

Report to	Planning Committee
Date	11 July 2011
By	Head of Planning
Local Authority	West Sussex County Council
Application Number	WSSCC/006/11/AL/SDNP
Application	Temporary change of use for a five year period to operate a soils and aggregate recycling facility using mobile plant
Address	Slindon Bottom Gravel Pit, Fontwell, Chichester, West Sussex, BN18 0SN
Purpose of Report	The application is reported to the Committee for decision.

Recommendation: The Committee is recommended that:

- 1) planning permission be refused; and**
 - 2) that should planning permission be refused in accordance with officer recommendation any necessary, appropriate and proportionate enforcement action be delegated to the Head of Planning**
-

1. The Proposal and the Site

- 1.1 The Slindon Bottom Gravel Pit site is located in a countryside location, approximately 750 metres north of the village of Fontwell and approximately 1kilometre west of the village of Slindon (see **Appendix 1 : Site Location**). The application site occupies an area of 6.35 hectares within the former Gravel Pit site that occupies approximately 10 hectares in area (see **Appendix 2 : Application Site**).
- 1.2 Immediately adjacent to the site's western boundary are agricultural fields and a number of isolated dwellings (situated between 250-300m away). Immediately adjacent to the northern boundary of the application site is public right of way 376 that runs east-west and parallel to the boundary; beyond that are covered reservoirs and agricultural land and then the east-west trending Slindon Road from which the application site's vehicular access is achieved via its purpose built access road that transects the public right of way.
- 1.3 Immediately adjacent to the eastern boundary is the Slindon Bottom Road that runs north-south and parallel to the application site boundary; beyond the road is the National Trust owned Slindon Wood containing numerous footpaths and tracks and then Slindon Village. Immediately adjacent to the site's southern boundary are a mixture of varying grades of restored areas of the former gravel pit. Animals belonging to the owners of Foxfield, the nearest dwelling situated approximately 90m south-east of the application site, graze and exercise on areas of restored land. To the south and south-west of these areas is the Lights Plantation.
- 1.4 The proposal is for the temporary change of use of the land to allow for the recycling of imported soils and aggregates using mobile recycling plant. The annual tonnage of imported waste is proposed to be up 75,000 tonnes (construction, demolition and excavation wastes). Mixed loads of fourteen 20 tonne (on average) lorries making return trips (28 movements) would enter and exit the site each day. To export the residual recycled material that is not backhauled by lorries having already deposited waste a further eight lorries are required (16

movements) to enter and exit the site each day. The screening and grading of soils and aggregates will be undertaken using a Trommel screener and concrete crusher. The concrete crusher would be used on a campaign basis to crush any remaining aggregate following screening and recovery of soils from the mixed imported loads.

- 1.5 The proposal seeks to carry out these operations in the north-west corner of the application site due to this area being flat and well screened by perimeter bunding and planting. The waste and recycled materials would be stored on land adjacent to the recycling operations (see **Appendix 3 : Site Layout Plan**).
- 1.6 The proposed operational hours (including recycling operations, the delivery of soils and aggregates and export of recycled material) are: Mondays - Fridays 07.00 to 18.00 and Saturdays 07.00 to 16.00.
- 1.7 The applicant has, since 8 February 2011, been carrying out some of the activities for which planning permission is being sought. Complaints relating to noise and dust attributed to these activities have been reported to the County Council by local residents between February and May 2011.

2. Consultations

- 2.1 **Arun District Council (Planning)** commented (in their role as a statutory consultee prior to the South Downs National Park Authority (SDNPA) taking over planning functions), that they raised no objection to the proposal.
- 2.2 **Arun District Council (Environmental Health)** raised no objection in terms of significant impacts being caused by way of noise or particulate emissions (dust) due to the combination of distances between the application site and the nearest sensitive development, the mitigation measures proposed, despite the absence of any acoustic or environmental consultants' report having been submitted. Site operations should be controlled by an Environmental Permit issued by the Environment Agency and include noise mitigation measures. The mobile crushing plant and any particulate emissions are further controlled under an Environmental Permit usually issued by the Local Authority in the area that the company operating the plant is based. In terms of contaminated land only imported material is to be recycled not on-site materials and it is unlikely to affect the landfill. Again, these concerns will be covered by the Environment Agency's permit.
- 2.3 **Chichester District Council (Planning)** commented (in their role as a statutory consultee prior to the SDNPA taking over planning functions), that all HGV traffic associated with this proposal should be routed to avoid Eartham village and that the advice and recommendations of CDC's Environmental Health Officer regarding noise, contaminated land and air quality should be taken into account. These comments relate only to the application site's existing access and proposed HGV route, which falls within Chichester District Council's jurisdiction.
- 2.4 **Chichester District Council (Environmental Health)** raised no objection regarding, noise, air quality and contaminated land issues. If any buildings are required as part of this application then a risk assessment will be required to ascertain any risk of landfill gas ingress. The number of vehicle movements will not be sufficient to significantly alter the average traffic noise level over the day. All suggested mitigatory measures within the application should be applied to the site, if permitted, to minimise impacts of noise, dust and air quality on the locality and nearby properties. The considerable separation from potentially sensitive receptors and the fact that the site will require compliance with an Environmental Permit to operate gives reassurance that there will be minimal adverse direct impact on neighbours. If permitted, conditions ensuring HGVs do not travel through the villages of Eartham and Slindon, sheeting of HGV loads, installation of wheel washing facilities and speed limits should be imposed.

