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NOTICE OF MEETING

Meeting	Regulatory Committee
Date and Time	Wednesday, 11th December, 2019 at 10.00 am
Place	Ashburton Hall - HCC
Enquiries to	members.services@hants.gov.uk

John Coughlan CBE
Chief Executive
The Castle, Winchester SO23 8UJ

FILMING AND BROADCAST NOTIFICATION

This meeting may be recorded and broadcast live on the County Council's website. The meeting may also be recorded and broadcast by the press and members of the public – please see the Filming Protocol available on the County Council's website.

AGENDA

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence received.

2. DECLARATIONS OF INTEREST

All Members who believe they have a Disclosable Pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Part 3 Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore all Members with a Non-Pecuniary interest in a matter being considered at the meeting should consider whether such interest should be declared, and having regard to Part 5, Paragraph 2 of the Code, consider whether it is appropriate to leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with the Code.

3. MINUTES OF PREVIOUS MEETING (Pages 3 - 6)

To confirm the minutes of the previous meeting

4. DEPUTATIONS

To receive any deputations notified under Standing Order 12.

5. CHAIRMAN'S ANNOUNCEMENTS

To receive any announcements the Chairman may wish to make.

6. EXTENSION OF TIME FOR SECTION 106 AGREEMENT LAND AT ROESHOT CHRISTCHURCH (Pages 7 - 10)

To consider a report of the Director of Economy, Transport and Environment regarding the extension of a deadline for signing a Section 106 Agreement, Land at Roeshot, Christchurch.

7. APPEAL DECISIONS - RINGWOOD & FORDINGBRIDGE SKIP HIRE COURTWOOD FARM COURT HILL SANDLEHEATH (Pages 11 - 24)

To consider a report of the Director of Economy, Transport and Environment regarding the Appeal decisions for Ringwood & Fordingbridge Skip Hire, Courtwood Farm, Court Hill, Sandleheath.

ABOUT THIS AGENDA:

On request, this agenda can be provided in alternative versions (such as large print, Braille or audio) and in alternative languages.

ABOUT THIS MEETING:

The press and public are welcome to attend the public sessions of the meeting. If you have any particular requirements, for example if you require wheelchair access, please contact members.services@hants.gov.uk for assistance.

County Councillors attending as appointed members of this Committee or by virtue of Standing Order 18.5; or with the concurrence of the Chairman in connection with their duties as members of the Council or as a local County Councillor qualify for travelling expenses.

Agenda Item 3

AT A MEETING of the Regulatory Committee of HAMPSHIRE COUNTY
COUNCIL held at The Castle, Winchester on Wednesday 16th October, 2019

Chairman:

* Councillor Peter Latham

- | | |
|-------------------------------|-------------------------------|
| * Councillor Lance Quantrill | * Councillor Gary Hughes |
| Councillor Christopher Carter | * Councillor Wayne Irish |
| * Councillor Mark Cooper | Councillor Alexis McEvoy |
| Councillor Rod Cooper | * Councillor Stephen Philpott |
| * Councillor Roland Dibbs | * Councillor Roger Price |
| * Councillor Jane Frankum | * Councillor Jan Warwick |
| Councillor Marge Harvey | * Councillor Pal Hayre |
| * Councillor Keith House | * Councillor Neville Penman |

*Present

157. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Carter, R. Copper, Harvey and McEvoy. Councillor Hayre attended as a deputy for Councillor Carter.

158. DECLARATIONS OF INTEREST

Members were mindful that where they believed they had a Disclosable Pecuniary Interest in any matter considered at the meeting they must declare that interest at the time of the relevant debate and, having regard to the circumstances described in Part 3, Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter was discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore Members were mindful that where they believed they had a Non-Pecuniary interest in a matter being considered at the meeting they considered whether such interest should be declared, and having regard to Part 5, Paragraph 2 of the Code, considered whether it was appropriate to leave the meeting whilst the matter was discussed, save for exercising any right to speak in accordance with the Code.

159. MINUTES OF PREVIOUS MEETING

The minutes of the last meeting were reviewed and agreed.

160. DEPUTATIONS

There were no deputations for the meeting.

161. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman confirmed plans for an upcoming minibus trip that would cover multiple sites and have a focus on waste.

There had been a Minerals and Waste event recently that had been well attended by Members and a further review of the Minerals and Waste Plan would happen in due course and a briefing for Members was scheduled for March 2015. The Chairman and Vice Chairman thanked officers for the event.

162. **APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER TO RECORD FOOTPATHS AT TOP FIELD, SPRINGVALE PARISH OF KINGS WORTHY**

The Committee considered a report from the Director of Culture, Communities and Business Services (item 6 in the minute book) regarding an application for a Definitive Map Modification Order (DMMO) to record footpaths at, and adjoining to, Top Field, in Kings Worthy.

The officer introduced the item and went through the history of the current application, which was submitted in 2017. This required an examination of the full evidence from the period 1997-2017, when the first application for public footpaths at this location was received. The history of attempts to record rights to access the land is complex, and two Inquiries had already been held since the 2005 unconfirmed Order had been applied for in 1997. With the most recent application, evidence for seven separate paths had emerged, many of which were clearly visible on supporting aerial photographs that were attached to the report.

There are several owners of the land in question, and a tenant farmer produced evidence of how some of the land has been managed. A photograph of a fence close to the active London railway line was shown to the Committee, which was regularly maintained by Network Rail and supported a recommendation that the claim for public rights over a part of the dismantled railway line route be refused. User evidence was shown to the Committee, and the effects of common law on part of one of the paths where there had been less than twenty years' use (thereby not meeting the requirement under section 31 of the Highways Act 1980) was explained, in which the onus is placed on an applicant to show that the landowner acquiesced in public use of the path. It was recommended that this part of the path did meet the requirements of common law.

The officer, Sylvia Seeliger, was thanked on behalf of Councillor Porter, the local Member, for her work on the application.

Members accepted the findings of the report and there were no questions or debate.

