

## **Investigation Report**

**Ref. Number:** SDNP/16/00261/GENER

**Case Officer:** Natalie Chillcott

**Date of Site Visits:** 5<sup>th</sup> May 2016, 10<sup>th</sup> May 2016, 17<sup>th</sup> May 2016, 2<sup>nd</sup> June 2016

**Site Address:** Pondtail Wood, Muddleswood Road, Albourne, West Sussex

**Alleged Breach:** 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.

### **1.- Initial Site Report**

A member of the public contacted Mid-Sussex District Council on the 21<sup>st</sup> March 2016 to advise that an area of woodland had been cleared and that possible building works are being undertaken. Mid-Sussex District Council undertook a land registry search and established that the land belonged to Wineham Properties Limited. The initial assessment, undertaken by Mid-Sussex District Council concluded that the development was an engineering operation which requires planning permission.

### **2. – Consultations**

The following individuals have contributed to site investigations and discussions on the operation:

Andy Clarke (Mid-Sussex District Council Senior Planner)  
John Lavis (Mid-Sussex District Council Investigations Officer)  
Phillippa Morrison-Price (SDNPA Ranger)  
Karen Tipper (SDNPA Minerals and Waste Lead)  
Natalie Chillcott (SDNPA Senior Minerals and Waste Planner)  
Dave Rogers (Forestry Commission)  
Steven Kinchington (Environment Agency)

### **3 – List of Inspections/Actions**

Inspection/Action on 5<sup>th</sup> May 2016

#### Type of inspection:

The visit was an unannounced site visit and was deemed necessary in response to concerns raised by a member of the public on the 4<sup>th</sup> May. During the visit NC and JL witnessed a lorry delivering inert waste (soils and rubble) with some non-hazardous waste contamination (plastics, cans and bottles). Mr Hyatt appeared and explained that he was unaware of the tonnage of waste imported onto the site or the tonnage of waste needed to complete the operation. JL explained that a Temporary Stop May Notice may

be served. It was apparent Mr Hyatt was not willing to cease the importation of waste before the completion of the development.

Inspection/Action on 10<sup>th</sup> May 2016

Type of inspection:

The South Downs National Park Authority served a Temporary Stop Notice to Mr J Hyatt during an announced visit to the site.

Inspection/Action on 17<sup>th</sup> May 2016

Type of inspection:

Unannounced visit to the site to check compliance with the Temporary Stop Notice.

Inspection/Action on 2<sup>nd</sup> June 2016

Type of inspection:

The South Downs National Park Authority served a Stop Notice and Enforcement Notice on Mr J Hyatt, Ms L Hyatt and Wineham Properties Limited. A copy of the Stop Notice and Enforcement Notice has been displayed on site.

Action 10<sup>th</sup> June 2016

Natalie Chillcott discovered that the Enforcement Notice failed to adequately specify the date the notice takes effect.

#### **4 – Relevant Policies**

West Sussex Waste Local Plan (2014)

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

Policy W9: Disposal of Waste to Land

Policy W13: Protected Landscapes

Policy W14: Biodiversity and Geodiversity

Policy W16: Air, Soil and Water

Policy W17: Flooding

Policy W18: Transport

Policy W19: Public Health and Amenity

Policy W20: Restoration and Aftercare

#### **5 – Case Narrative**

The site is located equidistant to Woodmancote and the A23 and is adjacent to the B2117, within a triangular shaped area of Pondtail Wood. Pondtail Wood is an area of ancient woodland. Whilst the matter of the felling of the trees within an area of ancient woodland is a matter for the Forestry Commission to consider, the construction of the access track, the raising and compaction of the land through the importation of apparently inert waste comprising of soils and hardcore with an element of non-hazardous waste, is a planning matter.

Mid-Sussex District Council have pursued the issue of the access road and have invited an application to regularise this aspect of the operation.

The South Downs National Park Authority has a number of concerns about the waste operation and as such has served a Temporary Stop Notice, Stop Notice and Enforcement Notice.

The concerns about the development include the following:

- At this time it is considered that the development does not meet the requirements of policies W8 and W9. It has not been demonstrated that the development would result in clear benefits for the site. The material brought onto the site could be recycled further and it has not been demonstrated that the site would be restored to a high standard.
- Highway safety concerns of HGV turning out of the site onto a fast road, with poor visibility (Policy W18).
- The risk of flooding onto other parts of the area of ancient woodland (Policy W17). Whilst, Mr Hyatt maintains that the operation would improve drainage and reduce the risk of flooding, no evidence has been provided.
- Visual and ecological harm to the South Downs National Park (Policies W13 and W14)
- It is likely that the compression of the soil and the importation of poor quality material (inert waste) will have a negative impact on the intrinsic quality of the soil (Policy W16)
- In the absence of any written information from Mr Hyatt the SDNPA is unable to understand and assess the restoration and aftercare scheme for the site. For this reason the SDNPA must err on the side of caution and assume that the proposed restoration scheme is not acceptable or in accordance with policy W20.
- 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 the on-site operation and from traffic associated with the operation (Policy W19).

Whilst the SDNPA and Mid-Sussex District Council have endeavoured to engage with Mr Hyatt, it is apparent that the works which have been carried out are not acceptable due to the resulting landscape harm, the ecological harm and the possibility that the development may increase the risk of flooding elsewhere. It is therefore recommended that the original Enforcement Notice and Stop Notice be withdrawn as the Enforcement Notice fails to specify the date the Enforcement Notice takes effect and for a new Stop Notice and Enforcement Notice be served on Mr Hyatt, Ms Hyatt and Wineham Properties Limited.

## **6 – Cost/Benefit**

The SDNPA recognise that there would be an economic cost to Mr Hyatt if the recommended Enforcement Notice is served. This is because it is likely that a contractor would need to be hired to undertake the works.

There may also be an economic cost to the South Downs National Park Authority if an appeal against the Enforcement Notice is lodged.

However, it is considered that on balance due to the continuing and increasingly harmful impact of the unregulated development on the SDNP, the benefit of re-serving the Stop Notice and Enforcement Notice outweighs the cost to the South Downs National Park

Authority.

## **6 – Recommendation**

It is recommended that the Enforcement Notice and Stop Notice which were served on the 2<sup>nd</sup> June 2016 be withdrawn and for a new Enforcement Notice and Stop Notice be served on Mr J Hyatt, Ms L Hyatt and Wineham Properties on the 13<sup>th</sup> June 2016.

## **Conclusion**

Mid-Sussex District Council and the South Downs National Park Authority have endeavoured to work with the landowner by liaising with Mr Hyatt to understand the development, by requesting that no further waste be imported onto the site, by explaining that the operation is in breach of planning control is not supported by the South Downs National Park Authority.

It is evident from the information provided by members of the public and from the information gathered during site visits to the site that Mr Hyatt does not intend to remove the imported material from the site. The operation is completely unregulated, is contrary to the National Park Purposes and Duty and without immediate action it is likely that further and significant harm would be inflicted on the National Park. In the interest of the landscape, ecology, amenity, soils, risk flooding management and the environment it is prudent to withdraw the Enforcement Notice and Stop Notice served on the 2<sup>nd</sup> June 2016 and to re-serve a new Stop Notice and Enforcement Notice on Mr J Hyatt, Ms L Hyatt and Wineham Properties Limited.

**Date of Site Report:** 13<sup>th</sup> June 2016