- 2.5 **Aldingbourne Parish Council** raised concerns on the grounds that:
- The proposal may cause noise and dust nuisance, which should be regularly monitored by the applicant and the results being made publicly available.
 - The proposal would impact on the completion of the nearby Lidsey Landfill site by reducing the amount of suitable material being available to finish it.
 - All access to and from the site must be via Brittens Lane and the Slindon Road (as per the extraction operations at the site) rather than via Slindon Bottom Road and Dukes Road, which are unsuitable. The comments of WSCC Highways are agreed with and the Parish Council would be minded to object if Dukes Road, Slindon Bottom Road and the junction of those two roads was permitted for lorry use.
- 2.6 **Slindon Parish Council** did not respond.
- 2.7 **Eartham Parish Council** objects on the grounds of:
- The proposal would see an increase in the amount of lorries already using local roads in Eartham parish and village as a short cut, thus posing further road safety risks to other vehicles and the many walkers that already frequent the village especially now that it is within the South Downs National Park.
 - The proposal would create unacceptable levels of noise and an adverse impact on the area.
- 2.8 The **Environment Agency** raised no objection subject to a condition requiring a scheme for the storage of materials, the storage of chemicals, oils and fuels and working methods being submitted to and approved in advance by the Local Planning Authority prior to the commencement of development being imposed. Comments were also made about information required in support of any approved scheme and the need for ensuring good practice in terms of pollution prevention being adopted on site. A 'Standard Rules' Permit has already been submitted to the Agency for the proposed soils and aggregate recycling operations.
- 2.9 **Natural England** stated that although they had no specific comments to make, the views of the National Park and WSCC's Ecologist should be sought. Standing advice is given concerning protected species. It is also stated that the nearby local Slindon wildlife site is not affected by the proposal.
- 2.10 The **Health and Safety Executive** did not respond.
- 2.11 The **Highways Agency** raised no objection.
- 2.12 **Sussex Police** raised no objection but recommended a number of general security measures be considered and implemented within the site.
- 2.13 **WSCC Ecology** raised no objection.
- 2.14 The **Highway Authority** objects to the proposal as it provides insufficient information in respect of the impact posed by HGVs/lorries associated with the development on road safety such that a full assessment of the significance of the impacts arising from the development cannot be properly assessed.
- 2.15 **WSCC Landscape** objects to the proposal due to there being no specific site layout/arrangement details within the application, that no Landscape Visual Impact Assessment has been submitted, that no Existing Vegetation Survey/Impact Assessment has been submitted (with proposals for the retention and protection of existing trees), no screening mitigation has been submitted and if permitted the views of lorry movements to and from the site would be poorly screened from the adjacent public right of way, nearby

roads/lanes and that the proposed lorry movements and recycling operations are likely to cause significant noise disruption and accessibility issues for residents and recreational users of the South Downs National Park. The nature of the application is inappropriate given the location in the National Park and its proposed timescale.

- 2.16 **WSCC Public Rights of Way** No significant issues envisaged regarding footpath 376 that is crossed by the site access at one point.

3. Representations

- 3.1 Fourteen representations objecting to the proposal were received from local residents, adjacent landowners, users of the adjacent public bridleway and County Councillor Mike Hall (Chichester North). One representation was sent on behalf of six local residents some of which had made individual representation.

- 3.2 The following concerns were raised:

- Inappropriate location for recycling operations being within a rural area and in the South Downs National Park;
- The proposal will create unacceptable levels of noise and dust/impacts on air quality that will adversely affect users of the adjacent footpath, the amenity of the nearest residential properties and the peace and quiet of the South Downs National Park (recycling operations being sought are already being carried out by the applicant and these unauthorised operations have been creating impacts through noise and dust generation including through associated HGV movements);
- The site should have been restored already under previously approved restoration with on-site recycling operations consents. Permitting solely recycling operations to take place, with no restoration will prolong the completion of site restoration further;
- The surrounding road network cannot cope with 44 HGV movements per working day and HGVs travelling to and from the site past residential properties, particularly Dukes Road, will create unacceptable highway safety risks;
- HGVs travelling to and from the site will cover local roads in dust and mud creating unacceptable highway safety hazards;
- HGVs crossing the public footpath will cause health and safety risks to and impact adversely on the amenity of users of the path ;
- Impact on National Trust property who own much of the adjoining land to the east in the form of Slindon Wood (and the endangered species' living within the adjacent Slindon Wood).

- 3.3 One representation was received from the National Trust (an adjacent landowner and land manager) who made the following comments:

- 3.4 Whilst the Trust does not wish to object in principle to this proposal the primary aim for this site should be restoration to open countryside in accordance with its location with the South Downs National Park. Specific comments are:

- The proposal is likely to be visible from the public highway and public footpath that crosses the site access road. Landscape mitigation measures are needed to minimise any adverse impacts;
- The site is adjacent to Slindon Bottom SNCI and the proposal should ensure any potential impacts are fully mitigated;
- Trees alongside Slindon Bottom Road on National Trust owned land have been incorrectly included within the application site's blue and red lines. The character, historical importance and retention of some of these trees must be safeguarded.

