

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

SOUTH DOWNS NATIONAL PARK AUTHORITY

TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

ENFORCEMENT NOTICE

Issued By: South Downs National Park Authority

To: [REDACTED]
[REDACTED]
[REDACTED]

1. **THIS IS A FORMAL NOTICE** which is issued by South Downs National Park Authority ("the SDNPA"), because it appears that there has been a breach of planning control, within paragraph (a) of Section 171A(1) of the above Act, at the land described below. The SDNPA considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.
2. **THE LAND TO WHICH THE NOTICE RELATES**
Land at Pondtail Wood, Muddleswood Road, Albourne, West Sussex shown edged black on the attached plan (referred to as 'the site').
3. **THE BREACH OF PLANNING CONTROL ALLEGED**
Without the benefit of planning permission, the carrying out of operational works involving the importation of and deposit of hardcore, soils and waste materials onto a cleared area of ancient woodland and engineering works, including the alteration of site levels, the creation of drainage channels and the development of private ways.
4. **THE REASON FOR ISSUING THE NOTICE**
The SDNPA considers that the operational work has been undertaken without the benefit of planning permission and is unacceptable for the following reasons:

Landscape impact

1. The unauthorised development is harmful to the visual quality and distinctive characteristics of this protected landscape and fails to conserve and enhance the natural beauty and landscape character of this part of the South Downs National Park. The development involving the importation of waste is not of high quality and its scale, form, and design does not take account of the need to integrate with local landscape character, the characteristics of the site in terms of topography,

and the natural features of the Ancient Woodland. This unauthorised development is contrary to National Planning Policy Framework paragraphs 109 and 115, National Park purposes, Policies W11, W12 and W13 of the West Sussex Waste Local Plan 2014, and the South Downs National Park Preferred Options Local Plan Policies SD2, SD5 and SD12.

The principle of the development

2. West Sussex Waste Local Plan (2014) policy W8 lists nine requirements which must be met before a proposal for a recovery operation involving the deposit of inert waste to land will be permitted. The development at Pondtail Wood fails eight of the tests (tests a – g and test i). Test h relates to the sterilisation of minerals and as such is not applicable.
 - a) The unauthorised development has resulted in harm to the site as it is likely that ancient woodland soils have been damaged through compression from the weight of the imported waste which has been deposited above the ancient woodland soils. In addition all the vegetation which grew on the site has been destroyed which has resulted in ecological harm. No evidence has been provided to show that the development has resulted in drainage benefits and the SDNPA considers that there are no clear benefits from the development.
 - b) The waste which has been imported is a mixture of soils, hardcore and non-hazardous waste. It is evident that the waste which has been imported could be separated and recycled for other uses.
 - c) No evidence has been provided to indicate that any material is needed to be imported onto the site.
 - d) The waste which has been imported onto the site is predominately inert hardcore and soils, but also include non-hazardous waste (plastics and glass). It is not considered that such material is a suitable medium in which to grow Christmas trees (the intended use).
 - e) A significant quantity of waste material has been imported, which, whilst has resulted in a levelling of the site which may be advantageous to grow Christmas trees, the quantity of waste which has been imported is considered to be excessive.
 - f) The importation and deposit of a significant quantity of inert soils within an area of Ancient Woodland it is likely that the weight of this waste above the original soils will cause permanent damage to the soils, if left. Ancient woodland soils are a finite natural resource which hold an important seedbank, and must be protected.
 - g) As noted within the Landscape impact section of this report above, the importation of inert waste fails to conserve and enhance the natural beauty and landscape character of the SDNP and does not accord with the requirements of policy W13 (protected landscapes)
 - i) No restoration plans have been submitted to the SDNPA and no evidence has been provided to suggest the site would be restored to a high standard.

The development is also contrary to the requirements of West Sussex Waste Local Plan (2014) policy W9 as the waste could be recycled, the development has resulted in an unacceptable impact on natural resources and no evidence has been provided to show there are no opportunities to extend the operation of existing sites within West Sussex.

In the absence of any written information the SDNPA is unable to understand and assess the restoration and aftercare scheme for the site. For this reason the SDNPA must assume that the proposed restoration scheme is not acceptable or in accordance with policy W20 of West Sussex Waste Local Plan (2014).

It is possible that the operation has and will continue to have a negative impact on public amenity – via the generation of dust and noise from on-site operations and from traffic associated with the operation (West Sussex Waste Local Plan (2014) policy W19).

