



Loxwood Parish Council

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FAO Chris Bartlett

7th September 2021

Dear Sirs

Reference: WSCC/030/21 Pallinghurst Woods, Loxwood Rd, Loxwood RH14 0RW

Loxwood Parish Council (LPC) **strongly objects** to the above planning application for the reasons stated below.

Introduction:

Pallinghurst Woods is bounded by the parishes of Loxwood, Alfold and Rudgwick and, for generations, the woods have been used by residents of all these parishes for recreation. The woods are remote and tranquil in nature and are characterised by designated ancient and replanted woodlands. The wood supports a diverse cross section of wildlife, flora and fauna including the Barbastelle Bat which is a European Protected Species. The woods are criss-crossed by PROW's and a multitude of un-adopted footpaths, most of which interact with the access track proposed to be used by HGV's to gain access to the clay pit and CMRF. The interaction of walkers, cyclists and equestrians with the predicted 42 HGV movements per day will inevitably create safety issues.

The operation of the clay pit, CMRF, landfill and HGV movements will create noise, light pollution and dust and will represent a signification reduction in amenity to those who use the wood for recreational purposes. The Rikkyo school is only 1 km away from the CMRF which will inevitably have an impact on the school. The woods will lose its "quiet sense of place" and many people will cease to visit the woods.

The erection of a black clad steel building housing the CMRF measuring 35m x 40m and 8.5 m high located adjacent to ancient woodland will destroy the character and setting of this part of the woods.

The layby on the Loxwood Road is used as a parking area for those visiting the woods with up to six or more cars parked in the layby at any one time. This same layby is proposed by the applicant to be used by HGV's to enter the woods along the access track. This again will be a safety issue.

The planning application has generated a great deal of public disquiet and this is reflected in over 1200 objections to the application to date recorded on the WSCC planning portal. The adjoining parishes of Alfold, Plaistow and Ifold and Rudgwick have also strongly objected to this application because of the effect it will have on the loss of amenity for their residents.

Planning Considerations

This letter of objection will set out the planning considerations that we believe are not met by this application. These are detailed in the specialist consultant's report that LPC commissioned to analyse this complex application which is attached to the end of this letter in Appendix 1. It is not intended to replicate these findings here but instead to refer to them in summary form. Representations from Alfold, Plaistow and Ifold, Rudgwick and "The Stop the Loxwood Claypits" campaign have already been submitted onto the WSCC Planning Portal and all these inputs substantiate and support the conclusions of the LPC Specialist Consultant. They reflect the same concerns and contain substantive evidence in support of their objections.

This application is ill conceived and will have a significant negative net impact on the natural environment of Pallingshurst Woods. It does not comply with many of the relevant policies of the NPPF, WSCC Minerals and Waste Plans, CDC current Local Plan and the Made Loxwood Neighbourhood Plan (LNP).

Relevant Planning Policies

A. WSCC Minerals Plan Policies

1. WSCC Mineral Plan Policy M5 (a) states:

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

LPC Comment

- NPPF para 208 requires 25 years of reserves of clay
- West Sussex has 4 operational brick works (West Hoathly has closed)
- Three have at least 25 years and the fourth 24 years supply of clay

- West Sussex AMR 2019/2020 shows demand running at 0.32mt/year with overall reserves totalling 17.5mt giving over 50 years supply of clay
- Without extraction of clay, there would be no void for commercial waste.
- The applicant has specified no specific use or destination for clay extracted.
- The applicant has suggested that in the future a brickworks would be built somewhere in the county. No planning proposals as to location have been submitted with this application.

Conclusion

The Application does not comply with policy M5 (a) i) and ii).

2. Mineral Plan Policy M5 (c) (iii) states:

Where transportation by rail or water is not practicable or viable, the proposal is well-related to the Lorry Route Network”

LPC Comment

- The site is 1.5 km from the Loxwood Road and HGV’s would have to travel a further 3.6km along the Loxwood Road to reach the nearest Lorry Route Network (LNR) at the A281.

Conclusion

The Application does not comply with policy M5 (c) (iii).