- All possible mitigation measures should be put in place to minimise noise pollution and odours/dust from the recycling activities and any potential adverse impacts on local residents and visitors to the Slindon Bottom site.

4. Relevant Planning History

- 4.1 The Slindon Bottom Gravel Pit (formerly known as 'Everyman's Pit') is long established, having commenced before the introduction of planning controls and having been extended under planning permissions granted between 1954 and 1965. These permissions involved in the main mineral extraction, waste disposal and restoration works. The older workings, in the southern parts of the site were backfilled using household and general wastes by the local authority prior to 1974. In the late 1980s and into the 1990s temporary planning permission to backfill the northern part of the site and to over-top the southern end was granted but only after gravel extraction had ceased. Many of the permitted activities had an element of ancillary recycling and/or processing operations including vehicular exports and imports of minerals (for sale) and/or waste materials and on-site infrastructure requirements (see **Appendix 4 : Landscaping and Recycling Planning Permissions 1987 - 1996**).
- 4.2 Further temporary planning permissions were granted in the late 1990s and throughout the last decade to extend the periods to allow the completion of the approved restoration schemes and any related recycling operations. Whilst landfilling activities have not taken place since 1990, a number of unauthorised activities involving mineral working, working outside permitted boundaries, storage of waste skips, use and stationing of plant and machinery and the storage and maintenance of site compounds have been. The County Council did take enforcement action and served Breach of Condition and Planning Contravention Notices over this period. Warning letters were also issued over waste types being imported into the site and deposited. These activities curtailed as a result in the mid-1990s although mixed wastes were seen to be being deposited for sorting without planning permission around the same time.
- 4.3 A number of planning applications for recycling and/or processing operations as well as for on-site infrastructure works and storage of necessary equipment/plant have in the main been refused planning permission by the County Council or have been withdrawn voluntarily. However, some of these applications (as described in 4.2 above) were permitted either following a successful appeal or by the County Council on the grounds that they were intrinsically linked with concurrent permitted landfilling/restoration development (see **Appendix 5 : Site Layout Plan - 1994 Planning Permissions**)
- 4.4 Since 2007 the site has been inspected annually by County Council officers to ensure compliance with planning conditions (under planning permission AL/12/01). Restoration of the site (as approved) is required by planning condition (Conditions 1 & 2 of AL/33/98 & ER/98/1195 and Conditions 1 & 2 of AL/12/01), which have yet to be fully implemented by this applicant or previous landowners. Therefore, the compliance checks carried out during this period in terms of overall site clearance and restoration show the site to be non-compliant.
- 4.5 As stated in paragraph 1.7, activities have both been reported and observed to be taking place at the site (some of which are the subject of this planning application). These operations include the processing and screening of inert material using machinery and the import and export of these materials by HGV/lorry to and from the site. These operations are being undertaken without planning permission and are unauthorised. The applicant has been advised by the County Council that owing to the nature of these unregulated and uncontrolled operations that all such activities at the site should cease.
- 4.6 A Planning Contravention Notice (PCN) was served on the applicant on 03 June 2011 by the County Council. A PCN is served on the person who appears to be the owner or occupier of the land, or has another interest in it, or who is carrying out operations in, on, over, or under the land or using it for any purpose. The serving authority require the recipients in so

far as they are able, to provide certain information about interests in, and activities on, the land. A response to this was received on 24 June 2011.

- 4.7 The applicant informed the County Council in mid-June 2011 that all operations described in paragraph 4.5 were to cease. On visiting the site on 24 June 2011, County Council officers observed no activity taking place. No plant, machinery and equipment associated with those activities were evident either. Since mid-June 2011, the County Council has received no reported complaints related to the activities.

5. Planning Policy Context

- 5.1 Planning applications must be determined in accordance with the statutory 'development plan' unless material considerations (including national policy guidance) indicate otherwise. For the purposes of this application, the following approved or adopted planning policy documents form the statutory 'development plan':

- South East Plan (2009);
- Arun District Local Plan (2003) (Saved Policies, 2007);
- Chichester District Local Plan (1999) (Saved Policies, 2007); and
- West Sussex Minerals Local Plan (2003) (Saved Policies, 2007)

- 5.2 The key policies in the 'development plan' are summarised below. In addition, reference is made to relevant national planning guidance that guides the decision-making process, all of which are material to the determination of the application.

National Park policy

- 5.3 The National Park Authority has the following two purposes:

- (1) *to conserve and enhance the natural beauty, wildlife and cultural heritage of the area; and*
- (2) *to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public.*

Planning decisions in the South Downs National Park must give effect to these purposes, and if there is conflict between the two purposes, the first must take precedence. In the exercise of these purposes, the following duty applies: *'to seek to foster the social and economic well being of the local community in pursuit of these purposes'*.

- 5.4 Government policy relating to National Parks set out in **PPS7: Sustainable Development in Rural Areas and Circular 2010** is that they have the highest status of protection in relation to landscape and scenic beauty. Conservation of the natural beauty of the landscape and countryside must, therefore, be given great weight in development control decisions.