Ecological impact

3. It is likely that the weight and presence of the waste above the original soils will cause permanent damage to the soils, if left in situ. Ancient Woodland is a finite resource which are protected under planning policy. The soil profile of Ancient Woodlands is key to their ecological value. The operation has resulted in damage to woodland habitats and soils and resulted in a loss of biodiversity and as such is in conflict with West Sussex Waste Local Plan (2014) policies W14 and W16. It is therefore essential that works to restore the site pay due regard to preservation of the soil ecosystem.

Flood risk

4. Whilst raising the ground level of the site may reduce the risk of flooding on site, it is possible that the development it will increase the risk of flooding to other parts of the ancient woodland. This is contrary to West Sussex Waste Local Plan policy W17, Policy SD17 of the emerging South Downs National Park Preferred Options Local Plan and NPPF paragraph 102. Whilst, Mr Hyatt maintains that the operation would improve drainage and reduce the risk of flooding, to date no evidence has been provided.

Conclusion

5. The unauthorised development has resulted in landscape harm to the South Downs National Park, damage to ancient woodland soils, ecological harm and may increase the risk of flooding elsewhere. For these reasons it is imperative that no additional waste is imported and deposited onto the site and the actions detailed in section 5 are undertaken. These measures will enable the landscape and ecological qualities of the site to be restored.

5. WHAT YOU ARE REQUIRED TO DO

1. Cease the further importation of soils and waste materials.
2. Re-grade and restore the land to its previous levels and left in a condition which will enable the ancient woodland soils to recover by undertaking all of the following works:
 - a. Within all that area cross hatched on the attached plan marked as Areas A and B, remove from the site all the deposited soils and waste and remove all drainage channels which have been created so that the previously undisturbed ancient

woodland soils of the site are exposed. Only machines which can be operated with a good degree of accuracy and sensitivity shall be used to remove the waste material. All waste shall be removed under the supervision of a qualified ecologist who shall submit a compliance report once the works have been completed. Hand tools must be used where directed by the supervising ecologist.

- b. Reinstate the access track as shown in the approximate location shaded grey on the attached plan and labelled Area B, to its former width and condition.
- c. Prepare for planting all those parts of the site including Areas A and B disturbed through the deposit of waste and associated activity so that there are no stones, bricks, blocks or concrete exceeding 75mm in any dimension at the surface.
- d. Grade and level the surface with a tilth in keeping with the soil type of the site to allow regeneration of replanted trees in good forestry practice, as per the 'UK Forestry Standard', to allow replanting as specified in the Restocking Notice.

6. TIME FOR COMPLIANCE

- 1. 1 day after the enforcement notice taking effect
- 2a. 42 days after the enforcement notice taking effect
- 2b. 42 days after the enforcement notice taking effect
- 2c. 42 days after the enforcement notice taking effect
- 2d. 42 days after the enforcement notice taking effect

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 12th July 2016 unless an appeal is made against it beforehand.

Date: 13th June 2016

Signed:



On behalf of: South Downs National Park Authority

Nominated Officer: Natalie Chillcott

Telephone Number: 01730 819289

ANNEX 1

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be **received**, by the Planning Inspectorate acting on behalf of the Secretary of State **before** the date specified in paragraph 7 of the notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal

[link to <http://www.planningportal.gov.uk/uploads/pins/eninfosheet.pdf>]

ANNEX 2

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Authority.

ANNEX 3

GUIDANCE NOTES

The following sections of the Town and Country Planning Act 1990 are relevant to Enforcement Notices:

- S171A – Expressions used in connection with enforcement
- S171B – Time limits
- S172 – Issue of an Enforcement Notice
- 172A – Assurance as regards prosecution for person served with a notice
- S173 – Contents and effect of Notice
- S173A – Variation and Withdrawal of Notice
- S174 – Appeal against a Notice
- S175 – Appeal – supplementary provisions
- S176 – General provisions relating to the determination of appeals
- S177 – Grant/modification of planning permission on appeals against Notices.

Lodging an Appeal

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;

- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £1,560 to the South Downs National Park Authority. Joint appellants need only pay one set of fees.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

ANNEX 4

LIST OF ALL RELEVANT POLICIES

South Downs National Park Authority: Purposes and Duty

Purpose 1: To conserve and enhance the natural beauty, wildlife and cultural heritage of the area.

Purpose 2: To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

Duty: To seek to foster the social and economic well-being of the local communities within the National Park in pursuit of our purposes.