3. Mineral Plan Policy M20 states:

Proposals for minerals (clay) development will be permitted provided that:

(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*

LPC Comment

- No destination for the clay has been defined- the current county supply is adequate
- The site is 1.5 km from the Loxwood Road and HGV’s would have to travel 3.6km along the Loxwood Road to reach the nearest LRN.
- Loxwood road is minor road with min width 5.1 m (Exfold Farm at Tisman’s Common)
- The proposed vehicles are 32 tonne tipper trucks with a width of 2.495m (excluding wing mirrors). This would leave no space for two vehicles to pass safely particularly on corners where they need to swing out to navigate the bends.
- The need for clay has not been established, thus special consideration of (C)(i) is not applicable
- The layby cannot cope with multiple parked cars and HGV’s leaving/entering the site
- The layby is the convergence of several PROW’s

- Loxwood road currently has minimal HGV traffic due to it not being a C class road and therefore not a designated LRN.
- Additional 42 movements/day which approximates to an increase of 300% in HGV traffic
- This volume of traffic would significantly increase if the waste recycling proportion increases to the current national average of 93.8% instead of 50% going into landfill.

Conclusion

The Application does not comply with policies M20 (c)(i),(ii) and (iii)

4. Minerals Policy M17 a) through f) - Biodiversity and Geodiversity

This is a complex issue which requires the input of experts in the field and LPC is not qualified to assess the impact of the application on the issues of Biodiversity and Geodiversity. Expert critique and comments have already been submitted by Natural England, The Woodland Trust, The Sussex Wildlife Trust and the Parishes Wildlife Group. However, LPC's comment on the loss of ancient trees as detailed in the Application is cited below.

Policy M17 (c) states:

Proposal for mineral development will be permitted provided that 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

LPC Comment

- Application will result in the loss of at least 14 mature/veteran trees over the period of the excavation
- The Woodland Trust have made a comprehensive submission objecting to the application based upon the impact the application would have on adjacent ancient woodland and mature/veteran trees
- Part of the access track passes directly through ancient woodland and 42 HGV movements a day will inevitably result in compaction of tree roots and the irrevocable damage to the ancient /mature trees which line the proposed access track

Conclusion

Application does not comply with policy M17 (c)

5. Minerals Policy M18 Public Health and Amenity

Policy M17 (c) states:

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-routing can be justified, replacement routes of comparable or enhanced amenity value are provided.

LPC Comment

- Both the Claypit, CRMF and HGV activity will generate noise, light pollution and dust emissions in a quiet tranquil area of woodland- this can be mitigated to some degree by planning condition but will ultimately have significant effect on amenity to those who use the woods
- There will be loss of amenity due to the PROW 792 diversion (which amounts to 1.3 km for a period of 33 years)
- There will be a conflict between residents using the tracks and PROWs and the 42 HGV movements through the woods
- PROW 795 runs for 90m along the access track and will be a direct safety hazard to those using the PROW.

Conclusion:

The loss of amenity will be significant to those that use the woods and this cannot be mitigated by planning condition and thus cannot comply fully with Policy M18. There will be a significant safety hazard caused by the conflict of the 42 HGV movements a day and the regular walkers/equestrians and cyclists that use these PROWs.

We note that the WSCC PROW team have also objected to the Application on safety grounds.

B. WSCC Waste Policies

General comment: - The extraction of clay in Pallingshurst Woods as defined above does not meet the relevant WSCC Minerals Plan policies. Therefore, the need for a clay pit at this location has not been justified. Consequently, there is no void to fill and thus no requirement for a commercial waste disposal facility (CMRF). Nonetheless LPC have the following comments relating to the application for commercial waste material disposal at this site as it does not meet the relevant policies within the WSCC Waste Plan.

1. Waste Plan policy W1 (c)- Need for waste management policies

Policy (c) 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

LPC Comment

- The application site is an unallocated site
- The applicant has not demonstrated compelling evidence of market need (see attached Planning Consultants report)
- The recycling of only 50% of waste does not contribute to the objective of zero waste to landfill
- NPPF for Waste deems that landfill is at bottom of the waste hierarchy
- 50% to landfill is contrary to government policy
- Average in 2018 was 93.8% of waste recycled

Conclusion:

The application does not comply with policy (c)

2. Waste Plan policy W3

The policy states that:

a) Proposals for built waste management facilities, on unallocated sites, 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*
- (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*

LPC Comment

- AMR 2019/2020 states that permissions have been granted on five of the six allocated sites
- All allocated sites have capacities of 50,000 tpa or more
- This volume is significantly larger than application site of 25,000 tpa.
- Alternative sites are available and have capacity
- Land is not in agricultural use
- Site is not well related to LRN.

