



Appeal Decision

Inquiry opened on 30 January 2007

Site visit made on 28 February 2007

by **M P Hill** BSc MSc CEng MICE FGS

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

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Appeal Ref: APP/P3800/A/06/2007907

Freshfield Lane Brickworks Ltd, Freshfield Lane, Danehill, Haywards Heath RH17 7HH.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Cory Environmental Ltd and Freshfield Lane Brickworks Ltd against West Sussex County Council.
- The application Ref CD/445/05, is dated 22 September 2004.
- The development proposed is a 2.3 ha extension of the lower pit, to release 133,000 m³ of blue clay and its restoration using mineral wastes from the upper pit; the importation of 1.45 million m³ of non-hazardous residual waste to restore the upper pit; and the development of a landscaped clay stockpile adjacent to the brickworks.
- The inquiry sat for 16 days between 30 January and 1 March 2007.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. As indicated above, the inquiry sat for a total of 16 days between 30 January and 1 March 2007. A pre-inquiry meeting had been held on 17 November 2006 after which I made an unaccompanied visit of the area surrounding the appeal site. On 27 February 2007, I made unaccompanied visits to restored claypit workings at Newdigate and Southwater, which have been opened to the public for recreational use, and also to the environs of mineral extraction sites at Langhurstwood Quarry, Rudgwick Brickworks, Laybrook Brickworks, Rock Common and West Hoathly, which were referred to at the inquiry by one party or another as providing possible sites for the future deposit of non-inert waste. On that day, I also inspected much of the road network surrounding the site, between Haywards Heath and West Hoathly. On 28 February, I undertook an accompanied site visit of the appeal site; sections of the surrounding footpath network; viewpoints of the site from the surrounding area; the village of Danehill; and Freshfield Lane and its junction with the A275 road at Danehill.
2. At the start of the inquiry, a revised set of drawings (Document APP/GEN/6) was submitted by the appellants showing the proposed phasing of landfilling and restoration, the final restoration proposals, an amended location and size of the proposed clay stockpile, proposals for highway improvements on Freshfield Lane and proposed Geological SSSI locations. The main change to the scheme previously considered by the planning authority relates to the clay stockpile. More than two years have elapsed since the original planning application was submitted, during which time clay has been extracted from the upper and lower pits and used for brickmaking. The proposed clay stockpile is therefore reduced in volume and has a smaller footprint than originally envisaged. Its construction would no longer result in the loss of a section of Ancient Replanted Woodland, and in this respect the amended scheme is an

improvement on the earlier proposal. However, the revision extends the proposed stockpile in a south easterly direction towards Freshfield Lane. This aspect of the amendment has the potential to increase the visual impact of the development when viewed from Freshfield Lane, nearby dwellings and from parts of the footpath network. Further assessments of the visual impact of the development were submitted to the inquiry and all parties were given an opportunity to consider the revisions. I am satisfied that no individual or body would be prejudiced by my consideration of the scheme on the basis of the revised drawings at Document APP/GEN/6, and I shall assess the proposal in the light of these amendments.

3. A completed Section 106 agreement and planning obligation was submitted at the inquiry. One of its provisions would modify mineral working rights, removing the right to win or work minerals in the area covered by the Review of Mineral Planning Permission (ROMP) determination of March 1999, other than as set out in the agreement. The agreement also provides for measures to be taken to encourage access by lorries to and from the landfill site to be by means of a prescribed route utilising Freshfield Lane as a link to the A275 at Danehill. Finally, the agreement makes provision for the submission and funding of a Woodland Management Plan for land both within the site and the surrounding area. This would include the planting of new native woodland and the management of an area of over 100ha of woodland in the vicinity of the application site. The provisions of the planning obligation are significant factors in the assessment of this appeal.
4. An Environmental Statement had been submitted by the appellants in accordance with the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999. By means of Regulation 19, West Sussex County Council (WSSC) requested additional information which was submitted in the form of an Addendum to the Environmental Statement and a Supplementary Traffic and Transport Statement in January 2006. These were subsequently subject to a period of consultation. The appellants have also submitted an application to the Environment Agency under the Pollution Prevention and Control (England and Wales) Regulations 2000 (the PPC Regulations). The details contained in that application have been subject to further submissions in response to Notices served by the Agency requiring further information.
5. In arriving at my decision on this appeal, I have taken account of the Environmental Statement and additional information supplied, and the comments of the consultees and other representations made in response to those documents. I have also taken into account the contents of the PPC application, the further information supplied by the appellants in response to the Notices served by the Environment Agency, and the large number of written representations relating to the planning application submitted by various organisations, Members of Parliament, interested persons and other parties.

