

**ARUNDENE ORCHARD
LOXWOOD ROAD
RUDGWICK
WEST SUSSEX
RH12 3BT**

Mr C Bartlett
Planning Officer
West Sussex County Council
County Hall
Chichester
West Sussex

14th August 2021

Dear Sir,

Re: Application WSCC/030/21 – Land at Pallinghurst Woods, RH14 0RW

We live on Loxwood Road and would like to object to the above application as follows:

- 1) The application is for a clay pit and then following clay extraction for the pit to be filled segmentally with inert construction material waste. From our reading of the application documents, it is the latter which is driving the application and not the former, as no specified need or demand for the clay has been identified by the applicant. We expand on this point below.
- 2) As the initial development is for Clay extraction the scheme falls to be considered under the NPPF and in particular **Policy M5** of the WSCC Joint Minerals Local Plan. We attach the wording of Policy M5 (as set out in the applicant's Planning Statement at para 8.5) as Appendix A to this letter. We note Policy M5 is written in the affirmative to granting consent if the requirements of the sub-clauses are met. We deal with each of those sub-clauses in turn as follows:

a(i) – This application is not for the supply of clay to a specified brickworks and no contractual or confirmatory details have been supplied to identify any customer(s) for the clay. Therefore, the application does not meet the first criteria. The applicant comments that the application site would replace the clay pit previously developed at Rudgwick Brickworks which is now being landfilled, and in their opinion was closed 30 years early. It is a matter of fact that Rudgwick Brickworks is closed, so no demand arises for the clay from that facility. The fact that WSCC allowed the closure of that clay pit with reserves remaining, confirms that they had no need of such reserves in this area to meet their duty to maintain reserves as set out in para 208 of the NPPF.

a(ii) - Whilst the applicant makes mention of blending clays to support brick making off-site and that this has become more of the way the market is working, as opposed to clay pits being tied to specific brickworks, they again give no details of specific users or customers who are seeking a supply of the material that would arise from the development. Apart from general statistics about the market they have identified no shortfall in supply that would require this proposal to be approved. The applicants also comment that WSCC need to fulfil their "duty to cooperate", and thus the need for cross-border support for minerals supply (as required by the NPPF). They provide some information on previous discussions between the adjacent Local Authorities of Surrey and East Sussex (see Para 8 of the Planning Statement) however, they have not produced any evidence that either of these Local Authorities or indeed any other adjacent authority such as Hampshire, have actually requested WSCC to make additional provision to cover shortfalls in their areas.

b(i) – The applicant has identified that the clay could be used for other purposes such as capping in land fill sites, flood defences, engineering works or cement making. However apart from some general statistics they provide no specific details of the demand for the clay in this location or how appropriate it is to fulfil demand. Again, as with the above requirements of the policy, they have not provided any contractual or confirmatory details to identify any potential customer(s) for the clay. This is very important in the context of the County's reserves, and the role that this site might play in fulfilling the County Council's responsibility in maintaining those reserves as commented on below.

b(ii) – this sub-para states that permission will be allowed to extract clay for engineering purposes if the clay cannot be used for brick making. There is no evidence in the application that the clay would be used for anything other than brick-making, and most of the generic market evidence supplied is about brick making thus it must be construed that this is the applicant's intended market for the clay and as such the application does not meet this test.

b(iii) – this sub-para is an alternative to para b(ii), in that it allows clay extraction at sites which are at an existing sand or gravel pit/quarry. This site is plainly woodland and there are no existing facilities on or near it.

c(i) – the site should be located outside the AONB, which it is.

c(ii) – this sub-para states that approval will be given for extensions of time or physical extensions to existing claypits or where this is not possible, they should be sited as close as possible to where the clay will be used. The applicant has not identified any local uses for the clay or any local customers that would make use of it, therefore the proposal fails this test.

c(iii) – this sub-para states that where transportation by rail or water is not possible the site should be close to the Lorry Route Network (LRN). Whilst this site is 1.5km directly south of the A281 which is part of the LRN, it has no access to the north to get directly to that road. The proposal suggests that most vehicles will travel to and from the site to the east and join the A281 at Bucks Green which is 3.5km distant from the site access point onto Loxwood Road. The Loxwood Road is a narrow B class road with many tight bends. It is approximately 5.1m wide at its narrowest point and thus is wholly un-suited to use by large HGVs. Therefore, by any measure the site cannot be regarded as well located in respect of the LRN.