RESOLVED:

It was approved that Orders be made to record a number of the paths that are the subject of the application on the Definitive Map and Statement and that one

path, and part of another, be refused, as follows:

- a) A Definitive Map Modification Order (DMMO) be made to record the route, shown on the Committee Plan between A-B as a public footpath, with a width of at least 1 metre.
- b) A DMMO be made to record the route, shown on the Committee Plan, between C-D as a public footpath, with a width of at least 1 metre.
- c) A DMMO be made to record the route E-F as a public footpath, with a width of at least 1 metre.
- d) A DMMO be made to record the route L-K as a public footpath, with a width of at least 1.5 metres wide.
- e) A DMMO be made to record the route J-M as a public footpath, with a width of 6 metres.
- f) A DMMO be made to record the route N-M as a public footpath, with a width of at least 1 metre wide.
- g) The application to record G-H as a public footpath was refused.
- h) The application to record I-M as a public footpath was refused.

Voting:

Favour: 12 (unanimous)

163. **BLUE HAZE LANDFILL SITE VERWOOD ROAD SOMERLEY**

*1) Variation of conditions 1, 3 and 4 of planning permission 07/90183 to extend the time to complete the importation of waste to the landfill until 2029, revise the landfill phasing and phasing of restoration, and the completion of landfill restoration by 2031 (**Application No. 19/10066**)*

*2) Variation of condition 2 of planning permission 11/97613 to extend the time for the use of the Waste Transfer Station until 2030 (**Application No. 19/10064**)*

*3) Variation of condition 2 of planning permission 08/92516 to extend the time for the use of the landfill gas utilisation plant until March 2040 (**Application No. 19/10063**)*

at Blue Haze Landfill Site, Verwood Road, Somerley, BH24 3QE (Site Ref: NF105)

The Committee considered a report from the Head of Strategic Planning (item 7 in the minute book) regarding extensions of time to various conditions at Blue Haze Landfill Site in Somerley.

The Chairman summarised the purpose of the report, explaining that extra time was required due to the complexity of the applications and the various landowners involved.

Members were happy with the proposals and there were no questions.

RESOLVED:

1. An extension of time until 31 January 2020 was agreed for the satisfactory completion of the Deed of Variation to the Section 106 agreement for permission 19/10066 to transfer the Section 106 [S106] legal obligations relating to planning permission 07/90183, to secure:
 - lorry routing agreement restricting the use of Harbridge Drove and the B3081 northwards, except for local deliveries;
 - Management Agreement for Nature Conservation and the provision of footpaths/access for public recreation (including amendments to enhance the scheme of environmental compensation); and
 - off-site heathland works within Plumley Wood.
2. Extensions of time were given until the same date for the determination of applications 19/10064 and 19/10063, as both are dependant on 19/10066 to be valid.
3. Upon completion of the Deed of Variation, it was agreed that authority be delegated to the Director of Economy, Transport and Environment to grant permission in all other respects in accordance with the resolution for planning applications 19/10066, 19/10064 and 19/10063 made at the meeting held on 17 April 2019.

Voting:

Favour: 12 (unanimous)

164. **MONITORING AND ENFORCEMENT UPDATE**

The Committee received a report from the Head of Strategic Planning (item 8 in the minute book), which updated Members on the Monitoring and Enforcement work undertaken by Strategic Planning during the period May 2019 – September 2019.

It was confirmed that an appeal against a refusal regarding lorry movements at Courtwood Farm in Fordingbridge had taken place in September, and the outcome was due in the near future.

The 24 hour working that was refused at Committee for Waterbrook had also been appealed. Whilst the appeal had been dismissed, it was for different reasons to those put forward my Committee and instead relating to there being no Section 106 Agreement, in which lorries could be routed.

RESOLVED:

The Regulatory Committee noted the report.

Chairman,

HAMPSHIRE COUNTY COUNCIL Decision Report

Decision Maker:	Regulatory Committee
Date:	11 December 2019
Title:	Extraction and processing of minerals, importation and treatment of inert materials, the erection of a concrete batching plant, workshop, offices, weighbridge and internal access to the A35 with progressive restoration using residual inert materials to agriculture, woodland and grassland at Land at Roeshot, Christchurch, Hampshire (No. 16/10618) (Site Ref: NF269)
Report From:	Head of Strategic Planning

Contact name: Judith Smallman

Tel: 01962 847870

Email: judith.smallman@hants.gov.uk

Recommendation

1. That an extension of time until 30 June 2020 is agreed for the satisfactory completion of the Section 106 Agreement to secure Ecological Protection and Restoration of the site, a revised Repair and Maintenance Scheme for Watery Lane (Byway Open to All Traffic (BOAT number 737) and a permissive path and that authority is delegated to the Director of Economy, Transport and Environment to grant permission in all other respects in accordance with the resolution made at the meeting held on 19 June 2019.

Background

2. This report relates to a planning application for extraction and processing of minerals, importation and treatment of inert materials, the erection of a concrete batching plant, workshop, offices, weighbridge and internal access to the A35 with progressive restoration using residual inert materials to agriculture, woodland and grassland at land at Roeshot, Christchurch. (Application No. 16/10618) (Site Ref: NF269).
3. The application was considered by Regulatory Committee on 19 June 2019 when it was resolved that: -
 - a. The Head of Law and Governance be authorised to draw up a Section 106 Agreement to secure the Ecological Protection and Restoration, the revised Repair and Maintenance Scheme for Watery Lane (Byway Open to All Traffic (BOAT number 737) and permissive path.
 - b. Provided that by 31 December 2019 all parties enter into the Section 106 Agreement with the County Council, authority be delegated to the

Director of Economy, Transport and Environment to GRANT permission subject to the conditions listed in Appendix A.