Conclusion

Application does not comply with policy W3(b)(i),(ii), (iii) and (iv)

3. Waste Plan Policy W4- inert waste recycling

The policy states that :-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.*

LPC Comment

- The Application does not comply with policy W3

- The Application site is not well related to Lorry route network
- The Application site is not an active mineral site

Conclusion:

The application does not meet policy W4 (a) and (b)

4. Waste Plan Policy W9-disposal of waste to land

The policy states that :-Proposals for the disposal of non-inert and inert waste to land will not be permitted unless it can be demonstrated that:

- (i) *the waste to be disposed of cannot practicably be reused, recycled or recovered;*

LPC Comment

- The applicant only proposes to recycle 50% of the waste and logic would imply that most of that landfill waste could be recycled
- NPPF for waste deems that landfill is at bottom of waste hierarchy
- 50% to landfill is contrary to government policy
- The national average recycling rate in 2019 was 93.8% of waste recycled

Conclusion:

The application does not comply with policy (i)

5. Waste Plan Policy W11 character

The policy states that :-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)*

LPC Comment

- Pallingshurst Woos is a tranquil rural area criss-crossed by paths and bridleways
- The erection of the CMRF and HGV traffic will damage the character and attractiveness of the area
- The 1.4 km access track, wheel washing facility and car parking will extend sphere of influence and environmental damage into the ancient woodland and cause irreversible damage
- The felling of 14 or more mature/ancient trees is contrary to NPPF and is irreversible

Conclusion:

Application does not comply with policy W 10 (a)

6. Waste Plan Policy W12- High Quality Developments

The policy states that :-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;

(v) the use of materials and building styles;

LPC Comment

- Construction of a 35m x40m black steel-clad building 8.5 m high and associated two storey 18m long portacabin, lagoon and hard standing in a woodland of high amenity value does not meet the above policies
- The associated HGV activity, transportation of waste within the site by dumper and the extraction excavation machinery plus the necessary electrical generator set will all contribute to significant noise will impact on the tranquillity of this rural setting

Conclusion:

The application does not meet policies W12 (a) and (b) (i),(ii),(iii) and (v)

7. Waste Plan Policy W14- Biodiversity and Geodiversity, W18 Transport, W19 Public health and Amenity.

These policies are virtually the same as the minerals plan policies on the same subjects and thus the same arguments apply – see above.

C. Chichester Local Plan policy 25- Development in North of the Plan Area

The policy states that:-CDC will support small scale development in the north of the district that: Supports and enhances the rural character of the area, the quality of its landscape

LPC Comment

- This is demonstrably not a small-scale development, rather a large industrial undertaking for a period of 33 years which will cause significant harm to the rural character of the area and its landscape and to the amenity it offers to the local residents of the surrounding parishes

Conclusion:

The application does not meet this part of the policy.

D. Loxwood Neighbourhood Plan policy 12- The Rural Area

This policy states that :-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:-

- i. The scale and nature of any proposal would enhance the overall site setting and its design will be such as to minimise 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.*
- i. The proposals would not have an unacceptable impact on the local road network*
- ii. The proposals would not cause unacceptable conflicts with agriculture and other land-based activities*
- iii. The proposals would not have any significant harmful impact on the amenities of neighbouring residents and other users*

LPC Comment

- The Application site is not in commercial or agricultural use. It is designated for forestry use
- The Application will have a severe impact on rural landscape
- The Application will have a severe impact on amenity of residents
- The Application will have a severe impact on local road network
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Conclusion:

The application does not comply with the LNP policy 12

E. Natural England Water Neutrality

Natural England have recently advised that in order to protect the designated sites and species in the Arun Valley, all new developments in the Sussex North Water Supply Zone should be Water Neutral. Pallingshurst Woods is located within this Supply Zone. For further details of Natural England's position, please refer to the Plaistow and Ifold Parish Council submission and the open letter from their Neighbourhood plan examiner attached thereto.

CDC have advised all new planning application developments must be water neutral and must complete a Habitats Regulation Assessment (HRA) and an Appropriate Assessment (AA) to demonstrate water neutrality and their effect on the Arun Valley designated sites Any application not meeting water neutrality would be refused. The Applicant has not completed an HRA nor an AA.

Conclusion:

The applicant must be requested by WSCC to complete an HRA and an AA.

The Chair of the Planning Committee of Loxwood Parish Council would like to speak at the forthcoming Committee Meeting considering this application.

Yours faithfully

J Bromley

Jane Bromley
Clerk, Loxwood Parish Council

Enc. Appendix 1

CC WSCC Janet Duncton and CDC Gareth Evans.