Main Issues

6. I consider that the main issues in this case are:
 - i. whether there is a need for the development, and if so whether such need could be better met at another location or by other means;
 - ii. whether the development would undermine the Waste Planning Strategy for the County and the region as a whole;

- iii. the impact of the proposals on the character and appearance of the area and, in particular, on the High Weald AONB and Danehill Conservation Area;
- iv. the implications for highway safety and the free flow of traffic on the highway network;
- v. the effect of the development on the living conditions of local residents with particular regard to noise and disturbance, odour and air quality, increased traffic flows, visual amenity, health, the potential to attract vermin and pests, and wind blown litter; and,
- vi. the potential impact of the development on the hydrology and hydrogeology of the area.

Local and Regional Planning Policy

- 7. The appeal site, which would accommodate the proposed landfill area and additional clay extraction area at Freshfield Lane Brickworks (FLB), lies within the County of West Sussex, close to the border with East Sussex. However, the scheme includes proposals for improvements to Freshfield Lane and its junction with the A275 road. The majority of these highway improvements would be sited within East Sussex. Therefore, although the landfill and clay extraction proposals are subject to policies applying in West Sussex, elements of the scheme are more appropriately considered in the context of policies applying in East Sussex.
- 8. Regional planning policy for the whole area is set out in Regional Planning Guidance for the South East (RPG9) published in 2001. Revised regional guidance on waste and minerals was published in June 2006. This document replaced the relevant paragraphs contained in the guidance published in 2001.
- 9. The South East Regional Assembly is preparing the South East Plan which will eventually replace RPG9. The Plan is the subject of an ongoing Examination in Public (EIP) and the Panel's report is expected later this year. Although the Plan has been subject to public consultation, conflicting representations have been received in relation to matters which are at issue in this appeal, such as the apportionment of exported London Waste, and I can therefore give little weight at present to the policies of the emerging South East Plan.
- 10. In addition to RPG9, the development plan relevant to the appeal site also includes the West Sussex County Structure Plan 2001-2016 (WSSP) adopted in October 2004, the West Sussex Minerals Local Plan (WSMLP) dated July 2003, and the Mid Sussex Local Plan (MSLP) 2004. WSSP policies seek to ensure that provision is made for sufficient capacity to manage waste that will arise in West Sussex and that facilities are sited as close as practicable to the point at which waste is generated. The Plan also indicates that provision should be made for the extraction of minerals sufficient to meet identified needs, acknowledging that such development may be appropriate in the countryside subject to adequate provision being made to protect the character and environment of the area. The Plan indicates that development should not be permitted in the countryside, unless it can be demonstrated to require a countryside location. Amongst other things, the Plan seeks to protect, and where possible enhance, the natural beauty and character of the High Weald AONB and the biodiversity of the County.
- 11. The WSMLP indicates that mineral development may be accommodated within an AONB, but only where it would not be likely to irreversibly damage the intrinsic quality of the area. Policies in the plan seek to protect groundwater resources, and to ensure that the impact of mineral development on the amenities enjoyed by local residents is taken into account.