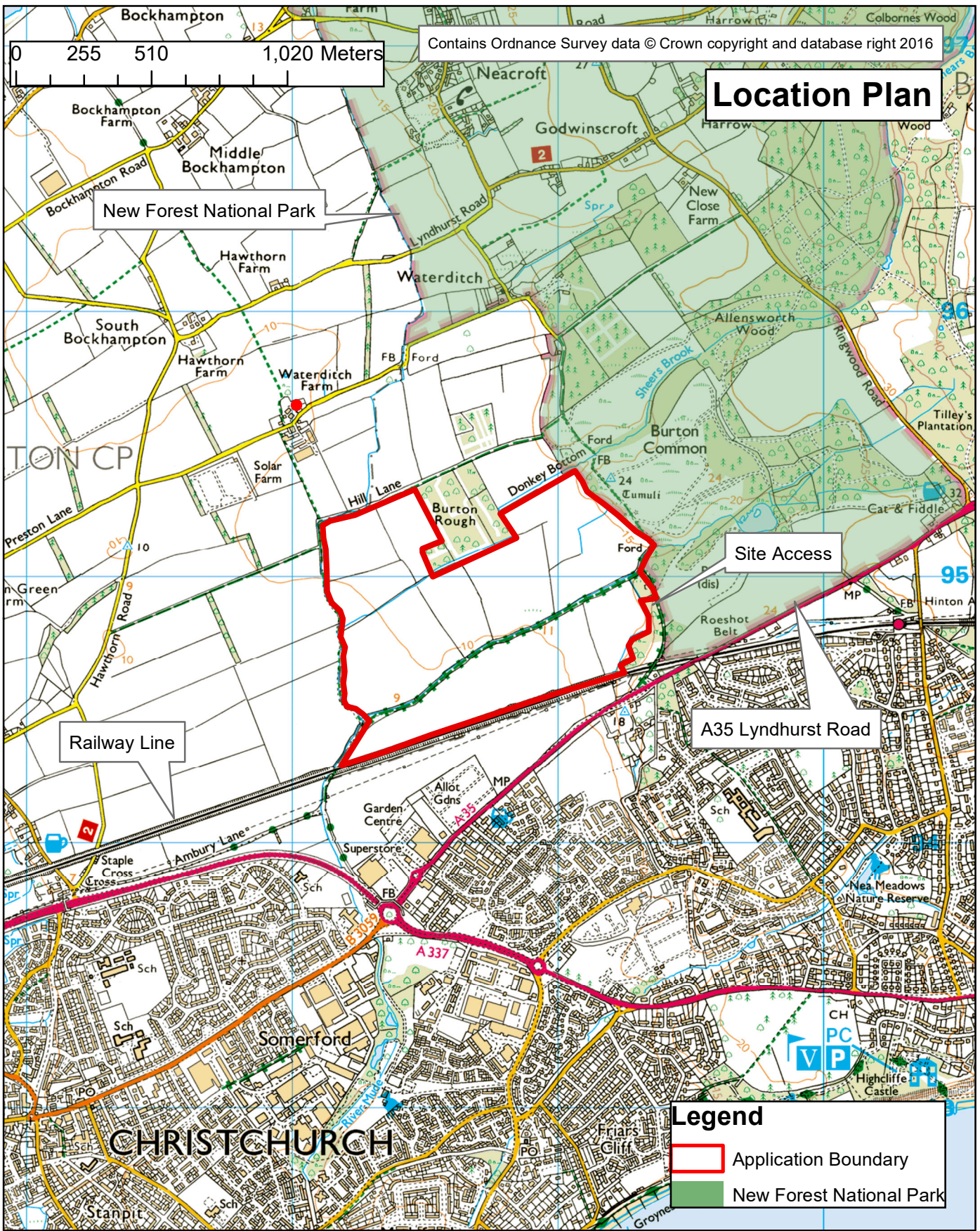
- c. In the event that the Section 106 Agreement is not completed by 31 December 2019 then the Director of Economy, Transport and Environment be authorised to refuse planning permission for that reason.
4. Since this decision, despite County Council officers and the applicant working together proactively to secure the necessary obligations, the Section 106 Agreement has not been completed.
5. Agreement has been reached on many of the issues and the applicant and their consultants are continuing to engage in discussions on the outstanding issues, but six months has proved to be insufficient time to complete what is a complex Agreement. However, the Agreement is at an advanced stage and it is anticipated that it will be completed during Spring 2020.
6. It is therefore requested that a further six-month period from 31 December 2019 until 30 June 2020, is provided for the satisfactory completion of the Section 106 Agreement.

Recommendation

7. That an extension of time until 30 June 2020 is agreed for the satisfactory completion of the Section 106 Agreement to secure Ecological Protection and Restoration of the site, a revised Repair and Maintenance Scheme for Watery Lane (Byway Open to All Traffic (BOAT number 737) and a permissive path and that authority is delegated to the Director of Economy, Transport and Environment to grant permission in all other respects in accordance with the resolution made at the meeting held on 19 June 2019.

Link to the application

<https://planning.hants.gov.uk/ApplicationDetails.aspx?RecNo=17204>



TITLE: Extraction and processing of minerals, importation and treatment of inert materials, the erection of a concrete batching plant, workshop, offices, weighbridge and internal access to the A35 with progressive restoration using residual inert materials to agriculture, woodland and grassland at Land at Roeshot, Christchurch

REGULATORY COMMITTEE

11 November 2019



Scale: 1:20,000

APPLICATION NUMBER: 16/10618
SITE REFERENCE: NF269

Drawn by: Strategic Planning



Hampshire
 County Council

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HAMPSHIRE COUNTY COUNCIL Information Report

Decision Maker:	Regulatory Committee
Date:	11 December 2019
Title:	Appeal Decisions: (APP/Q1770/C/18/3197890) (APP/Q1770/W/18/3197963) relating to Variation of conditions 4, 7, 9 & 12 of planning permission 16/11117 (to increase vehicle movements; to allow retention of soil screener for external separation of soil and rubble; and to allow continuation of existing concrete panel fence); and retention of existing welfare units at Ringwood & Fordingbridge Skip Hire Courtwood Farm, Court Hill, SANDLEHEATH SP6 1QD (No. 17/10612) (Site Ref: NF262)
Report From:	Head of Strategic Planning