- 5.5 PPS7 paragraph 22 states that major developments should not take place in National Parks except in *'exceptional circumstances'* and that it should be demonstrated that they are in the public interest before being allowed to proceed. Therefore proposals should be subject to *'rigorous examination'* and an assessment should be undertaken to examine:

- (i) *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;*
- (ii) *the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and*
- (iii) *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.'*

National planning policy

- 5.6 **Planning Policy Statement 9 (2005)** contains guidance to compliment other policy regarding conservation, enhancement and restoration of England's wildlife and geology.
- 5.7 **Planning Policy Statement 10: Sustainable Waste Management (PPS10, 2005)** promotes sustainable development through driving waste management up the waste hierarchy by securing the recovery and disposal of waste without endangering human health or causing harm to the environment.
- 5.8 Paragraph 24 sets out the approach to be taken to planning applications for unallocated sites and states that they should be: *'considered favourably when consistent with: (i) the policies in PPS10, including the criteria set out in paragraph 21; and (ii) the waste planning authority's core strategy'*.
- 5.9 Paragraph 21 states that *'when deciding which sites and areas to identify for waste management facilities, waste planning authorities should:*
- (i) assess their suitability for development against each of the following criteria:*
 - *the extent to which they support the policies of this PPS;*
 - *the physical and environmental constraints on development, including existing and proposed neighbouring land uses (see Annex E);*
 - *the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, as products arising from resource recovery, seeking when practicable to use modes other than road transport*
 - (ii) give priority to the re-use of previously developed land, and redundant agricultural and forestry buildings and their curtilages'*
- 5.10 Annex E of PPS10 sets out the factors which need to be considered when testing the suitability of sites for waste management. The factors that are relevant to this application are: protection of water resources, visual intrusion, nature conservation, traffic and access, air emission (including dust), noise and vibration and potential land use conflict.
- 5.11 **Planning Policy Guidance 13: Transport (PPG13, 2011)** advises that planning authorities play a key role in delivering integrated transport strategies through shaping the pattern of development. Planning authorities can do this through influencing locations, the scale of, density of, design and mix of land uses within development proposals.
- 5.12 **Planning Policy Statement 23: Planning and Pollution Control (PPS23, 2004)** advises that planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced by the relevant agencies and therefore they should act to complement rather than duplicate controls. In considering proposals for development, local planning authorities should take account of the risks of and from pollution and land contamination, and how these can be managed or reduced. However, development control decisions on individual planning applications, particularly those for potentially polluting processes, can have an immediate impact on the local environment, human health and well-being.
- 5.13 PPS23 advises that consideration of the quality of land, air or water and potential impacts arising from development, possibly leading to impacts on health, is capable of being a material planning consideration, in so far as it arises or may arise from or may affect any land use.
- 5.14 **Planning Policy Guidance 24: Planning and Noise (PPS24, 1994)** guides local authorities on the use of their planning powers to minimise the adverse impact of noise. It also advises on the use of conditions to minimise the impact of noise.

The development plan

- 5.15 Although the Government revoked Regional Spatial Strategies (RSS) on 6 July 2010, following a recent legal challenge, this decision has been reversed and the **South East Plan (SEP)** still forms part of the development plan. However, the Government has restated its intention to abolish RSS through the Localism Bill and this is capable of being a material consideration.
- 5.16 Notwithstanding the above uncertainty, the SEP identifies: a need for the provision of capacity for increased recycling, composting and recovery within the region (Policy W3); a need to achieve targets for diversion from landfill (Policy W5); a need to achieve targets for recycling and composting (Policy W6); a need to provide waste management facilities to meet overall regional targets (Policy W7).
- 5.17 Policy W17 aims to guide the location of waste management facilities and states that '*small-scale waste management facilities for local needs should not be precluded from AONBs and National Parks where the development would not compromise the objectives of the designation*'. It goes on to state that such waste management facilities could be compatible with criterion iii i.e. '*compatible land uses*', which include land uses such as previous or existing industrial land, active mineral working sites, and contaminated or derelict land.
- 5.18 Policy C2 states that the purposes of the South Downs National Park designation should be a material consideration in making planning decisions that may affect the park.
- 5.19 The applicable policies from the Arun District Local Plan are: GEN3 (Protection of the countryside), GEN26 (Water Quality), GEN29 (Nature Conservation), GEN32 (Noise Pollution), GEN34 (Air Pollution), AREA9 (Area of Outstanding Natural Beauty) and AREA15 (Sites of Local Importance for Nature Conservation).
- 5.20 The applicable policies from the Chichester District Local Plan are: RE1 (Development in Rural Area); RE4 (AONB: Protection of Landscape Character); TR6 (Highway Safety); R4 (Public Rights of Way and Other Paths).
- 5.21 The applicable policies from the West Sussex Minerals Local Plan are: 4 (Recycling Operations in Favourable Locations), 5 (Secondary Aggregate Recycling at Current/Former Mineral Extraction Sites), 6 (Temporary Periods for Recycling Operations at Temporarily Permitted Sites), 7 (Imposition of Suitable Conditions to Control Impacts) and 8 (Cessation of temporary operations and restoration).