PROPOSED CLAY EXTRACTION, CONSTRUCTION MATERIALS RECYCLING FACILITY AND LANDFILLING FOR RESTORATION PURPOSES ON LAND AT PALLINGHURST WOODS, LOXWOOD

REPORT TO LOXWOOD PARISH COUNCIL

Introduction

1. This report is in two sections. This is a complex application and so the first section sets out the details of the proposal and then discusses matters where there are considered to be discrepancies, where further information is required, or clarification needed for the proposal to be given proper consideration. The second section assesses the proposal against the policies of the NPPF, the West Sussex Joint Minerals Local Plan July 2018 (Partial Review March 2021), the West Sussex Waste Plan 2014, the Chichester Local Plan 2014 and the Loxwood Neighbourhood Plan.

SECTION 1

2. A Brief Outline of the Proposal as set out in the Submitted Documents

- 2.1 The application site extends to 8 hectares and is located within an area of woodland known as Pallinghurst Woods. The site is rectangular with Footpath 792 adjoining its northern boundary. There is a gentle slope across the site from about 39m AOD on the south-western boundary, to 43m AOD at the footpath referred to above. Access from the site will be along a forestry track running southwards and then south-eastwards through woodland, across a short stretch of farmland, and then south again to an existing layby where it joins Loxwood Road. The access and layby also serves an existing cottage. The site and the access road are shown on **Figure PS2**. The land outlined in blue is owned by the applicant, but a short section of the proposed access road is not shown as being in the company's ownership, and that section is also part of

the route of Footpath 795. There is no evidence of any Notice of the development having been served on the landowner if it is the case that the applicants do not own that stretch of land.

- 2.2 The final section of the access road is also part of Bridleway 3240. Two passing places are proposed to be provided along the access road as shown on **Figure PS9.1**. An area for car parking and the wheel wash will be located 100m from the entrance gate to Loxwood Road, on the east side of the access road. A traffic control barrier will be located at the crossing to the bridleway and at the entrance to the operational area. The Planning Statement mentions at paragraph 4.13 that the layby adjacent to the site access will be reconfigured in accordance with the terms of a S106 Agreement to be entered into to the satisfaction of the Planning Authority. The proposed works are shown on **Figure PS13**.
- 2.3 The clay considered to be suitable for extraction is stated to be 6m thick on average, with a maximum thickness of between 8m and 9m. The overlying soil and overburden is 0.5m thick. The total yield is estimated to be 375,000 tonnes and, at an extraction rate of 12,500 tonnes per annum, the extraction operation will take 30 years. The clay will be stockpiled on site initially and then exported. No specific destination is given for the clay although mention is made of discussions with existing brickworks and the possibility of the applicant setting up a brickmaking facility somewhere and at some time in the future. Mention is also made of other uses to which the clay might be put, such as flood defences.
- 2.4 It is proposed to excavate the clay in 30 small phases, working phases 1 and 2 near the centre of the site first, then progressing eastwards and southwards, with the final areas being in the south-western part of the site. A lagoon will be dug on the southern boundary of the site at the outset. Restoration will be progressive using material produced from the CMRF which is classified as suitably inert under the terms of a Waste Permit to be obtained from the Environment Agency. It is suggested that of the 25,000 tonnes of waste to be brought in annually, 12,500 will go to landfill for restoration purposes. The remainder will go off site as recycled product. The total excavation, filling and restoration operation will take 33 years. Final restoration will be to woodland, with a fishing lake. Access to the public will be provided.

- 2.5 The proposed site of the CRMF is in the north-western section of the application site where the deposit appears to be at its shallowest. It will be a black clad steel framed building 1,455 m² in area, 7m high to the eaves and 8.5m to the apex. It will have one roller shutter door, 6m wide and 5m high. An illustrative internal layout is given showing various storage and sorting areas **Figure PS12**). Along its northern side will be a double height portacabin which will serve as an office and amenity building. It will have a gross floor area of 144 m², and an overall height of 6m.
- 2.6 The average daily generation of Heavy Goods Vehicles (HGVs) is given as 21 lorries, (42 movements) but with differing types of vehicle. According to the submitted table, waste will be brought to the site in vehicles ranging from 18 tonne skip lorries, to 32 tonne tippers. Clay will be exported in 32 tonne vehicles, as will recycled materials from the CMRF. A traffic management scheme is proposed to limit the number of inbound vehicles on the access road to two at any one time, and to require inbound vehicles to give way to outbound vehicles. Two passing bays will be provided.