Contact name: Sam Dumbrell

Tel: 01962 847981

Email: sam.dumbrell@hants.gov.uk

Purpose of the Report

1. To advise the Regulatory Committee of the recent planning appeal decision.

Recommendation

2. That the contents of the report are noted.

Background

3. This report relates to the successful appeal by Ringwood & Fordingbridge Skip Hire against the Council's decision to refuse planning application 17/10612 for the Variation of conditions 4, 7, 9 & 12 of planning permission 16/11117 (to increase vehicle movements; to allow retention of soil screener for external separation of soil and rubble; and to allow continuation of existing concrete panel fence); and retention of existing welfare units at Ringwood & Fordingbridge Skip Hire Courtwood Farm, Court Hill, Sandheath SP6 1QD
4. The appellant's unsuccessful appeal against the Council's Enforcement Notices served following the above refusal at the same site and application for costs, are also described in the report.
5. At the meeting of the Regulatory Committee held on 24 January 2018 it was resolved that planning permission be refused on the grounds:

1. The development is not in accordance with Policies: 4 (Protection of the designated landscape) and 13 (High-quality design of minerals and waste development) of the Hampshire Minerals & Waste Plan (HMWP) (2013) as it

would adversely impact on the tranquillity and noise environment of the area undermining the objectives of the AONB designation;

2. The development is not in accordance with Policy 10 (Protecting public health, safety and amenity) of the HMWP (2013) as it would have a significant adverse impact on residential amenity by reason of noise.

3. The development is not in accordance with Policy 12 (Managing traffic) of the HMWP (2013) and Policy DM22 (Employment development in the countryside) of the New Forest Sites and Development Management (part 2) (2014) as the scale of increase in HGV movements sought will have an adverse impact on the amenity and character of settlements through which these vehicles pass and it has not been demonstrated that the traffic generated by the proposal and the increase in vehicle movements will not cause severe highway safety and capacity impacts on the existing transport network;

4. The development is not in accordance with Policy 29 (Locations and sites for waste management) of the HMWP (2013) as it is not located in the locations identified for the development to provide recycling, recovery and/ or treatment of waste (pursuant to Policy 29(1)); the applicant has not demonstrated that the site has good transport connections to sources of and/or markets for the type of waste being managed (pursuant to Policy 29 (3)); and a special need for that location and the suitability of the site has not been demonstrated (pursuant to Policy 29 (3)).

6. The Committee also authorised officers to take appropriate enforcement action to bring the site into compliance with conditions 4, 7, 9 on its extant planning permission 16/11117, all of which were being breached.
7. Enforcement Notices (Breach of Condition Notices (BCNs)) requiring that the breaches of conditions 4 ((HGV) movements restricted to 50 per week (25 in and 25 out)), 7 (All sorting or treatment of waste/materials within the building shown on drawing: 'Block Plan') and 9 (External storage of waste or materials shall only take place in the hatched bays shown on drawing 'Block Plan') cease were served on the appellant on 6 February 2018, coming into effect on 19 March 2018. The appellant had 6 months to comply with the Notices coming into effect.
8. Both appeals concern changes (i.e. increases) to HGV numbers and movements to and from the site exceeding approved weekly numbers of 50 per week (25 in and 25 out) to 234 per week (117 in and 117 out) and compliance with approved plans (Block Plan) under extant planning permission 16/11117.

The Appeal

9. On 14 March 2018 the applicant submitted two appeals to the Planning Inspectorate (PINS), one against the breaches of conditions alleged in the Enforcement Notices (APP/Q1770/C/18/3197890) and one against the refusal of planning permission (APP/Q1770/W/18/3197963). Both appeals would be assessed by the same Inspector at a Hearing.

10. In early 2019 the Hearing was set for 8 May 2019. This was subsequently postponed due to the Inspector's ill health until 10 September 2019.
11. Prior to the Hearing, following the provision of additional noise mitigation by the appellant, the 2nd reason for refusal '*Significant adverse impact on residential amenity by reason of noise*' was deemed by the District Council's Environmental Health Officer to have been allayed. The Environmental Health Officer's objection was withdrawn subject to the proposed mitigation being imposed by condition/s should the appeal be allowed.
12. Shortly before the Hearing date, the appellant advised that he sought to win costs, citing '*the Council had acted unreasonably through firstly refusing to grant planning permission and secondly through the serving of the Enforcement Notices*'. The County Council informed the Inspectorate that it would contest this.

The Hearing

13. The Hearing took place at Avon Community Centre in Fordingbridge on 10 September 2019. It was attended by the Inspector, County Council officers (Planning, Enforcement and Highways) and the Appellant - Ringwood & Fordingbridge Skip Hire Ltd - and his advisors (Planning, Noise and Highways consultants). Several interested parties attended, including local residents and a Sandheath Parish Councillor.
14. The three remaining reasons for refusal, 1 (AONB impact), 3 (Road safety and capacity impacts) & 4 (Location), and those supporting the Enforcement Notices, were still discussed with both parties questioned by the Inspector.
15. A site visit was undertaken by the Inspector and both the County Council officers and the appellant and his advisors attended. The Inspector used the visit to look at areas of the site and its environs relative to the reasons for the refusal of planning permission and breach of conditions on the Enforcement Notices.
16. It was acknowledged by all parties that since the Appeal was lodged and at the Council's most recent site visit in January 2019, the appellant had been in compliance with conditions 7 and 9 of extant permission 16/1117. The appellant had ceased waste handling, treatment and storage operations outside of the main building, except those wastes being stored in approved external bays.
17. All parties were invited by the Inspector to discuss the proposed site layout plan for accuracy as it (and any others) would be imposed by condition/s should the appeal be allowed. A 10 day deadline was set for an agreed version of the plan to be submitted to the Inspector.