12. The MSLP indicates that minerals or waste development may be permitted in the countryside in appropriate cases. The Plan seeks to protect the visual quality and essential characteristics of AONBs and makes it clear that development will not be permitted in such areas unless, amongst other things, it is reasonably necessary for a use which has to be located in the countryside. The Plan seeks to resist the loss of woodlands which are important in the landscape and to prevent development that would cause unacceptable levels of pollution to land, air or water.
13. WSSC has prepared a Waste Local Plan, but after producing a revised deposit version the Council decided not to proceed with the Plan. Although the Waste Local Plan is used by the Council for development control purposes, I give it little weight in my deliberations as the various objections to it have not been the subject of independent scrutiny.
14. WSSC is in the process of preparing its statutory Minerals and Waste development Framework. The first Draft of the Minerals and Waste Core Strategy Development Plan Document (MWCSDPD) entitled 'Preferred Options' has been prepared for public consultation. As the document is at such an early stage in its development and does not yet benefit from the results of the public consultation stage, I again can give its content little weight.
15. The section of Freshfield Lane that lies in East Sussex falls within an area subject to a development plan which includes the East Sussex and Brighton and Hove Structure Plan 1991-2011 (ESSP) and the Wealden Local Plan (WLP) adopted in 1998.
16. Policy EN2 of the ESSP indicates that the primary objective in the High Weald AONB is the conservation and enhancement of its landscape quality and character. Amongst other things the policy seeks to minimise the impact of development within AONBs. Policy EN3 states that development involving change or damage to the character or qualities of an AONB, including significant increases in noise and/or intrusion from traffic or other activity will not be permitted. Policy TR1 seeks to reduce the impact of traffic on communities by measures that include traffic management and restraint, safety and speed reduction. Amongst other things Policy TR3 indicates development should not have any significant detrimental effect on road safety.
17. The WLP seeks to ensure that new development does not have an unacceptably adverse impact on the amenities of a neighbourhood by reason of scale, height, form, noise and traffic. Its policies indicate that development within the High Weald AONB will only be permitted if it preserves and enhances the natural beauty and character of the landscape.

Reasons

The need for the development

18. Consideration of the need for the development primarily relates to two matters, namely the need for further mineral extraction at the site and the need for additional non-inert landfill capacity. I shall also consider whether the development satisfies a need for restoration of the mineral workings.
 - i. *Clay resources*
19. With regard to the extraction of clay, there are two pits on the site, the outputs of which are used almost entirely to serve the operational brickworks. The Upper Pit produces a mixture

of sand and clay, whereas the Lower Pit provides Wadhurst Blue clay. The minerals from the pits are blended for brickmaking at a ratio of 3 parts from the Upper Pit to 1 part of Wadhurst clay. The brickworks has been in existence for more than 100 years and employs about 90 people. It is accepted that additional sources of Wadhurst clay or similar must be found or released if the brickworks is to continue in its present form. The Upper Pit has extractable reserves of at least 18 years, whereas the Lower Pit has reserves of approximately 5 years. The majority of the site already benefits from permission to carry out clay extraction but there do not appear to be any further viably extractable reserves of Wadhurst clay within the permitted area. The appeal proposal includes an extension of the Lower Pit, outside the permitted area to provide sufficient material to enable brick production to continue at the site for at least 18 years, without having to import clays.

20. Minerals Policy Statement 1 (MPS1) indicates that mineral planning authorities (MPAs) should initially consider the potential for extraction of brick clay close to brickworks, and the potential for extensions to existing planning permissions to maintain supplies. In relation to investment considerations, the guidance refers to the provision of supplies sufficient for 25 years production. There is only one other known source of similar clay to the Wadhurst clay and that is operated by a rival company. Moreover, the import of clay to the appeal site would necessitate additional heavy goods movement on the local road network. For these reasons, I conclude that there is a clear and significant need for the release of an additional source of Wadhurst clay in the area.
21. However, without the landfill element of the appeal proposal there would be no need to accelerate the winning of clay and to increase the volume and height of the clay stockpile. Moreover, there would be no related increase in the volume of traffic using Freshfield Lane.
22. As regards the clays in the Upper Pit, little is known about the quality of the material at a depth greater than the proposed landfill base. However, Freshfield Action Group expressed some concern that the excavation of clay elsewhere in the Freshfield Lane area, to supply clay for the brickworks after the proposed stockpile is exhausted, could be more damaging to the AONB than incremental extensions of working at the Upper Pit.