Paragraph 100 to 103 of the National Planning Policy Framework

100. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should be supported by Strategic Flood Risk Assessment and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by:

- applying the Sequential Test;
- if necessary, applying the Exception Test;
- safeguarding land from development that is required for current and future flood management;
- using opportunities offered by new development to reduce the causes and impacts of flooding; and
- where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations.

101. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding.

102. If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Both elements of the test will have to be passed for development to be allocated or permitted.

103. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

Paragraph 109 of the National Planning Policy Framework

109. The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 115 of the National Planning Policy Framework

115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.

Paragraph 118 of the National Planning Policy Framework

118 When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;
- development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;

- opportunities to incorporate biodiversity in and around developments should be encouraged;
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss; and
- the following wildlife sites should be given the same protection as European sites:
 - potential Special Protection Areas and possible Special Areas of Conservation;
 - listed or proposed Ramsar sites; and
 - sites identified, or required, as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

West Sussex Waste Local Plan 2014 Policies

Policy W1 Need for Waste Management policies.

- a) Proposals on unallocated sites for the storing, sorting, bulking and onward movement of waste will be permitted provided that they are needed to meet the shortfall in transfer capacity of 140,000 tonnes per annum. Proposals on unallocated sites to deliver capacity over and above this shortfall will be permitted where it can be demonstrated that there is a market need, consistent with the principle of net self-sufficiency.
- b) Proposals on unallocated sites for facilities for the recycling and composting of non-inert waste will be permitted provided that they are needed to meet the shortfall in capacity of 270,000 tonnes per annum. Proposals on unallocated sites to deliver capacity over and above this shortfall will be permitted where it can be demonstrated that there is a market need, consistent with the principle of net self-sufficiency.
- c) Proposals on unallocated sites for the recycling of inert waste will be permitted where it can be demonstrated that there is a market need, consistent with the principle of net self-sufficiency.
- d) Proposals on unallocated sites for built facilities for the recovery of non-inert waste will be permitted provided that they are needed to meet the shortfall in capacity of 270,000 tonnes per annum. Proposals on unallocated sites to deliver capacity over and above this shortfall will only be permitted where it can be demonstrated that it would reduce disposal to land of waste arising in West Sussex.
- e) Proposals for non-inert waste landfilling operations on unallocated sites will not be permitted unless they are needed to meet the shortfall in management capacity of 605,000 tonnes over the plan period. Proposals on unallocated sites to deliver capacity over and above this shortfall, will not be permitted unless there is a demonstrable need to dispose of non-inert waste arising within West Sussex, consistent with the principle of net self-sufficiency and the objective of 'zero waste to landfill'* in West Sussex by 2031.
- f) Proposals for inert waste landfilling operations will not be permitted unless it can be demonstrated that the waste cannot be managed through recovery operations and that there is a need to dispose of waste, consistent with the principle of net self-sufficiency and the objective of 'zero waste to landfill'* in West Sussex by 2031.

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

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

- a) The proposal results in clear benefits for the site and, where possible, the wider area;
- b) The material to be used is only residual waste following recycling and/or recovery or it is a waste that cannot be recycled or treated;
- c) There is a genuine need to use the waste material as a substitute for a non-waste material that would otherwise have to be used;
- d) The material to be reused is suitable for its intended use;
- e) The amount of waste material to be used is no more than is necessary to deliver the benefits identified under (a);
- f) There would be no unacceptable impact on natural resources and other environmental constraints;
- g) The proposal accords with Policy W13 (Protected Landscapes);
- h) Any important mineral reserves would not be sterilised; and

- i) Restoration of the site to a high standard would take place in accordance with Policy W20.

Policy W9 Disposal of Waste to Land

- a) Proposals for the disposal of non-inert waste at unallocated sites will not be permitted unless it can be demonstrated that the waste cannot be managed at permitted sites or at the extension to the Brookhurst Wood landfill site allocated in Policy W10.
- b) Proposals for the disposal of non-inert and inert waste to land (including the continuation in duration of, or the physical extension of, existing operations) will not be permitted unless it can be demonstrated that:
 - i. the waste to be disposed of cannot practicably be reused, recycled or recovered;
 - ii. there would be no unacceptable impact on natural resources, particularly on groundwater quality, and other environmental constraints;
 - iii. they would accord with Policy W13 (Protected Landscapes);
 - iv. any important mineral reserves would not be sterilised;
 - v. appropriate measures are included to recover energy from landfill gas; and
 - vi. restoration of the site to a high quality standard would take place in accordance with Policy W20.
- c) Any proposals for new landfill sites (including for landraise) must accord with parts (a) and (b) and will not be permitted unless it can be demonstrated that:
 - i. they are only required for the disposal of waste following recycling and recovery; and
 - ii. there are no opportunities to extend the operation of existing sites within West Sussex.