Appeal Decision

18. On 28 October 2019 the Inspector determined that the appeal against the Council's refusal to grant planning permission (APP/Q1770/W/18/3197963) be allowed and the appeal against the Council's Enforcement Notices (APP/Q1770/C/18/3197890) be dismissed. Further, the Inspector dismissed the appellant's application for costs against the Council.
19. In allowing the appeal against the Council's refusal to grant planning permission (APP/Q1770/W/18/3197963), the Inspector advised *"that on balance, the increased number of HGV movements to 234 per week (117 in and 117 out) will not harm the character and amenity of the AONB (refusal reason 1) or adversely affect highway safety, capacity or traffic flow (refusal reason 3), and would accord with the development plan (refusal reason 4)"* and granted planning permission subject to planning conditions. Appendix A contains the Appeal Decisions.
20. In dismissing the appeal against the Council's Enforcement Notices (APP/Q1770/C/18/3197890), the Inspector acknowledged that through allowing the appeal against the Council's refusal to grant planning permission (APP/Q1770/W/18/3197963), the breaches of conditions 4 ((HGV) movements restricted to 50 per week (25 in and 25 out)), 7 (All sorting or treatment of waste/materials within the building shown on drawing: 'Block Plan') and 9 (External storage of waste or materials shall only take place in the hatched bays shown on drawing 'Block Plan') on extant permission 16/1117, whilst valid when the notices were originally served, the appellant had essentially complied with them in the interim (7 and 9) and through allowing the HGV movements of 234 per week (117 in and 117 out) exceeding the previously permitted HGV movements of 50 per week (25 in and 25 out), this breach and impact was deemed acceptable.

Costs Award Decision

21. In refusing the appellant's application for an award of costs, the Inspector concluded that in his view *"the Council has not, as alleged, relied on vague, generalised or inaccurate assertions, and it was not incumbent on the Council to withdraw its AONB reason for refusal (reason 1) when it accepted the appellant's evidence that residential amenity would not be unacceptably harmed by noise (reason 2)."* This fully supported the Council's position in rebutting this costs application.

Appendices

Appendix A - Planning Inspectorate Appeals Decision (dated 28 October 2019).

Link to the application and appeal

<https://planning.hants.gov.uk/ApplicationDetails.aspx?RecNo=18189>



Appeal Decisions

Hearing Held on 10 September 2019

Site visit made on 10 September 2019

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 28 October 2019

Appeal A: APP/Q1770/C/18/3197890

Land at Courtwood Farm, Court Hill, Sandleheath, Fordingbridge, SP6 1QD.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ringwood and Fordingbridge Skip Hire against an enforcement notice issued by Hampshire County Council.
 - The enforcement notice, numbered 17/10612, was issued on 6 February 2018.
 - The breach of planning control alleged in the notice is failure to comply with condition Nos. 4, 7 and 9 of a planning permission Ref. 16/11117 granted on 8 November 2016.
 - The development to which the permission relates is: Extension to material recovery facility to allow storage of waste, skips and parking of vehicles. The conditions in question are Nos. 4, 7 and 9, as follows: Condition 4. Heavy Goods Vehicles (vehicles over 3.5 tonnes gross weight) (HGV) movements to and from the site shall be restricted to 50 per week (25 in and 25 out). A daily record of HGVs entering and leaving the site shall be kept at the site and made available to the Waste Planning Authority on request; Condition 7. All sorting or treatment of waste and/or materials shall take place within the building shown on drawing: 'Block Plan'; and Condition 9. There shall be no external sorting or treatment of waste and/or materials. External storage of waste or materials shall only take place in the hatched bays shown on drawing 'Block Plan'. The notice alleges that the conditions have not been complied with in that HGV movements exceed 50 per week, external sorting of waste and/or materials has taken place and external storage of waste and/or materials has taken place outside of the areas specified.
 - The requirements of the notice are: 1. Reduce Heavy Goods Vehicle (vehicles over 3.5 tonnes gross weight) movements to and from the Site to 50 Heavy Goods Vehicle movements a week (25 in and 25 out) and thereafter not exceed 50 Heavy Goods Vehicle movements a week (25 in and 25 out) in order to comply with condition 4 of the Permission; 2. Cease the external sorting and treatment of waste and/or materials outside of the building shown on drawing reference 'Block Plan' included in the permission and annexed to this agreement and thereafter ensure all sorting or treatment of waste and/or materials takes place within the building shown on the drawing reference 'Block Plan' in order to comply with condition 7 and 9 of the Permission; and 3. Cease the external storage of waste outside of the hatched bays shown on drawing reference 'Block Plan' included in the permission and annexed to this agreement and thereafter ensure external storage of waste and/or materials shall only take place in the hatched bays shown on the drawing reference 'Block Plan' in order to comply with condition 9 of the Permission.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.
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Appeal B: APP/Q1770/W/18/3197963

Land at Courtwood Farm, Court Hill, Sandleheath, Fordingbridge, SP6 1QD.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ringwood and Fordingbridge Skip Hire against the decision of Hampshire County Council.
 - The application Ref. 17/10612, dated 19 April 2017, was refused by notice dated 24 January 2018.
 - The application sought planning permission for Extension to material recovery facility to allow storage of waste, skips and parking of vehicles. without complying with conditions attached to planning permission Ref. 16/11117, dated 8 November 2016.
 - The conditions in dispute are Nos. 4, 7 and 9 and 12. The description of the proposal is "Variation of conditions 4, 7, 9 and 12 of planning permission 16/11117 (to increase vehicle movements; to allow retention of soil screener for external separation of soil and rubble; and to allow continuation of existing concrete panel fence); and retention of existing welfare units.
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Decisions

Appeal A

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

2. The appeal is allowed insofar as it relates to Conditions 4, 9 and 12 of planning permission Ref. 16/11117 and planning permission is granted for Extension to material recovery facility to allow storage of waste, skips and parking of vehicles at Courtwood Farm, Court Hill, Sandleheath, Fordingbridge, SP6 1QD in accordance with the application Ref 17/10612, dated 19 April 2017 without compliance with the conditions previously imposed on the planning permission Ref 16/11117 granted on 8 November 2016 by Hampshire County Council, but subject to the conditions set out in the Schedule attached to this decision.
3. The appeal is dismissed insofar as it relates to Condition 7 of planning permission Ref. 16/11117.