ii. The restoration of the claypits

23. With regard to the restoration of the mineral workings, I am mindful that the ROMP determination of March 1999 provides for the restoration of the site within 2 years of the permanent cessation of extraction or by 2042, whichever is the earlier. However, given that there are only about 18 years of economically workable reserves at the site, it is likely that mineral extraction would cease around 2024 on the basis of present permissions and restoration would be completed within 2 years of that date, as opposed to around 2021 being the anticipated date for final restoration of the appeal proposal. The appeal proposal would therefore have the benefit of bringing forward the date of final restoration, although probably only by a few years.
24. The relative merits of the alternative forms of restoration are a matter of considerable disagreement between the parties. It seems to me that there would be some merit in restoring the Upper Pit to contours that originally existed. The character of the landscape is one of an undulating, semi-wooded countryside with occasional steep sided valleys and the final landform of the appeal proposal would blend into this landscape. Moreover, the proposal

would provide an additional length of footpath across the site, thereby providing further public access to the countryside.

25. However, the County Council points out that the need to ensure adequate drainage of the landfill cap would prevent variations such as hollows or dips being incorporated into the engineered landform. Moreover, although a deep layer of capping material could be provided to encourage tree growth it may be difficult to establish a woodland element that appeared as a natural feature of the area. I am mindful that it would be necessary to incorporate a network of landfill gas and leachate monitoring points into the landform, each of which would need to be adjusted in height as the landform settled. Landfill gas and leachate management equipment would also need to be retained at the landfill site support area. These factors have the potential to cause harm to the natural appearance and character of the area. Moreover, as many local residents argue, the site would be regarded and known as a former landfill site for many years after its completion and its value as part of the AONB would be reduced because of this perception. In my judgment, there is a distinct possibility of this happening, despite the appellants' references to a variety of sites where people's perception of landfill development had changed following successful high standard restoration.
26. In contrast, if no landfill takes place, it is likely that the claypits would eventually be subject to 'low-level' restoration. In other words, the voids would be largely retained and the original topography would not be replicated. The appellants point out that the voids would be unnatural features and their steep sides would not readily support tree planting. It is argued that encouragement is given for infilling mineral voids in waste policies in the emerging development plan and the guidance in MPG7. However, I note that MPG7 indicates that successful reclamation of a mineral site does not automatically imply a preference for reinstatement to former original contours and ground levels. During my unaccompanied visits to various sites in the County, I saw two examples of 'low level' restoration at Newdigate and Southwater. In my judgment, both of these former clay mineral extraction sites had been carefully restored in a manner that resulted in attractive features, which were clearly havens for wildlife and of considerable benefit to the biodiversity, character and appearance of the areas within which they were sited. It may well be possible to achieve similar benefits by means of 'low-level' restoration at the appeal site. The quarry floor of the Upper Pit would be below the water table and it may be possible to incorporate water features into a restoration scheme, without such features being ephemeral as argued by the appellants.
27. The Council points out that in view of the long history of the brickworks and mineral extraction at this site it is unlikely that the original ridgeline at the site of the Upper Pit has been in place in living memory. The clay voids are to some extent part of the history of human interaction with the landscape and are arguably an integral feature of the AONB. Although it may take some time to establish trees on the steep sides of a deep void, it seems to me that the side slopes of the existing claypits at Freshfield brickworks are not unduly steep. Moreover, a well designed, low level restoration could provide significant opportunities for biodiversity improvements at the site. On balance, it seems to me that a low level restoration could offer more benefits than the proposed restoration of the Upper Pit as set out in the appeal scheme and I conclude that the proposal does not satisfy any overriding need for a particular form of restoration of the claypits.