Taking all of the above into account, apart from the fact that the site is not located in the AONB, it does not meet any of the tests set by Policy M5 and thus should be refused on this ground alone.

- 3) On the basis that the clay does not need to be extracted, the ability to create a Construction, Demolition and Excavation waste facility falls away, as the proposal cannot meet the first requirement of **Policy W8**. That policy requires first and foremost that “the proposal results in clear benefits for the site and where possible the wider area”. The proposal cannot meet this test if there is no claypit to backfill. The land is currently used for forestry and supports a wide variety of Ancient Woodland, Veteran Trees, protected species, Flora and Fauna, thus any disruption caused by the creation of a CDEW facility on its own without the claypit as a reason to require land fill, cannot outweigh the harm done.
- 4) The Para 208 of the NPPF carries a requirement at sub-para b for minerals planning authorities to maintain a sufficient reserve of brick making clay, which the supporting text identifies as a 25 year supply. The Applicant’s Planning Statement at para 8.7 states that WSCC Monitoring Report issued in April 2020 shows that the current reserves in the County are 17.8M tonnes and current sales amount to c.300,000 tonnes per annum. Thus, WSCC has a demonstrable reserve equating to 59 years supply, so it is meeting its duty under the NPPF. There is no need to grant consent for this scheme to meet this requirement.
- 5) Even if there were a lack of reserves or one took the view (which is not as the policy is drafted) that such reserves were to be judged on a facility by facility basis, then the proposed scheme would as stated by the applicant at para 8.6 of the Planning Statement, provide less than one year’s demand for County wide sales of clay. So why would the Council grant consent for a scheme which is so inconsequential in meeting demand for clay, even if it had a need to do so. Surely it would prioritise better located larger schemes closer to the LRN, that can deliver benefits of scale in a less sensitive location, that would therefore meet the policy objectives of the JMLP (Policy M5) and NPPF (Para 208).
- 6) For the reasons set out above the application does not meet either local or national policy tests and as such should be refused.
- 7) We are well aware that notwithstanding the policy issues described above, the planning authority will also need to consider the impacts of the proposed scheme and the benefits as suggested by the applicant. Therefore, we have reviewed the applicant’s submission as set out below:
 - a) Vehicular Traffic – The applicant has not made clear what the strategy is in respect of HGV movements to and from the site. Para 4.3 of the planning statement suggests that the HGVs will be moving primarily along Loxwood Road to and from the junction of the A281 at Bucks Green. During the consultation process Pro-Treat suggested a definitive traffic management plan would be put in place but nothing has been included in the application. Access in either direction from this site is fraught with difficulty. In the easterly direction the road narrows significantly to 5.1m in several locations, which together with deep bends causes line of sight problems for on-coming traffic. In the westerly direction the HGVs

would have to go through Loxwood village which has limited parking restrictions, thus the road width is constrained by parked cars, and any large vehicle will cause congestion. If approved, by the applicant's own movement statistics this could happen up to every 12 minutes!

- b) Loxwood Road is well used by cyclists, horse riders and pedestrians out walking in the countryside. The impact on these users by having large HGVs sharing a narrow road surface which is not well maintained, will increase the risk of accidents. Living on this road we are well aware of many incidents between horse riders and vehicles which cause issues for both parties. They are not reported as luckily no one has yet been killed, but that does not mean that a planning application whose proposals would increase such risks should be approved.

- c) Loxwood Road has many Listed Buildings along its length, notably "Crabtree Cottage" at the corner of Drungewick Lane which is very close to the road. This building is Grade 2 listed and under the NPPF should be afforded protection from the effects of the development. I have spoken to the owner and the applicant has made no contact with them and we note there is no assessment of Heritage Assets in the application other than an assessment of the site itself. Such assets are afforded protection under the NPPF and this building as well as the other listed structures along the route to the LRN should all be assessed notwithstanding their distance from the subject site. They would not be put in harms way unless this application were approved, as generally HGV's avoid using the road due to its narrowness and geometry. Thus, the scheme does not comply with Policy W15 which states that Heritage Assets should be preserved or enhanced.

- d) Pro-Treat state in Figure PS-14 (page 1) that those who voted on Webinar 3 (20% of attendees) did so at a ratio of 4 to 1 in favour of 42 lorry movements per day. This is a complete misinterpretation of the facts. Those who did vote (who we have spoken to) were voting for the use of smaller vehicles, as they know the impact larger ones will have on the road and its users.