Application for costs

4. At the Hearing an application for costs was made by Ringwood and Fordingbridge Skip Hire against Hampshire County Council. This application is the subject of a separate Decision.

Background

5. The former farmyard at Courtwood Farm is now used for various business purposes, operating from within former farm buildings and open yards, in addition to its continuing agricultural use. Most of the yard is just inside the Cranborne Chase and West Wiltshire Downs AONB, which extends to the north-west. The yard is just to the south-west of Court Hill, a C class road running through the villages of Sandleheath and Ashford from Fordingbridge. The village of Sandleheath is immediately to the south-east, the nearest non-

- farm residential properties being on Tanners Lane just to the south of the yard.
6. The skip operation occupies the north-west corner of the yard and comprises a large former agricultural building and an open yard with storage bays. The business also uses an office building near the northern access to the yard, but this is outside the application and enforcement notice site and benefits from a separate permission.
 7. Certain aspects of the planning application are not controversial. The Council consider that, based on the existing context of agricultural diversification and use of previously developed land, the physical amendments to the site such as the additional welfare cabin, changes to fencing and surfacing will not have any adverse effect on visual amenity or landscape character.
 8. The enforcement notice allegation of external sorting and treatment of waste and/or materials outside of the building relates to the stationing and use on the site of soil screening plant. That equipment has now been moved to another site and the appellant no longer seeks permission to retain it, or to continue the external treatment of waste and/or materials. As a consequence, and having considered an Acoustic Assessment prepared for the appellant, the Council advised by letter on 30 August 2019 that it no longer objects on the basis of unacceptable impact on residential amenity due to noise and disturbance, subject to securing noise mitigation measures.
 9. Among the measures proposed is restricting the access to the appeal site to the northernmost of the two highway accesses to the wider yard, and to this end the appellant has submitted a unilateral undertaking under section 106 of the 1990 Act. I deal with this below.
 10. At the hearing the parties undertook to provide me with an updated site plan, essentially as is but annotated for clarity and showing key dimensions. This plan, dated 17 September 2019, was agreed on 23 October 2019. There is nothing new in the plan, it simply provides clarity and accuracy, and I consider that nobody's interests are prejudiced by my accepting it.

Reasons

Appeal A ground (a) and Appeal B

11. An appeal on ground (a) is that planning permission should be granted for the matters stated in the notice as comprising a breach of planning control, and this is accompanied by a deemed planning application. As set out above, the issues between the parties have narrowed considerably, so that what is essentially at issue now is the breach of condition 4 of the 2016 planning permission, concerning the number of HGV movements, which of course has a bearing on the scale of the operation. Both Appeal B and the ground (a) appeal against the enforcement notice effectively seek the same thing so far as condition 4 is concerned, that is an increase in permitted HGV movements to a maximum of 234 per week. The main issue therefore is whether the condition is necessary, having regard to the effect on the character and amenity of the AONB, particularly in terms of tranquillity, and whether the site is satisfactorily related to the major highway network.
12. The reason given for imposing Condition 4 in 2016 was "In the interests of local amenity in accordance with Policies 10 (Protecting public health, safety

and amenity) and 12 (Managing traffic) of the Hampshire Minerals and Waste Plan (2013).” The Hampshire Minerals and Waste Plan (2013) (HMWP) remains part of the development plan, and Policies 10 and 12 were also cited in the reasons given for refusing the 2017 application. HMWP Policy 10 aims to avoid harm to residential amenity through noise and dust among other things, but noise measurements since mitigation measures were put in place indicates that noise generation can be kept within satisfactory levels during normal working hours, and removal of the soil screening plant should satisfactorily address dust problems. HMWP Policy 12 is concerned with managing traffic and seeks to mitigate any significant adverse impacts on highway and pedestrian safety, capacity, environment and amenity, while Policy DM22 of the New Forest District (outside the National Park) Local Plan Part 2, also part of the development plan, expects employment development in the countryside to be of an appropriate scale and not harmful to the rural character by reason of, among other things, traffic generation.

13. Regarding the AONB, the route passing the appeal site into the AONB is not one that leads conveniently to the major highway network, hence traffic associated with the skip operation is likely to be predominantly serving users located within the AONB. As I understand it there are no more convenient locations for the processing of waste and materials generated by properties within the AONB and served by the site, hence the associated HGV traffic within the AONB would be likely to occur in any case and the use would not harm the character and tranquillity of the AONB, the non-traffic impacts being, or capable of being, well contained within the site. In terms of the road network then, it seems to me that the main potential for additional impact is on the roads running towards Fordingbridge to join the A338 just beyond the town.
14. The expansion of the operation in 2016 involved extending the use into an area previously used by a haulage depot, which would itself have generated significant HGV traffic, albeit of a different pattern though most probably directed towards the A338. In this context I can understand the appellant’s argument that the 50 trip limit imposed in 2016 was unrealistically low, especially in light of the scale of the operation at that time being similar in scale, at least in terms of number of skip vehicles operating, and that the current usage amounts to a net reduction in HGV trips compared to the former use. However, the opportunity to rectify any perceived misunderstanding was during the consideration of that application. The appeals in this case seek an increase over that permitted, hence the matter at issue is the effect of the additional 184 movements per week.
15. The appellant’s transport assessment indicates that about 80% of the site traffic travels towards Fordingbridge, much of which will pass through the town. On the 2 mile journey to the A338 there are an estimated 12 ‘pinch points’ for large vehicles such as HGVs and buses, but these are all relatively short and unlikely to significantly disrupt traffic flow. Otherwise the road width and alignment appears satisfactory, and highway capacity, which for the last few years has included appeal site traffic in excess of what is now sought, does not appear to be problematic. There appears to have been no recorded personal injury accidents in the vicinity of the site over the last 18 years or so, but there were 2 incidents of pedestrians being hit by vehicle wing mirrors, one a HGV, in Fordingbridge High Street over the 5 year period to September 2017. However, there are about 170 large vehicle movements daily (12 hours)

through High Street, so this level of incident does not appear to me to indicate a particularly hazardous situation.