28. The woodland management plan, referred to in the S106 agreement, would provide benefits to the wider area, but must be partly balanced against a small area of ancient woodland that would be lost as a result of the landfill proposals. Moreover, it may well be possible to achieve such benefits in any future proposals for restoration associated with a possible extension of clay extraction in the area.

iii. The need for additional non-inert landfill capacity

29. Turning to the need for landfill capacity, it seems to me that there are two important aims to be considered. The first is to ensure that adequate capacity is provided in the right place to meet the needs for waste management of all waste streams and, the second, is the objective of moving waste management practice up the waste hierarchy. To achieve both these aims it would appear that an accurate assessment of need and provision of landfill capacity is required. To under-provide would obviously have serious consequences, leading possibly to the export of waste out of the County, whereas to over-provide could reduce incentives to achieve a step change in the delivery of waste management facilities up the waste hierarchy. Admittedly, problems associated with overprovision could possibly be addressed, or partially overcome, by various means such as financial incentives/disincentives (e.g landfill tax) or by imposing measures such as restrictions on large landfill permissions so that capacity is released in phases. Such incentives or restrictions may be difficult to apply with sufficient accuracy to ensure that waste management is moved up the waste hierarchy as intended. Notwithstanding this, I consider that the greatest problems would occur if there was insufficient landfill capacity to meet essential needs, not least because of the long lead-in times necessary to provide major waste management facilities.

30. Unfortunately, the process of predicting future waste arisings and the deliverable waste management capacity that will be available for dealing with those arisings is both complex and prone to inaccuracy. Nevertheless, at the inquiry there was general agreement on current arisings within the County for both municipal solid waste (MSW) and commercial and industrial (C&I) waste. Moreover, the figures put forward by the parties for anticipated growth rates are not far apart. The main issues between the parties relate to anticipated future rates of recycling and recovery, the allowances to be made for London Waste, and the location of facilities.

31. The targets for diversion of waste from landfill in Policy W5 of RPG9 exceed those set out in the July 2005 amendments to Waste Strategy 2000. However, the RPG postdates the Waste Strategy 2000 amendment and recognises the difference in targets. Moreover, it emphasises the need for the diversion targets set out in Policy W5 to be achieved and states that Waste Planning Authorities should ensure that policies and proposals are in place to deliver these targets. As the County Council points out, the RPG targets are not a vague aspiration but a clear objective and I agree that these figures should be used in calculating projections. I do not accept that their use should be treated as a 'conservative' approach (resulting in an underestimate of the requirement for landfill void space) as suggested by the appellants.

32. In seeking to demonstrate that adequate capacity will be provided to deal with waste arisings, WSCC has adopted an approach of predicting when particular facilities will come on stream. In contrast the appellants have adopted an approach of considering target diversion rates.

33. WSCC points out that the appellants' 'conservative' assessment shows a total shortfall of void capacity in the County between 2007 and 2021 of 655,000t if the appeal site is not used

for landfill. However, that shortfall assumes that 2,040,000t of London's waste must be landfilled in the County. Moreover, the appellants' exercise assumes that the proposed Brookhurst Wood landfill extension would provide only 1,100,000t capacity when the applicants for that site submit that on the basis of existing densities being achieved a figure of 1,400,000t is realistic. I have no reason to doubt the capacity claim put forward by the applicants for the Brookhurst Wood landfill extension, although I accept the appellants' argument that there is a risk that the development may not proceed. A problem may arise, for example, in obtaining a PPC permit for placing waste over existing waste deposits which may not be Landfill Directive compliant. Notwithstanding this, if the London waste arisings are not taken into account, the appellants' conservative estimate suggests a surplus of landfill capacity even without the addition of capacity at Brookhurst Wood.