6 Planning Assessment

- 6.1 In addition to the development plan the main material considerations are whether the proposal:
- Gives effect to, and does not compromise the purposes of the National Park (set out in PPS7 para. 21)
 - Is in accordance with national policy on waste development within a national park (meeting the exceptional circumstances 'test' in PPS7)
 - Is in accordance with national waste policy which sets out criteria for assessing the suitability of unallocated sites (PPS10 para 21 and annex E)

Purposes of the National Park

- 6.2 In determining applications in the National Park great weight should be given to whether the proposal would give effect to the purposes of the Park. Waste management sites, such as this proposal are unlikely to give effect to the purposes of the Park, as they do not conserve or enhance the natural beauty, wildlife and cultural heritage of the Park. However, other material considerations, as discussed below, may outweigh this. The proposal does not give effect to the second purpose as it does not promote opportunities for the understanding

and enjoyment of the special qualities of the Park.

- 6.3 As the proposal does not strictly give effect to the purposes of the Park, the key material consideration in this regard is whether it compromises or is detrimental to the objectives of the designation. This is discussed below as part of the consideration of the criteria against which unallocated waste sites should be assessed and the PPS7 major development tests.
- 6.4 The proposal would not be in accordance with the National Park duty to seek to foster the economic well being of the local community, as it would provide a waste facility which has not demonstrated how it meets the need of the rural community in the area.

Major development in the Park

- 6.5 In order to determine whether '*exceptional circumstances*' exist for permitting a major development within the South Downs National Park, it is necessary to examine the proposal in relation to the tests set out in paragraph 22 of PPS7.
- 6.6 The first test is an assessment of the need for the development and the impact of permitting, or refusing it, on the local economy.
- 6.7 West Sussex County Council (WSSCC) and the South Downs National Park Authority have a responsibility to ensure that there is sufficient waste management capacity in their areas to move waste up the waste hierarchy and away from landfill. The most recent published figures for West Sussex (including the Park area) (WSSCC Annual Monitoring Report, 2010) indicate that, in addition to existing facilities, between 40,000 and 241,000 tonnes of recycling capacity is required by 2026. This site would contribute 75,000 tonnes per annum towards this shortfall. These figures indicate that there is a clear need for the development to contribute to the recycling capacity shortfall. However, the impact of permitting or refusing the proposal on the local economy would need careful consideration, including the impact of the operation's scale and nature on the locality and the Park
- 6.8 The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need in some other way is an important consideration. There is scope for developing waste management facilities outside the Park, as evidenced by the network of similar facilities outside the Park (see **Appendix 6: Map of inert recycling sites**). There are other temporarily permitted recycling facilities similar to this within the Park, such as Newtimber Chalk Pit near Brighton, The Valdoe at Goodwood and Shoreham Cement Works at Upper Beeding, however, all of these sites are also permitted for mineral extraction (although the Cement Works does not extract presently). Due to its location close to the southern boundary of the National Park, it is considered that the site would mainly serve the urban areas along the coastal plain and not the local needs within the National Park.
- 6.9 The third part of the PPS7 test is assessing whether there is any detrimental impact on the environment, landscape and recreational opportunities. This is discussed below.

Accordance with national waste policy

- 6.10 The approach to unallocated sites is that they should be considered favourably if they are consistent with the policies in PPS10 and the waste planning authority's core strategy. As there is no up-to-date core strategy covering waste issues in the Park, the reliance here is on the criteria in PPS10 paragraph 21.
- 6.11 The first criterion is whether the proposal supports the policies in PPS10. As the proposal would involve the recycling of, through screening and grading, soils and aggregates for re-use it would contribute to moving waste up the hierarchy and away from landfill, in line with national, regional, and local policy.
- 6.12 The second criterion relates to the physical and environmental constraints on development, including existing and proposed neighbouring land use. These issues are discussed below.
- 6.13 The third criterion aims to ensure that the capacity of existing and potential transport infrastructure can support the sustainable movement of waste. The applicant would transport waste to and waste/processed materials from the site by HGV/lorry. All vehicular movements to and from the site would be made using Slindon Road, Brittens Lane and onto the A27 (part of the strategic lorry route).

- 6.14 The main access for traffic using the site would be via the existing access on to the Slindon Road. This would continue to be the preferred vehicular route within this proposal and would be controlled through a Section 106 HGV routing agreement. 22 HGVs (44 trips) per day to transport the total of 75,000 tonnes per annum of wastes and wastes/processed materials to and from the site is acceptable to the Highway Authority in terms of highway capacity.
- 6.15 Concerns have been raised by the Highway Authority in terms of road safety as a result of the HGV/lorries required to transport the total of 75,000 tonnes per annum of wastes and wastes/processed materials to and from the site. The Highway Authority objects to the proposal as it provides insufficient information in respect of the impact posed by HGVs/lorries associated with the development on road safety such that a full assessment of the significance of the impacts arising from the development cannot be properly undertaken. The proposal therefore does not comply with the third criterion of PPS10 paragraph 21 nor does it comply with the requirements of PPG13, Policy TR6 (Highway Safety) of the Chichester District Local Plan (1999) (Saved Policies 2007).
- 6.16 The proposal meets the last criterion in PPS10 paragraph 21, which seeks to give priority to the re-use of previously developed land.