Policy W11 Character.

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

- a) the character, distinctiveness, and sense of place of the different areas of the County and that they reflect and, where possible, reinforce the character of the main natural character areas (including the retention of important features or characteristics); and
- b) the separate identity of settlements and distinctive character of towns and villages (including specific areas or neighbourhoods) and development would not lead to their actual or perceived coalescence.

Policy W12 High Quality Developments.

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

- a) integrate with and, where possible, enhance adjoining land-uses and minimise potential conflicts between land-uses and activities;
- b) have regard to the local context including:
 - i. the varied traditions and character of the different parts of West Sussex;
 - ii. the characteristics of the site in terms of topography, and natural and man-made features;
 - iii. the topography, landscape, townscape, streetscape and skyline of the surrounding area;
 - iv. views into and out of the site; and
 - v. the use of materials and building styles;
- c) includes measures to maximise water efficiency;
- d) include measures to minimise greenhouse gas emissions, to minimise the use of non-renewable energy, and to maximise the use of lower-carbon energy generation (including heat recovery and the recovery of energy from gas); and
- e) include measures to ensure resilience and enable adaptation to a changing climate.

Policy W13 Protected landscapes

- a) Proposals for waste development within protected landscapes (the South Downs National Park, the Chichester Harbour Area of Outstanding Natural Beauty (AONB), and the High Weald AONB) will not be permitted unless:
 - i. the site is allocated for that purpose in an adopted plan; or

- ii. the proposal is for a small-scale facility to meet local needs that can be accommodated without undermining the objectives of the designation; or
 - iii. the proposal is for major* waste development that accords with part (c) of this Policy.
- b) Proposals for waste development located outside protected landscapes will be permitted provided that they do not undermine the objectives of the designation.
- c) Proposals for major* waste development within protected landscapes will not be permitted unless:
 - i. there is an overriding need for the development within the designated area; and
 - ii. the need cannot be met in some other way or met outside the designated area; and
 - iii. any adverse impacts on the environment, landscape, and recreational opportunities can be satisfactorily mitigated.

Policy W14 Biodiversity and Geodiversity

Proposals for waste development will be permitted provided that:

- a) areas or sites of international biodiversity importance are protected unless there are no appropriate alternative solutions and there are overriding reasons which outweigh the need to safeguard the value of sites or features, and provided that favourable conservation status is maintained;
- b) there are no adverse impacts on areas or sites of national biodiversity or geological conservation importance unless the benefits of the development clearly outweigh the impact on the objectives of the designation and on the wider network of such designated areas or sites;
- c) there are no adverse impacts on areas, sites or features of regional or local biodiversity or geological conservation importance unless the benefits of the development clearly outweigh the impact on the objectives of the designation;
- d) where development would result in the loss of or adversely affect an important area, site or feature, the harm is minimised, mitigated, or compensated for, including, where practicable, the provision of a new resource elsewhere which is of at least equivalent value;
- e) where appropriate, the creation, enhancement, and management of habitats, ecological networks, and ecosystem services is secured consistent with wider environmental objectives including Biodiversity Opportunity Areas and the South Downs Way Ahead Nature Improvement Area; and
- f) where necessary, the investigation, evaluation, and recording of important sites and features is undertaken and, where appropriate, representative features are preserved.

Policy W16 Air, Soil and Water.

Proposals for waste development will be permitted provided that:

- a) there are no unacceptable impacts on the intrinsic quality of, and where appropriate the quantity of, air, soil, and water resources (including ground, surface, transitional, and coastal waters);
- b) there are no unacceptable impacts on the management and protection of such resources, including any adverse impacts on Air Quality Management Areas and Source Protection Zones;
- c) the quality of rivers and other watercourses is protected and, where possible, enhanced (including within built-up areas); and
- d) they are not located in areas subject to land instability, unless problems can be satisfactorily resolved.