16. I acknowledge that the number of additional permitted highway movements sought is significant, but the site appears to have been operating at higher traffic levels for some years now without incident or adverse effects on highway capacity. For a facility that is relatively modest in size I consider that it is not unduly distant from the major highway network.
17. On balance, I consider that the increased number of HGV movements sought will not harm the character and amenity of the AONB or adversely affect highway safety, capacity or traffic flow. I find that the it would accord with the development plan read as a whole, and the appeals, so far as they relate to condition 4, succeed accordingly.
18. There is no objection to the condition 9 and 12 changes sought, and it is open to me to grant planning permission for parts of the development while refusing permission for others, specifically in this case refusing permission in respect of condition 7 so as to preclude the use of external plant such as the soil screener. For Appeal A however this means that the enforcement notice will be upheld, which in turn means that an unconditional planning permission deemed to have been granted under section 173(11) of the Act could arise as the result of complying with the notice. To avoid the possibility of inconsistent permissions being granted, that is the conditional permissions in respect of the partial success on Appeal A ground (a) and Appeal B, which would themselves be different, and an unconditional planning permission that could arise as the result of complying with the notice, I shall allow Appeal B so far as it relates to conditions 4, 9 and 12, and I shall dismiss Appeal A entirely and rely on section 180 of the Act to mitigate the effect of the notice so far as it is inconsistent with the permission granted on Appeal B.
19. This also means that there is no need to deal with Appeal A on grounds (f) and (g).
20. In an appeal under section 73A it is only the conditions the subject of the application that are at issue. A new free-standing permission is granted but the other conditions are normally re-applied as per the original permission. However, there have been some changes since the original permission, and some of the matters resolved before the hearing, such as noise generation mitigation and extending material storage areas, need to be conditioned, in the interests of local amenity. Hence there will be some minor changes and some additional conditions, but these were discussed and agreed at the hearing.
21. Turning to the section 106 Undertaking, the obligation, which restricts HGV use to the northern access from Court Hill, is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The s106 undertaking therefore meets the statutory tests set out in paragraph 56 of the National Planning Policy Framework. I have also conditioned this matter since the condition proposed gives greater clarity, but since much of the access is outside of the application site and outside of the appellant's control, I consider that the s106 undertaking can still be given due weight.

Conclusion

22. For the reasons given above, and having considered all other matters raised, I allow Appeal B so far as it relates to conditions 4, 9 and 12, and I dismiss it so far as it relates to condition 7. Appeal A is dismissed and the enforcement notice is upheld, but the requirements of the notice that are inconsistent with the Appeal B planning permission will not have effect.

Paul Dignan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jerry Davies	Planning Consultant
Ben Wyatt	Appellant
Jamie Duncan	Acoustics
Jon Huggett	Transport

FOR THE LOCAL PLANNING AUTHORITY:

Sam Dumbrell	Development management
Amie Heath	Enforcement
Phillipa Gordon	Transport

INTERESTED PERSONS

Murray Philips	Local resident
Caroline Kemp	Sandleheath Parish Council
Sue Philips	Local resident
Graham Wingrove	Local resident
David Crane	Local resident
Robert Streatfield	Local resident

DOCUMENTS

- 1 Council's letter of notification
- 2 Signed Statement of Common Ground
- 3 Revised site plan dated 17.09.2019, received 21/10/2019.