3. **A Discussion of Points arising from the Submitted Documents**

3.1 *The Clay Deposit*

- 3.1.1 A Geotechnical Desk Study and an Interpretive Report on Ground Investigation has been submitted in support of the application. The site is shown as underlain by the Weald Clay on the British Geological Survey England and Wales Sheet No 30 – Haslemere, dated 2017. The Interpretive Report looked at a wider area than the application site and a number of boreholes were constructed from which it was concluded that it had not been possible to determine fully whether or not the site represents a suitable brick clay resource. A further report on the testing of clay samples was also submitted to determine the suitability of the material for making into bricks (See Paragraph 3.1.3 below).
- 3.1.2. The depth of the clay deposit within the selected area appears from the borehole logs to vary between 6.8 m in the south-eastern corner (BH05) and 4.6 m towards the northern boundary (BH08). This appears to be rather less than stated in the application documents where the average is given as 6m with a maximum depth of 8m to 9m. The application form refers to a maximum depth of 10m. The Noise

Impact Assessment talks about a depth between 8m and 12m and the attenuation of noise which results as the depth of working increases. As the depth of the deposit affects the potential yield this figure needs further verification to ensure that the figure of 375,000 tonnes is correct, as this is fundamental to the soundness of the overall proposal. The location of the exploratory boreholes is shown on **Figure PS18**.

3.1.3 The report which evaluated the potential of the deposits for use as brick clay refers to a number of boreholes from which the samples came. There does not seem to be a plan to show where these boreholes are. This should be made available to verify the findings.

3.2 *Waste Recovery and the Restoration Scheme*

3.2.1 It is fundamental to the arguments being put forward by the applicants that restoration is progressive and keeps up with extraction so that when extraction finishes in a cell filling will commence as soon as possible, and only 2/3 cells will be active at any one time. The application states that 50 percent of the incoming waste will be recycled and the other 50 per cent will be landfilled. It is intended to import 25,000 tonnes per annum, thus 12,500 tonnes will go to landfill to backfill the cells.

3.2.2 The soundness of the proposal is doubtful. First, government policy requires waste to be driven up the waste hierarchy by prevention, preparing for re-use, recycling and other recovery. Disposal to landfill is at the bottom of the hierarchy and is the least desirable option (**National Planning Policy for Waste, October 2014**). To set out with the objective of landfilling fifty percent of the construction and demolition waste coming into the site is contrary to government policy.

3.2.3 Figures produced by Government Statistical Service through DEFRA on 15 July 2021 show that the recovery rate from non-hazardous construction and demolition waste for England has risen from 92.2% in 2010 to 93.8% in 2018. (It should be noted that these figures exclude excavation waste). To support this, a recycling facility within 20 miles of this site diverted from landfill 99.2% of the 9,000 plus tonnes of waste it received for processing in June this year.

3.2.4 To divert waste that is capable of being recycled to landfill deliberately flies in the face of reason as well as policy in that it does not make economic sense. Any waste that coming into the facility and then being treated becomes liable to tax at some level. The processed waste to be 'quarantined' in containers as proposed, prior to

analysis, has been treated and may be subject to tax if landfilled on the site, as appears to be intended. Further, the Environment Agency may well reclassify the waste that has been processed and quarantined in containers as ‘non-hazardous’ rather than inert, which means that it may not be able to be landfilled at this site. This is a matter for the Waste Permit procedure and not for planning, but it is a consideration to be born in mind when the restoration scheme is so precise in terms of timing and relies on the stated quantities of fill to be available.

- 3.2.5 On the face of it the proposed percentage figure for recycled material appears to be purely a device to leave 12,500 tonnes to go to landfill so that the progressive restoration proposals appear feasible and the proposed timescale can be adhered to.

3.3 *The CMRF*

- 3.3.1 A plan showing the CMRF (**Figure PS12**) shows an indicative internal layout with various storage areas and a trommel. The Noise Impact Assessment, however, refers to other machinery operating within the building, which is not shown, in particular a crusher. A plan showing how the CMRF would operate with all the items of machinery proposed would allow for a more accurate assessment of the proposal.

3.4 *Access Arrangements*

- 3.4.1 Although a reconfiguration of the access is mentioned in the Planning Statement, the Technical Note on Transport refers to the existing access arrangements only. The swept path analysis showing an HGV entering and leaving is shown on **Figure PS13**. It concludes that the site access junction with Loxwood Road has the ability to cater for the turning movements of the likely vehicles that will be operating, and that adequate visibility can be provided in accordance with the requirements of Manual for Streets 2.
- 3.4.2 The swept path on the drawing shows a lorry entering the layby with a car waiting, but not another HGV. An HGV exiting the site would require the whole access width in order not to cross the centre line on Loxwood Road, and two HGVs going in different directions could not negotiate the access at the same time.
- 3.4.3 The width of the access road where it joins the existing bell mouth is 5.5m. It then narrows to 4.7m before widening again to 5.7m. This means that there is a section where two HGVs cannot pass as they are 2.5m wide. **Figure PS13** shows how far a

lorry has to swing out at the bell mouth to get in and out. If two lorries meet at this point or further in where it narrows even more then one would have to wait, possibly on Loxwood Road, which would cause a traffic hazard.