Policy W17 Flooding

- a) Proposals for waste development will be permitted provided that:
- b) mitigation measures are provided to an appropriate standard so that there would not be an increased risk of flooding on the site or elsewhere;
- c) they are compatible with Shoreline Management Plans and/or Catchment Flood Management Plans and the integrity of functional floodplains is maintained;
- d) appropriate measures are used to manage surface water run-off including, where appropriate, the use of sustainable drainage systems (SUDS); and

- e) they would not have an unacceptable impact on the integrity of sea, tidal, or fluvial flood defences, or impede access for future maintenance and improvements of such defences.
- f) Proposals for waste development in 'areas at risk of flooding' will not be permitted unless they pass the Sequential Test and, where applicable, the Exception Test set out in national policy.

Policy W19: Public Health and Amenity

Proposals for waste development will be permitted provided that:

- a) Lighting, noise, dust, odours and other emissions, including those arising from traffic, are controlled to the extent that there will not be an unacceptable impact on public health and amenity;
- b) The routes and amenities of public rights of way are safeguarded, or where temporary or permanent re-routing can be justified, replacement routes of comparable or enhanced amenity value are provided; and
- c) Where necessary, a site liaison group is established by the operator to address issues arising from the operation of a major waste management site or facility.

Policy W20: Restoration and Aftercare

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

- a) make provision for high quality and practicable restoration, management, and aftercare;
- b). are appropriate for their locations, maximising benefits taking into account local landscape character, the historic environment, biodiversity, and wider environmental objectives;
- c) where appropriate, maximise public amenity benefits including reinstatement of, and where possible, improvement of public rights of way;
- d) provide for the removal of all buildings, machinery and plant where they are no longer required in connection with the principal use; and
- e) ensure that land is restored at the earliest opportunity including, where appropriate, phased, or progressive restoration.

South Downs National Park Preferred Options Local Plan 2015

Strategic Policy SD2: Ecosystem Services

1. Proposals that deliver sustainable development and comply with other relevant policies will be permitted provided that they do not have an unacceptable adverse impact on the natural environment and its ability to contribute goods and services. Proposals will be expected as appropriate to:

- a. provide more and better joined up natural habitats;
 - b. Conserve water resources;
 - c. Sustainably manage land and water environments;
 - d. improve the National Park's resilience to, and mitigation of, climate change;
 - e. increase the ability to store carbon through new planting or other means;
 - f. conserve and improve soils;
 - g. reduce pollution;
 - h. mitigate the risk of flooding;
 - i. improve opportunities for people's health and wellbeing;
- stimulate sustainable economic activity; and
- k. deliver high-quality sustainable design.

Strategic Policy SD5: Landscape Character

1. Development proposals which conserve and enhance the landscape character of the South Downs National Park and comply with other relevant policies, in particular, Policy SD6 (Design) will be permitted. It should be clearly demonstrated that development proposals are informed by:

- the South Downs Integrated Landscape Character Assessment (SDILCA) (2011);
- community-led/local landscape character assessments; and
- appropriate site based investigations.

2. And are, as appropriate, in accordance with the following requirements:

- a) The design, layout and scale of proposals should conserve and enhance existing landscape character features including topography, vegetation, scale and pattern, natural drainage, existing trees and hedgerows, whilst safeguarding the experiential and amenity qualities of the landscape. Where appropriate, the creation of green corridors which extend into settlements will be supported.
 - b) The use of locally appropriate design and layout, which limits the need for screening planting, in accordance with Policy SD6 (Design). Any appropriate planting should be consistent with local character, enhance biodiversity and be in accordance with Policy SD14 (Green Infrastructure). New planting should be native species unless there are appropriate and justified reasons to select non-native species.
 - c) Natural and historic features which contribute to the distinctive character and pattern of the landscape and its evolution are conserved and enhanced, including reference to the South Downs and Pan Sussex Historic Landscape Character Assessments and other appropriate research material.
 - d) Where proposals are within designed landscapes (including historic parkscapes and those on the Historic England Register of Historic Parks and Gardens) they should be based on a demonstrable understanding of the design principles of the landscape and should be complementary to it.
 - e) The open and undeveloped nature of existing gaps between settlements will be conserved and, where appropriate, enhanced.
3. The restoration of landscapes where either natural or cultural heritage features have been lost or degraded will be sought.
 4. Development proposals that would have an unacceptable adverse impact on the character of the immediate and wider landscape or the special qualities of the National Park will be refused.