Potential for conflict with permitted land uses and adjacent uses

- 6.17 The following paragraphs cover the relevant locational criteria in Annex E of PPS10 and the third test of PPS7 paragraph 22, in order to establish whether the proposal would compromise the purposes of the National Park designation or have any detrimental impacts on the environment, landscape and recreational opportunities.
- 6.18 Restoration of the application site (an area of 6.35 hectares within the former Gravel Pit site that occupies approximately 10 hectares) is required by planning condition (Conditions 1 & 2 of AL/33/98 & ER/98/1195 and Conditions 1 & 2 of AL/12/01), the details of which have yet to be fully implemented as approved. This restoration, of the entire site, would create a southerly dipping 'domed' profile through backfilling of the pits with waste. Whilst no formal enforcement action has been taken to date, if the proposal for recycling operations alone (over any timescale) were permitted, it would compromise both the physical ability for the restoration to be carried out and the ability of the planning authority to enforce its implementation, if required. Due to the scale and nature of the required restoration, it would be unreasonable and unenforceable to impose by way of a condition/s, on a planning permission for temporary recycling operations, a requirement to restore the 10 hectare site. For the same reason it could not be imposed through any legal agreement entered into by the planning authority and the applicant/landowner. The proposal therefore does not comply with the relevant locational criteria in Annex E of PPS10 and the third test of PPS7 paragraph 22 and would compromise the purposes of the National Park designation. Restoration under this application could not be achieved and therefore detrimental impacts on the environment, landscape and recreational opportunities would remain until such time that a satisfactory scheme of restoration could be agreed and implemented. As a consequence of this the proposal does not comply with the requirements of saved policies GEN3 (Protection of the countryside) and AREA9 (Area of Outstanding Natural Beauty) of the Arun District Plan (2003), saved policies RE1 (Development in Rural Area) and RE4 (AONB: Protection of Landscape Character) of the Chichester District Plan (1999) and saved policies 4 (Recycling Operations in Favourable Locations) and 7 (Imposition of Suitable Conditions to Control Impacts) of the West Sussex Minerals Local Plan (2003).

Protection of water resources

- 6.19 Whilst the site is situated in a 'sensitive groundwater' related setting the recycling operations would take place on the existing site with no ground excavations proposed. Therefore, there is no perceived risk to surface water and groundwater (i.e. controlled waters). The Environment Agency raised no objection to the proposal subject to a condition being imposed requiring a scheme for the storage of materials, the storage of chemicals, oils and fuels and working methods being submitted and approved. A 'Standard Rules' Permit has

already been submitted to the Agency for the proposed soils and aggregate recycling operations. Therefore, there would be no detrimental impact on the water environment of the National Park from this proposal, which complies with the requirements of saved policy GEN26 (Water Quality) of the Arun District Plan (2003).

Visual intrusion

- 6.20 The application site lies in a countryside setting, within the South Downs National Park. The general locality is characterised by a mixture of agriculture, open pasture and woodland.
- 6.21 The site is well-screened when viewed from the north-west, north, north-east, east and south-east by bunding, existing trees and planting adjacent to the site, combined with other planting in the locality (field boundaries etc). Therefore, the site is not readily visible in the main although it is visible from the more isolated, detached dwellings (i.e. Foxfield to the south-east).
- 6.22 Objections were raised by the WSCC Landscape Architect about the proposal's impact on the local landscape mainly due to a lack of submitted information required to assess landscape implications associated with the proposal. Neither a Landscape Visual Impact Assessment has been submitted, nor has an Existing Vegetation Survey/Impact Assessment been submitted (with proposals for the retention and protection of existing trees). No screening mitigation has been submitted by the applicant. Such screening should include an assessment of any impacts generated by the views of lorry movements to and from the site from the adjacent public right of way and nearby roads/lanes within the locality. The proposed lorry movements and recycling operations are also likely to cause significant noise disruption and accessibility issues for residents and recreational users of the South Downs National Park in the vicinity of the site.
- 6.23 The proposal, in its current form, does not enhance the natural beauty of the area, and it would have a detrimental effect on the landscape of the National Park, contrary to paragraph 22 (iii) of PPS7 and the purposes of the National Park. The proposal also does not comply with the requirements of saved policies GEN3 (Protection of the countryside) and AREA9 (Area of Outstanding Natural Beauty) of the Arun District Plan (2003), saved policies RE1 (Development in Rural Area) and RE4 (AONB: Protection of Landscape Character) of the Chichester District Plan (1999) and saved policies 4 (Recycling Operations in Favourable Locations) and 7 (Imposition of Suitable Conditions to Control Impacts) of the West Sussex Minerals Local Plan (2003).

Nature conservation

- 6.24 The application site is not the subject of any ecological or biodiversity designations (statutory or non-statutory). The nearest designation - Slindon Wood Site of Nature Conservation Importance (SNCI) - is situated approximately 20m to the east of the application site and is separated by Slindon Bottom Road.
- 6.25 Although the proposals do have the potential for pollution, Natural England, the County Ecologist and the Environment Agency (EA) all raise no objection to the proposal. Natural England states that the application is unlikely to have any implications for the nearby local Slindon wildlife site (SNCI). The EA are the 'waste permitting authority' and would be responsible for controlling the day to day operations and any resultant impacts on the ecology, biodiversity and water environment at the site. A 'Standard Rules' Permit would be required. Overall, whilst the proposal does not conserve and enhance the wildlife of the area, it would not have a detrimental effect on the ecology of the nearby designated conservation area or the National Park and complies with the requirements of saved policy GEN29 (Nature Conservation) of the Arun District Plan (2003).