- 3.4.3 The application refers to a traffic management scheme so that there would be only two vehicles coming out and two vehicles coming in at the same time, and inbound vehicles would have to give way. It does not say over which section of the access road this would operate, but if it did go as far as the junction with Loxwood Road then this could increase the possibility of queuing at the entrance.
- 3.4.4 **PS13** is said to show the access improvements proposed but it is unclear as to what is intended and the title of the drawing is 'Swept Path Analysis using a 4 axles rigid tipper'. It could be that the red line which crosses the triangle is the widening line, but it is not referred to on the drawing.
- 3.4.5 These discrepancies need clarifying and a proper drawing showing the access improvements should form part of the application.

SECTION 2: CONSIDERATION OF PLANNING POLICY

4. Introduction

This is a single application covering two distinct elements, clay extraction and waste importation and treatment. In the application these are integrated, and the only justification for the waste facility is the existence of the void created by clay extraction. Effectively, if there is no need for the clay then there is no void and there is no valid reason for locating a waste facility on the site.

5 The Need for the Clay- JLMP Policy M5

5.1 The **NPPF** at Paragraph 208 requires Mineral Planning Authorities to provide in their Plans for a steady and adequate supply of industrial minerals by maintaining a stock of permitted reserves of at least 25 years for brick clay. West Sussex as a county has in excess of 25 years of clay reserves. Surrey, the adjoining county to the north, also has sufficient reserves at its two active brickworks to satisfy the landbank requirement of 25 years.

5.2 The **West Sussex Joint Minerals Local Plan July 2018 (Partial Review March 2021)** states that three of the then existing brickworks in the county had reserves of at least 25 years, and the fourth about 24 years. The fifth, West Hoathly brickworks, had less than 10 years, but according to the **AMR 2019/2020** that works is now permanently closed. The potential yield of the application site is given as 375,000 tonnes to be extracted at a rate of 12,500 tonnes per annum, but without a destination for the clay this figure cannot be added to the individual reserve of any of the four remaining active brickworks. The **AMR 2019/2020** gives the total permitted reserve in the county as 17.5mt. The sales figure for 2019 was 0.3mt and the average sales figure for the period 2010 to 2019 was 0.32mt which shows that the extraction rate has been consistent over a significant period of time. Thus the reserve more than meets government requirements and at the current rate the reserve will last for over 50 years. There is thus no need for additional clay reserves to be provided in West Sussex.

5.3 **Policy M5** of the **Joint Minerals Local Plan July 2018 (Partial Review March 2021)** deals with proposals on unallocated sites such as this. Part (a) is relevant to this application, and the criteria set out in (i) and (ii) have to be met. These say that

‘(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.’

5.4 This application is in effect speculative. It does not put forward any destination for the clay and says only that *‘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’* (Planning Statement , paragraph 7.12, p 34). The users are not identified and their location is not known. It is also suggested earlier in paragraph 7.12 that the applicant company will build a small brickworks at some stage elsewhere in the county. No timescale is given and no potential site mentioned and buildings for burning bricks fall into a Special Industrial Use Class because of the potential environmental impacts, so this is would be potentially difficult to achieve. There are also implications for transport policy which are referred to in 11.5 below. **The conclusion is that the proposal does not comply with Policy M5 (a) (i) and (ii).**

5.5 There is a suggestion in paragraph 7.12 of the Planning Statement that the clay provides an excellent resource to be used in flood defence schemes. However, since evidence has been put forward that the clay can be used for brickmaking (**APPENDIX ES N – Confidential Report on potential of clay deposits for use as brick clay**) the proposal does not comply with **M5 (b)** which requires that

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

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

Thus the proposal fails to meet either (a) or (b) of Policy M5

5.6 It is also contrary to the requirement in **M5 (c) (iii)** that new sites should be sited as close as possible to the site where the clay will be used. No evidence has been submitted as to where the clay will be used.