Policy SD12: Biodiversity and Geodiversity

1. Development proposals that conserve and enhance biodiversity and geodiversity and comply with other relevant policies and European and National Legislation will be permitted, provided that they are in accordance with the requirements and hierarchy of designation set out below.
2. Development proposals should give particular regard to ecological networks and areas with high potential for priority habitat restoration or creation and should:
 - a) retain, protect and enhance features of biodiversity and geological interest and ensure appropriate management of those features; and
 - b) ensure that any adverse impacts (either alone or in-combination) are avoided, or, if unavoidable, minimised through mitigation with any residual impacts being compensated for (having regard to the hierarchy of designation).
3. The following hierarchy of designation will apply:
 - i. *International Sites*: Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar Sites, or candidate/formally proposed versions of these designations.

If a development proposal is considered likely to have a significant effect on one or more international sites, an Appropriate Assessment (AA) will be required (the need for AA should be assessed at the Habitat Regulations Assessment (HRA) Screening stage).

Development proposals that will result in any adverse effect on the integrity of any international site which cannot be either avoided or adequately mitigated will be refused unless it can be demonstrated that there are:

- a) no alternatives to the proposal;
- b) imperative reasons of over-riding public interest why the proposal should nonetheless proceed; and
- c) adequate compensatory provision secured.

- ii. *National Sites*: Sites of Special Scientific Interest (SSSI), National Nature Reserves and Marine Conservation Zone.

Development Proposals considered likely to have an adverse effect on national sites will be required to assess the impact by means of an Ecological Impact Assessment.

Development Proposals that will result in any adverse effect on the integrity of any national site which cannot be either avoided or adequately mitigated will be refused, unless exceptional circumstances are clearly demonstrated.

- iii. *Irreplaceable Habitats (including ancient woodland and the loss of aged or veteran trees found outside ancient woodland):*

Planning permission will be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

- iv. *Local Sites: Sites of Nature Conservation Importance (SNCIs) / Sites of Importance for Nature Conservation (SINCs), Local Nature Reserves, Local Geological Sites and ancient woodland not identified within (ii) above.*

Development proposals considered likely to have an adverse effect upon local sites will be required to assess the impact by means of an Ecological Impact Assessment.

Development proposals will not be permitted unless they are necessary for biodiversity or geodiversity management work or can demonstrate no adverse impact to the biodiversity or geodiversity interest.

- v. *Outside of designated sites (including habitats listed in the Biodiversity 2020 priority species and habitats list):*

Development proposals will, where appropriate, be required to contribute to the protection, management and enhancement of biodiversity and geodiversity.

4. Development proposals should retain, protect and enhance the species interest of the site (including commuting routes through the site where appropriate, and taking due account of any use by migratory species) and ensure appropriate management.
5. Development proposals will be encouraged to make a positive contribution to biodiversity, through the restoration/enhancement of existing habitats, the creation of wildlife habitats, where appropriate, and the creation of linkages between sites to create local and regional ecological networks. The Authority will encourage the enhancement of significant features of nature conservation value on development sites.
6. Development proposals should seek to eradicate (if feasible) or control any invasive non-native species present on site, especially those which are significantly damaging to biodiversity and/or geological features.
7. Development proposals that have an adverse impact on biodiversity or geodiversity, which cannot be adequately avoided, mitigated or compensated for, or which harm the special qualities will be refused.

Policy SD17- Flood Risk Management

1. Development proposals will be permitted that comply with other relevant policies and where:
 - a) the sequential and exception tests demonstrate that the development is acceptable;
 - b) the risk of flooding is not increased elsewhere and, wherever possible, is reduced;
 - c) the integrity of existing coastal and river defences are not undermined; and
 - d) a site specific Flood Risk Assessment, where required demonstrates an acceptable flood risk and/or suitable flood protection mitigation measures are incorporated into the proposals, where necessary, which can be satisfactorily implemented. The site specific flood risk assessment will need to demonstrate:
 - i. safe access and egress from the site; and
 - ii. management and maintenance plans for flood protection/mitigation measures, including arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime;
 - e) it would not negatively impact on water quality of surface water and ground water.

ANNEX 5

GUIDANCE NOTES ON HOW TO MAKE AN APPEAL

Printed copies attached

1. Planning Inspectorate – Making your appeal - How to Complete Your Enforcement Appeal Form - England (May 2016)
2. Planning Inspectorate – Procedural Guidance – Enforcement Notice Appeals - England (March 2016)

These documents can also be found at:

<https://www.gov.uk/appeal-enforcement-notice>

ANNEX 6

THOSE PERSONS SERVED WITH THIS NOTICE

Wineham Properties Limited
Jasmine House,
High Street
Henfield
West Sussex
BN5 9HN

[REDACTED]
[REDACTED]
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