- e) Pro-Treat state at para 4.4 that there will be a compound 100m north of the entrance housing a wheel washing facility and car parking. This facility will cut into historic woodland containing Veteran Trees. It will be sited circa 30-50m south of an existing Badger Set, and no mention is made of how the waste water from wheel washing will be controlled or run-off maintained at pre-development levels. This seems an ill thought out solution to one of the major problems with this development.

- f) The main access to the clay pit site is along a gravel roadway currently used on an intermittent basis by forestry trucks. The applicant states it is 7.5m wide but it is not clear how this is measured as the surface area is certainly narrower. Currently many walkers including ourselves use its full length, and we understand an application has been

submitted to make it a PROW. Notwithstanding the proposed erection of “traffic control barriers” (Planning Statement at para 4.4) at the junction with the existing Bridleway (B3240), there will be conflict with pedestrians, horse riders, and cyclists at numerous points along the access. This is compounded by the risk of conflict with cattle and farm working at the point where the access crosses the adjacent landowner’s section of the access.

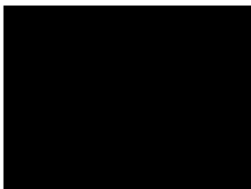
- g) The Arboriculturalist report provided by the applicant states that the access will be re-surfaced using a “no-dig” solution such as “Cell-Web”, however numerous Veteran Trees overhang the access road and as such their roots will pass under the roadway by a similar distance. Therefore, the use by trucks of up to 32 Tonnes everyday, is bound to compact the root area notwithstanding the addition of a surfacing material. Indeed, the addition of such material calls into question the permeability of the roadway and its effect on the tree root system.
- h) Looking at the methodology of the clay extraction and re-filling process (Planning Statement Fig PS-15) the excavation cells seem too small to be worked successfully and there is no monitoring offered as part of the mitigation package for the scheme. Therefore, should the operators exceed the proposed excavation or filling rates suggested in their EIA, there is no method of controlling it and thus all of the impacts of the scheme are called into question. This is contrary to the principles of “Sustainable Development” as set out by the NPPF whereby the impacts of a development are either acceptable or mitigated.
- i) With regard to the Air Quality impacts of the development, in summer the scheme will give rise to dust and at all times diesel fumes which clearly do not exist at present in a natural woodland setting. As shown by the Gatwick Wind Rose diagram attached at Appendix ES S of the applicant’s submission, the prevailing wind is from WSW or SW and thus the particulates will be in direct line to reach the Rikkyo School which is to the NE of the subject site. The staff and pupils of this school should not be subject to such deleterious particulates which could affect their health.
- j) Lastly, we see no mention of either a S.106 agreement or in respect of highway works a S.278 agreement being offered by the applicant. Whilst we are well aware that such documents are normally negotiated in detail after a resolution to grant consent, in respect of a site as sensitive as this and with mitigation measures and strategies that must be agreed as part of the application, we would have expected that the Heads of Terms for the agreements would be included as part of the application. Indeed, as the applicant has been keen to advance the inclusion of mitigation measures and benefits to the community, it is surprising that no effort has been made to confirm how these matters will be secured.

In conclusion we would confirm our objection as set out above on the following grounds:

- The proposal does not meet the tests set out in Policy M5 of the JMLP in respect of clay extraction.
- The proposal is not needed to assist the planning authority in meeting its obligations to secure a reserve of clay for brick making purposes for a 25 year period and even if it was the contribution by the applicant's own admission would be less than 1 year's supply from a site in what we consider (using the NPPF guidance) to be an unsustainable site.
- The proposal if approved will have the adverse impacts that we have set out at para 7 above.
- The applicant has not offered any terms for a S.106 agreement to secure the suggested mitigation measures or monitoring measures to ensure that the assumptions made in the EIA are maintained. Without such an agreement the Council can have no assurance or ability to control or stop the development from exceeding the stated extraction and filling rates and thus the impacts on the local populace, environment and habitat.

We trust you will find the foregoing of assistance in your assessment of the scheme and trust that like us you will come to the conclusion that it should not be approved.

Yours Sincerely



Mr A.M and Mrs A.L Leahy

Appendix A – Policy M5 of the JMLP.

APPENDIX A

WSCC Joint Minerals Local Plan

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.**
- (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.**

END