34. The appellants also produced what they term a 'realistic' assessment, which, amongst other things, uses diversion figures from landfill which are below those set out in RPG9. However, WSCC points out that, without use of the appeal site for landfill, even this assessment results in a shortfall of void space capacity in the County of only 40,000t over the period 2007 to 2021, if London waste is ignored and the Brookhurst Wood capacity of 1,400,000t is adopted rather than the 600,000t assumed in the appellants' calculations for the 'realistic' assessment.
35. On the other hand, it seems to me that there are a number of assumptions which may not come to fruition in the scenario for waste management provision up to 2021 put forward by WSCC. Although the WSCC submissions indicate that there may be sufficient capacity at the sites identified to meet landfill needs up to 2021, there is clearly a risk that the various assumptions in the Council's case may prove to be inaccurate. For example, the Brookhurst Wood proposal may not proceed.
36. Another item of concern in relation to the Council's case is its assumption that an energy from waste (EfW) plant intended to treat 250,000 tonne per annum (tpa) of commercial and industrial (C&I) waste will be constructed by 2013. The appellants point out that there is no evidence to support this assumption and such a scheme has not been specifically identified in the development plan or any document forming part of an emerging plan. It is also pointed out that, unlike municipal waste, contracts for dealing with C&I waste are invariably short term, thereby making it unlikely that funding would be raised to meet the high capital cost of EfW facilities intended for C&I waste only. Moreover, it is unlikely that a private sector investor would choose to invest in a dedicated C&I waste-only EfW facility while gate fees achievable in the municipal market continue to command a premium. Given PPS10's emphasis on competitiveness, the appellants argue that it is difficult to conceive state intervention to alter the short term competitive nature of the market. I agree that the chances of an EfW plant primarily for C&I waste being constructed by 2013 appear somewhat remote under present circumstances.
37. The advice in Box 27 of the Companion Guide to PPS10 indicates that account should be taken of the likelihood of a scheme coming forward by allocating an appropriate percentage figure to the anticipated capacity that reflects the likelihood. This approach has been adopted in the appellants' assessments.
38. It is also noteworthy that the main parties at the inquiry agreed that an element of construction and demolition waste would form a part of the non-inert waste stream and that this has not been taken into account in the various arising/capacity assessments. This could add a significant figure to the need for non-inert landfill capacity. It is also likely that ash

from EfW plants would need to be dealt with as non-inert waste. Again this could also add to the demand for non-inert void space.

39. However, as indicated above, I give considerable weight to the fact that the Government clearly wishes to bring about a step change in moving waste management higher up the hierarchy. Further incentives to achieve this may come forward in the not too distant future. For this reason, I accept that it is difficult for the Council to be precise in predicting when and in what form proposals for waste management facilities will come forward for dealing with various waste streams. Future decisions will no doubt be based on costs, incentives and changes in technology. Moreover, I must bear in mind that recycling and diversion targets have been set and are intended to be met. I therefore have no doubt that significant changes will take place in the way that most forms of waste are dealt with.
40. In relation to the provision of waste from London, the waste strategy in RPG9 encourages regional self sufficiency including provision for a declining amount of waste from London. Policy 4 of the guidance indicates that provision should be made for waste from London, although this is subject to the caveat 'where appropriate'. WSCC argues that it cannot be 'appropriate' to provide capacity for London waste where such provision requires the granting of planning permission for a major landfill development in the AONB. I have some sympathy with this argument, particularly in view of the guidance in PPS7 that major development should not take place in AONBs except in exceptional circumstances. I am not convinced that a requirement to accommodate London's waste could be defined as exceptional circumstances.
41. Policy ERA8 of the WSSP, which admittedly predates the RPG9 amendment but nevertheless forms part of the development plan, does not appear to require provision to be made in West Sussex for the landfilling of London waste. Moreover, RPG9 refers to the continuing work to derive a methodology to apportion London's waste and refers to a methodology having been included in the draft South East Plan. However, as indicated above, I am mindful of the variety of conflicting representations that have been made on this subject to the Panel examining the draft South East Plan and I can therefore give little weight to the policies of the emerging Plan. At present, the document refers to the need for the apportionment to be used as the basis for further testing in production of Waste Development Frameworks, taking into account more detailed information about site suitability and availability.
42. On balance, despite the changes that have occurred since the appeal into the proposal to extend the existing landfill at Lidsey (Appeal Ref APP/P3800/A/05/1190859), I concur with my colleague's conclusion that given the shortfall in waste landfill capacity in West Sussex and the policy imperative of meeting the needs of the County, it is doubtful whether it would be appropriate to build an apportionment for London's waste into the need equation. Notwithstanding this conclusion, I give some weight to the appellants' argument that there is an element of risk in not including any capacity for London's waste in the need calculations as the EIP panel report anticipated later this year may recommend that the County should accommodate an element of such waste.
43. It was argued, primarily by the Freshfield Action Group, that there are preferable sites to Freshfield Lane Brickworks elsewhere in the County if there proved to be a shortage of landfill capacity in the future. A number of potential sites were referred to, but I have insufficient evidence on which to come to a firm conclusion either way. The assessment exercise undertaken on behalf of the action group was somewhat superficial. A large number

