greenbelt. Where it can be shown that the allocated sites will not provide the forecast required capacity and where the provision of local exempt waste facilities already exist in areas of green field development, there is no policy against this development from taking place.

APPLICATION FORMS

FIGURES

APPENDIX PSA
2019 & 2021 UPDATE REVIEW OF
ALLOCATED WASTE SITES

APPENDIX PSB
PROW SURVEY RESULTS

APPENDIX PSC
EXEMPT WASTE SITES IN THE LOXWOOD AREA

APPENDIX PSD
DEFRA BREXIT IMPACT ON THE WASTE MARKET

APPENDIX PSE

HM GOVERNMENT 2018 OUR WASTE, OUR RESOURCES: A STRATEGY FOR ENGLAND

APPENDIX PSF

THE WASTE (CIRCULAR ECONOMY) (AMENDMENT) REGULATIONS 2020