6 Policy M20 – Transport

6.1 **Policy M20** of the **JMLP** deals with the transport of minerals, and one of the aims of this policy is to minimise lorry movements and the use of local roads for minerals. It states that

‘ proposals for minerals development will be permitted provided that:

... (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; ...’.*

6.2 This site would have to be dependent on road transport. It is some 5/6km from the nearest part of the Lorry Route Network at Bucks Green and the traffic would travel along small, local roads to reach that junction. The planning statement does not preclude some traffic turning westwards out of the site which means that lorries would have further to travel to access the lorry route network either at Alfold Crossways, Billingshurst or further west to the A 283. **Since the proposal fails test (a) and (b) in Policy M5 the special justification referred to in M20 (i) is not relevant.** Further the destination of the clay is not known so the distance it is likely to travel is unknown. The fact that the four remaining brickworks in the county have individual reserves of 23/25 years suggests that there may be no demand from them for the clay from this site, so the Loxwood clay may have to travel out of the county

which means longer distances. Surrey is not a likely destination as the county has adequate reserves. In this respect the proposal is not sustainable.

6.3 The Highway Authority has to judge the potential impact of the additional HGV traffic on the local road system and to be satisfied with the figures given. On average there will be one lorry movement every ten minutes and the increase in HGV traffic, in the region of 300%, is significant given the narrowness of the roads over which the lorries would travel before they reach the lorry route network. Further, the traffic associated with exporting the recycled product is low because only 50% of the imported waste is proposed to be recycled. If this figure were to rise to nearer the national average figure, and so to accord better with government policy, the number of HGVs would increase.

6.4 On the basis of the information given to date the access cannot be regarded as safe or adequate for the type of HGV traffic proposed. Two HGVs could not negotiate the access at the same time because there is insufficient manoeuvring space, which could cause danger on the highway to vehicles, pedestrians and horse riders and affect the flow of traffic on Loxwood Road. The proposals do not pass the tests set out in **Policy M20 (c) (i) and (ii)**.

6.4 Loxwood Road itself is generally about 5.5 m wide, which is just wide enough for two HGVs 2.5 m wide to pass, but an 80m section west of Exfold Farm is only 5.1 m wide, and here passing would only be possible with great care. Inevitably the additional HGV traffic must have an adverse impact on road safety.

7. Policies M17, M18 and M23

7.1 **Policy M17** deals with biodiversity and geodiversity. Natural England has raised no objection to the proposal as they consider that the proposed development will not have any significant adverse impact on statutorily protected nature conservation sites or landscapes. The application site does not include Ancient Woodland and there will be no loss or deterioration of irreplaceable habitats and woodland planting is proposed. However, over the thirty year period that the working will take place some disruption to the natural environment must inevitably occur simply as a result of activity and human intrusion.

- 7.2 **Policy M18** relates to matters of public amenity and health. Lighting, noise and dust emissions and odour are matters that can be controlled satisfactorily by either planning conditions, or Waste Permit conditions. However this proposal will adversely affect public rights of way over a very long period. In particular there is a potential conflict where the access road crosses the bridleway 3240 and also footpath 792. The access road also runs alongside the bridleway for some distance and lorries are likely to pose a danger to horses and their riders. A significant section of footpath 792 is also proposed to be closed for safety reasons, presumably for the duration of the operation which will certainly impact on the enjoyment by the public of this area.
- 7.3 **Policy M23** is concerned with the design and operation of mineral developments and is most relevant where a permission is likely to be granted. The applicants have addressed some of the issues through the landscape impact assessment.

8. West Sussex Waste Local Plan 2014

- 8.1 This Plan sets out the policies relating to the provision of waste facilities in the County. It was reviewed in 2019 and the review concluded that the Plan remained relevant and effective and that no update was therefore required. The Plan contains allocations of sites considered to be acceptable for transfer, recycling and recovery facilities, including the recycling of inert waste, to meet identified shortfalls.
- 8.2 The establishment of a clay pit and thus a hole in the ground in this area of rural woodland is put forward as justification for a built waste facility and disposal site in this location. The site is unallocated in the Plan, although within an Area of Search.
- 8.3 **Policy W1** deals with the need for Waste Management Facilities and in this case (c) which sets out the criteria for proposals on unallocated sites for the recycling of inert waste, is relevant. This says that facilities may be permitted where it can be demonstrated that there is a market need, consistent with the principle of net self-sufficiency. Applicants are generally required to demonstrate that there is a quantitative need for their facility to address an identified shortfall in recycling or recovery capacity. Where there is no identified shortfall, proposals on unallocated sites should still be consistent with net self-sufficiency and, where appropriate, the objective of zero waste to landfill. The applicants have not produced compelling evidence as to market need and the proposal to recycle only 50% of waste coming into

the facility does not contribute to the objective of zero waste to landfill. The proposal does not comply with **Policy W1 (c)**.