Air emissions, dust

- 6.26 Local residents and users of the adjacent public footpath have raised a number of objections about the generation of dusts and air quality impacts as a result of the unauthorised operations being carried out on the site. Environmental Health officers raise no objection to

the proposal in terms of impacts to air quality. Should planning permission be granted, an Environmental Permit, issued by the EA, working in conjunction with an Environmental Permit controlling the mobile crushing plant and any particulate emissions (usually issued by the Local Authority in the area that the company operating the plant is based) would also impose controls on air quality. Overall, subject to controls, the proposed development would be acceptable in terms of air quality.

- 6.27 Therefore, whilst not giving effect to the purposes of the Park, the proposal will not have a detrimental effect on the amenity of Park residents and users, or on the recreational opportunities that the Park provides and complies with the requirements of saved policy GEN34 (Air Pollution) of the Arun District Plan (2003) and saved policies 4 (Recycling Operations in Favourable Locations) and 7 (Imposition of Suitable Conditions to Control Impacts) of the West Sussex Minerals Local Plan (2003).

Noise and vibration

- 6.28 Local residents and users of the adjacent public footpath have raised a number of objections about the generation of noise as a result of the unauthorised operations being carried out on the site. Environmental Health officers raise no objection to the proposal in terms of impacts through noise and vibration. Should planning permission be granted, an Environmental Permit, issued by the EA, working in conjunction with an Environmental Permit controlling the mobile crushing plant and any noise and vibration (usually issued by the Local Authority in the area that the company operating the plant is based) would also impose controls on noise and vibration. Therefore, whilst not giving effect to the purposes of the Park, the proposal will not have a detrimental effect on the amenity of Park residents and users, or on the recreational opportunities that the Park provides and complies with the requirements of saved policy GEN32 (Noise Pollution) of the Arun District Plan (2003) and saved policies 4 (Recycling Operations in Favourable Locations) and 7 (Imposition of Suitable Conditions to Control Impacts) of the West Sussex Minerals Local Plan (2003).
- 6.29 The acceptability of the proposals in noise terms is also dependent upon the weight given to the importance of 'quiet recreation' and 'tranquility', and the extent to which the proposals would have an adverse impact upon them. Footpath 376 runs parallel to the site's northern boundary as well as across the application site's proposed vehicular access gate. Based on the tranquillity of the application site and the current unauthorised operations, the proposal would be audible during certain aspects of work, to local residents, users of the public footpath and visitors to Slindon Wood, if not controlled through planning and permitting conditions.
- 6.30 Therefore, whilst the proposal does not give effect to the purposes of the Park, taking into account the nature and likelihood of potential impacts (e.g. dust and noise controls, hours of operation, lighting), the proposal will not have a detrimental effect on the amenity of Park residents and users, or on the recreational opportunities that the Park provides and is in accordance with Local Plan Policies (saved policy R4 (Public Rights of Way and Other Paths) of the Chichester District Plan (1999) and saved policy 7 (Imposition of Suitable Conditions to Control Impacts) of the West Sussex Minerals Local Plan (2003). The imposition of appropriate conditions controlling operating hours and dust and noise and an Environmental Permit issued by the Environment Agency to operate the facility would both control potential impacts on recreational amenity and on 'tranquility' being in the Park albeit in an area in close proximity to the A27 from which low levels of transient traffic noise can be heard throughout the day and during the same periods as the applicant's proposed operating hours.
- 6.31 Taking into account the nature and likelihood of potential impacts in addition to any proposed conditions to control them and that a permit to operate would be required from the Environment Agency it is considered that the proposed development would be unlikely to cause unacceptable detrimental impacts upon the locality, local amenity and local recreation, if approved.

7. Conclusion

- 7.1 The proposal would meet a need for recycling facilities for inert waste material and move waste up the hierarchy in line with PPS7 paragraph 22 (i) and PPS10. The proposal would make use of previously developed land, in accordance with criterion (ii) of PPS10. Overall, it is not considered that the proposal would have a detrimental impact on the water environment, ecology, local amenity or air quality and therefore complies with the relevant development plan policies in this relation to these issues.
- 7.2 However, the application has not demonstrated how the need for a recycling operation of this type could be met in some other way and the cost of, and scope for developing elsewhere outside the designated area and therefore does not accord with criterion (ii) of PPS7 paragraph 22. The proposal would compromise the implementation of the restoration scheme for the site, preventing improvements to the environment, landscape and recreational opportunities from being achieved. The proposal does not contain sufficient information about the impact on the landscape of the National Park or any mitigation measures to address the potential impacts. Therefore, it is considered contrary to the purposes of the National Park and to criterion (iii) of paragraph 22 of PPS7. It is also contrary to policies GEN3 and AREA9 of the Arun District Local Plan (2003), RE1 and RE4 of the CDC Local Plan (2007) and policies 4 and 7 of the West Sussex Minerals Local Plan.
- 7.3 The application does not contain sufficient information to allow a full assessment of the impacts of the proposal on road safety and therefore does not comply with paragraph 21 (i) of PPS10, PPG13 and Policy TR6 of the CDC Local Plan.
- 7.4 On balance, the proposal has not demonstrated that exceptional circumstances exist which would override the impact of the proposals on the purposes of the National Park.