Appeal B: APP/Q1770/W/18/3197963 - SCHEDULE OF CONDITIONS

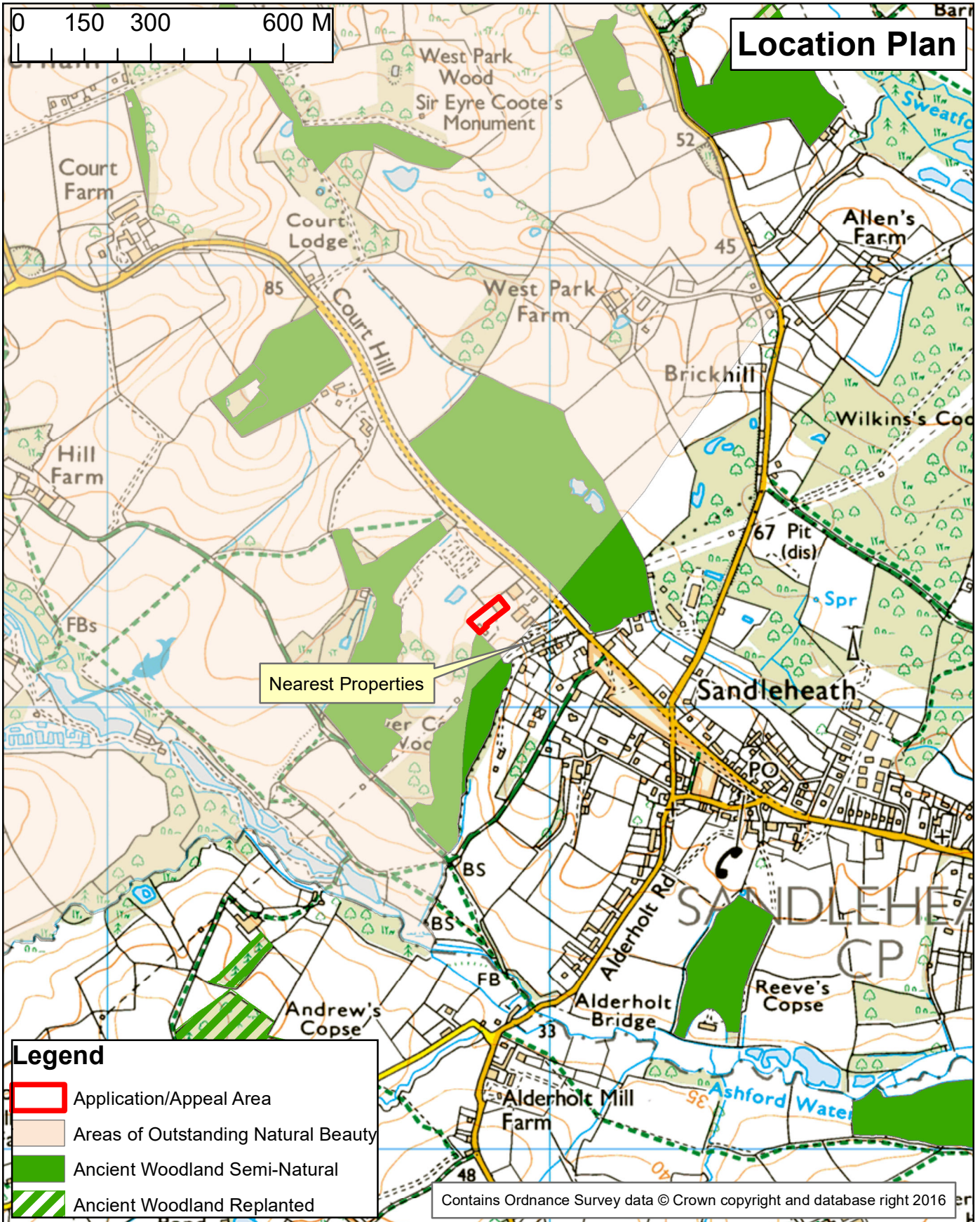
- 1) No Heavy Goods Vehicles (Vehicles over 3.5 tonnes gross weight) shall enter or leave the site and no plant or machinery shall be operated except between the following hours: 07.00 - 18.00 Monday to Friday and 07.00 - 13.00 Saturday. There shall be no working on Sundays or recognised Public Holidays.
- 2) No operations shall be undertaken prior to 07.30 hours Monday-Friday and 08.00 hours on a Saturday.
- 3) Heavy Goods Vehicle (vehicles over 3.5 tonnes gross weight) (HGV) movements to and from the site shall be restricted to 234 per week (117 in and 117 out). A daily record of HGVs entering and leaving the site shall be kept at the site and made available to the Waste Planning Authority on request.
- 4) Notwithstanding the Premises Dust Control Plan approved in accordance with planning permission Ref. 16/11117, an updated Premises Dust Control Plan shall be submitted to the Waste Planning Authority within 3 months of the date of this permission for approval in writing. The updated Plan shall include:
 - measures to employ a water bowser on site to damp down dusts and fine matter in dry conditions; and
 - the implementation of speed limit within the Courtwood Farm site.Once approved, the updated plan shall be implemented in full throughout the duration of permitted operations. The Premises Dust Control Plan approved under permission Ref. 16/11117 shall remain in force until the updated plan is approved and implemented.
- 5) The Premises Rodent Control Plan approved under permission Ref. 16/11117 shall be implemented in full as approved throughout the duration of the use permitted by this planning permission.
- 6) The development hereby permitted shall be carried out in accordance with the following approved plans: revised site plan dated 17.09.2019.
- 7) All sorting or treatment of waste and/or materials shall take place within the building labelled "Transfer station" shown on the revised site plan dated 17.09.2019.
- 8) The external fabric (roof and clad elevations) of the building labelled "Transfer station" shown on the revised site plan dated 17.09.2019 shall, for the duration of the use of the building in accordance with this permission, be maintained in a good state of repair to ensure that the building remains fully enclosed (with the exception of the vehicular access).
- 9) There shall be no external sorting or treatment of waste and/or materials. External storage of waste or materials shall only take place in the bays shown on revised site plan dated 17.09.2019.
- 10) The external concrete waste/material storage bays shown on revised site plan dated 17.09.2019 shall be 3 metres in height to the rear and sides.

- 11) No development within the area annotated "Area still to be concreted as approved – skip storage and overnight vehicles" on revised site plan dated 17.09.2019 shall take place until details of construction, including arrangements for drainage, have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
- 12) There shall be no outside lighting except the use of sensor controlled security lighting.
- 13) A 2-metre high steel palisade fence shall be erected along the south-western boundaries of the site and retained throughout the duration of permitted operations.
- 14) No Heavy Goods Vehicles (vehicles over 3.5 tonnes gross weight) (HGVs) shall leave the site unless its wheels have been cleaned sufficiently to prevent mud/material being carried on to the public highway. In the event that any mud or spoil is deposited on the highway, it shall be cleaned off at the end of each working day.
- 15) All Heavy Goods Vehicles (vehicles over 3.5 tonnes gross weight) (HGVs) entering and leaving the site shall be fully sheeted.
- 16) All Heavy Goods Vehicles (vehicles over 3.5 tonnes gross weight) (HGVs) entering and leaving the site shall do so by the Farm's northern junction with Court Hill only. Details of signage stating this, and their locations, shall be submitted to the Minerals & Waste Planning Authority for approval in writing. Once approved, they shall be erected at visible locations within the site and maintained in full throughout the duration of permitted operations.
- 17) The development hereby permitted shall be operated in accordance with the changes relating to the mitigation of noise made as outlined in Chapter 6 of the Noise Impact Assessment carried out by Venta Acoustics in their Report Reference: VA1692.190227.NI13.2 at all times.

Within two months of the grant of planning permission, a noise management plan shall be submitted to the Minerals & Waste Planning Authority for approval in writing. It must include:

- measures to control on-site operational noise from all plant and machinery used in the transfer and storage of imported waste and materials from adversely impacting local residential properties; and
- measures to promptly mitigate any substantiated noise-related complaints caused by on-site waste and materials handling operations.

Once approved, the plan shall be implemented in full throughout the duration of permitted operations.



Appeal Decisions:
 (APP/Q1770/C/18/3197890)(APP/Q1770/W/18/3197963)
 at Ringwood & Fordingbridge Skip Hire Courtwood Farm,
 Court Hill, SANDLEHEATH SP6 1QD
 (No. 17/10612)
SITE REFERENCE: NF262

REGULATORY COMMITTEE

DATE 11 December 2019

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