- 8.4 **Policy W3** deals with the location of built waste management facilities. Larger facilities need to be close to urban areas along the coast and in the north or east of the County, but However, suitably and appropriately located smaller-scale facilities may be required in predominantly rural areas. Where a site is unallocated but in an Area of Search applicants should demonstrate that the recycling facility cannot be delivered on permitted sites or those allocated in **Policy W10 (Policy W3 (a) (i), (ii))**. This site is in an Area of Search and the applicants are arguing that the allocated sites have not been developed and so additional capacity is needed. The **AMR 2019/2020** sets out at Table 11 the status of the remaining Allocated Sites and their capacity. This shows that permissions have been granted on five of the six sites. It is notable that all these sites have capacities of 50,000 tpa or more, significantly larger than the Loxwood proposal which is proposing a throughput of 25,000 tpa. The contribution the site would make is negligible and insufficient to justify the disturbance to the environment that the operation would cause. In the Plan a small-scale facility is regarded as under 50,000 tpa.
- 8.5 **W3 (a) (iii)** refers to sites outside the Areas of Search where small-scale facilities may be permitted. By implication a small-scale facility such as that proposed is not appropriate in an Area of Search.
- 8.6 Inert Waste recycling is dealt with in **Policy W4**, the strategy being to allocate a small number of sites across the County (**Policy W10**) and also to use criteria to guide other proposals to suitable locations. Proposals either have to accord with **Policy W3**, which this does not, or be at an active landfill site or mineral working. There is no active mineral working, and the establishment of a pit on this site is not justified by need for additional clay for brickmaking as previously established. The proposal is contrary to **Policy W4**.
- 8.7 Additionally the site is not well-located to a centres of population where the arisings are likely to occur. Usually waste facilities have a catchment area of about 20 miles radius, so this area is likely to be served by other existing sites.

- 8.8 Arguments in the application regarding the proximity principle fail because the arguments are based on the premise that there is a void to fill. The proposal fails policy W4, is not in accord with W3 and not on an active mineral site.
- 8.9 The Waste Local Plan contains development management policies designed to ensure that there would be no acceptable harm to amenity, character, and the environment or other material considerations from waste development proposals. **Policy W11** concerns the potential impact of a waste development on the character of an area and the separate identity of settlements. This is a tranquil rural area, criss-crossed by paths and bridleways. The erection of a substantial industrial building, and the HGV traffic associated with the operations and general activity will damage the quiet character and attractiveness of the area. The proposed operational area may only extend to six hectares, but the length of the access route and the proposed parking area near the access point with Loxwood Road, will extend the sphere of influence and environmental damage. Although the proposed development is not permanent, its impact will continue for over 30 years, well beyond the life of the Waste Local Plan. For people living in the vicinity it is effectively permanent.
- 8.10 **Policy W12** requires high quality design and compatibility with existing uses. In such a rural area which is predominantly woodland with no other buildings nearby it is difficult to see how two buildings of this size and height can integrate with adjoining uses. Landscaping proposals are included to attempt to mitigate the impact, but the design of the buildings is uncompromisingly stark.
- 8.11 **Policy W14 concerns** biodiversity. Natural England has raised no objection to the proposal as they consider the development will not have any significant adverse impact on statutorily protected nature conservation sites or landscapes. The application site does not include Ancient Woodland and there will be no loss or deterioration of irreplaceable habitats and woodland planting is proposed. However, over the thirty year period that the working will take place some disruption to the natural environment must inevitably occur simply as a result of activity and human intrusion.

8.12 **Policy W18** sets out criteria regarding Transport in much the same terms as the **JMLP**. The comments in paragraphs 6.1 – 6.4 above apply equally to the waste element of this application.

8.13 **Policy W19** contains identical criteria to Policy M18, and so the comments in paragraph 7.2 apply.

9. The Chichester Local Plan and the Loxwood Neighbourhood Plan

9.1 The Chichester Local Plan contains a short section on the North of the Plan Area. This emphasises that this part of the district is predominantly rural Policy 25 emphasises the need for only small-scale development which will conserve and enhance the rural character of the area, the quality of its landscape and the natural and historic environment. The proposed waste facility is incompatible with these objectives.

9.2 Policy 11 of the Loxwood Neighbourhood Plan applies to the rural area outside the Settlement Boundary which includes the application site. Any development will be limited primarily to that which requires a rural location, is sensitive to its setting and supports rural diversification and sustainability of the rural area. The proposed waste facility does not accord with this policy.

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29 August 2021