8. Recommendation

- 8.1 It is **recommended** that planning permission be refused for the following reasons:
- the proposed development would prejudice the purposes of, and duties under, the National Park designation and has not demonstrated that there are exceptional circumstances to justify it being granted planning permission. The proposal is therefore contrary to Paragraph 22 of PPS7: Sustainable Development in Rural Areas (2004), Paragraphs 21, 29 and ANNEX E of PPS10: Sustainable Waste Management (2005), policies C2 & W17 of the South East Plan (2009), policies GEN3 & AREA9 of the Arun District Local Plan (2003) (Saved Policies 2007), policies RE1 and RE4 of the Chichester District Local Plan (1999) (Saved Policies 2007), policies 4 & 7 of the West Sussex Minerals Local Plan (2003) (Saved Policies 2007) and the intention behind policies G2 & G7 of the West Sussex Waste Local Plan Revised Deposit Draft (2004).
 - the proposed development would compromise the approved, yet incomplete restoration of the Slindon Bottom Gravel Pit, a former mineral extraction site required by planning condition (Conditions 1 & 2 of planning permission's AL/33/98 & ER/98/1195 and Conditions 1 & 2 of planning permission AL/12/01). The proposal is therefore contrary to Paragraphs 21, 29 and ANNEX E of PPS10: Sustainable Waste Management (2005), policy C2 of the South East Plan (2009), policies GEN3 & AREA9 of the Arun District Local Plan (2003) (Saved Policies 2007), policies RE1 and RE4 of the Chichester District Local Plan (1999) (Saved Policies 2007), policies 4, 5 & 7 of the West Sussex Minerals Local Plan (2003) (Saved Policies 2007) and the intention behind policies G2 & G10 of the West Sussex Waste Local Plan Revised Deposit Draft (2004).
 - due to insufficient information it has not been demonstrated that the proposed development's impacts on road safety can be properly assessed. The proposal is therefore contrary to Paragraphs 21, 29 and ANNEX E of PPS10: Sustainable Waste Management (2005), Paragraphs 65, 67, 81 and ANNEX B3 of PPG13: Transport (2011), policy TR6 of the Chichester District Local Plan (1999) (Saved Policies 2007), policies 4

& 7 of the West Sussex Minerals Local Plan (2003) (Saved Policies 2007) and the intention behind policy G6 of the West Sussex Waste Local Plan Revised Deposit Draft (2004).

8.2 It is further **recommended** that subject to the acceptance by the Members of the recommendation for refusal stated in paragraph 8.1 above, should any unauthorised activities take place at the site that the consideration of appropriate and proportionate enforcement action is able to be taken by the Head of Planning.

9. Crime and Disorder Implications

9.1 There are no implications with relation to this planning application.

10. Human Rights Implications

10.1 The Human Rights Act requires the Waste Planning Authority to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic well being of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

10.2 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

10.3 The Committee should also be aware of Article 6, the focus of which (for the purpose of this committee) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

JIM REDWOOD Head of Planning

Contact Officer: Sam Dumbrell, Senior Planner, West Sussex County Council
Claire Potts, Minerals and Waste Lead

Tel: 01243 756867
01730 811759

email: sam.dumbrell@westsussex.gov.uk
claire.potts@southdowns.gov.uk

Appendices
Appendix 1 : Site Location
Appendix 2 : Application Site
Appendix 3 : Site Layout Plan
Appendix 4 : Landscaping and Recycling Planning Permissions 1987 - 1996
Appendix 5 : Site Layout Plan - 1994 Planning Permissions
Appendix 6: Map of construction and demolition waste recycling sites

SDNPA Consultees
Head of Planning
Monitoring Officer and Senior Solicitor

Background Documents:

Letters of representation from members of the public, County Councillor and the National Trust
Consultee responses from: Arun District Council (Planning and Environmental Health), Chichester District Council (Planning and Environmental Health), Aldingbourne and Eartham Parish Councils Environment Agency, Highways Agency, Natural England, WSCC Archaeology, WSCC Ecology, WSCC Landscape, WSCC Highway Authority, WSCC Public Rights of Way.

South East Plan(2009)

Arun District Local Plan (2003) (Saved Policies 2007)

Chichester District Local Plan (1999) (Saved Policies 2007)

West Sussex Minerals Local Plan (2003) (Saved Policies 2007)

West Sussex Waste Local Plan Revised Deposit Draft (2004)

Planning Policy Statement 7: Sustainable Development in Rural Areas (August 2004)

Planning Policy Statement 9: Biodiversity and Geological Conservation (2005)

Planning Policy Statement 10: Sustainable Waste Management (2005)

Planning Policy Guidance 13: Transport (2011)

Planning Policy Statement 23: Planning and Pollution Control (2004)

Planning Policy Statement 24: Planning and Noise (1994)

Circular 2010: English National Parks and The Broads (March 2010)