of sites have been assessed in the past by the County Council. The sites at Rudgwick Brickworks, West Hoathly and Rock Common, which were referred to by the appellants as being the only realistic alternatives, all appear to have significant potential drawbacks. Amongst other things, landfilling at Rudgwick could conflict with brickmaking operations and could well have an adverse impact on the residential amenities of nearby dwellings. Access to West Hoathly is via residential roads and landfilling could well have a serious impact on residential amenities in the area. Objections to Rock Common include potential problems of water resource protection and it is noteworthy that the EA currently has an objection to landfill proposals at Rock Common. However, a planning application in relation to that site has recently been submitted and has yet to be determined. Moreover, other sites could of course come forward in the emerging development plan process

44. With regard to the location of the appeal proposal, I am mindful that PPS10 indicates that planning strategies should give significant weight to the location needs of waste management facilities. However, I am not convinced by the appellants' argument that the appeal site is an ideal location for a non-inert landfill site, particularly as the source of the waste that would be dealt with has not been identified. The site is close to the West Sussex/East Sussex border, but there is no reason to believe that West and East Sussex is intended to be a unit on which the siting of waste management facilities is to be determined in the future. East Sussex has recently adopted a waste local plan that does not rely on using landfill in West Sussex. Both counties appear to intend to operate on the basis of net self sufficiency and it is arguable that as the site is located close to the County boundary it would be poorly located to deal with waste from West Sussex. Moreover, as the appeal proposal is intended for the deposit of residual waste, it may well be that waste would be transported from a transfer station which would not necessarily be in close proximity to the appeal site. Although the appellants argue that kerbside collections can be a form of pre-treatment by separating waste at source, there is no reason to believe that the appeal site is intended to accommodate waste from kerbside collections. On balance, I see little merit in the locational attributes of the appeal site in sustainability terms.
45. In summary, in relation to the need for additional non-inert landfill capacity, I agree with the appellants' argument that the risks inherent in each of the elements of WSCC's assessment should be aggregated rather than considered individually if a robust forecast is to be achieved. Accordingly, I consider that there is clearly potential for there to be a shortage of landfill capacity in West Sussex during the period 2007 to 2021, albeit that any such shortage may well be small. However, there is also potential for other sites to come forward and the increasing momentum to achieve a step change in moving waste management up the waste hierarchy will no doubt produce incentives and initiatives that will help reduce the need for landfill that would otherwise occur. Moreover, it seems to me that encouragement should be given to strategies which seek to reduce reliance on landfill. Although there is an element of risk in the strategy on which the Council's assessment is based, I am not convinced that the risk is sufficient, or that the potential shortage of landfill voidspace is so great, that it represents the exceptional circumstances that would normally be required to justify major development in the AONB, if such development is likely to cause harm to the AONB.

The implications for Waste Planning Strategy

46. The site lies close to the border of the County and therefore many of the potential sources of waste that could be deposited at the site lie outside the County. The Council is concerned

that this aspect of the proposal has the potential to undermine the overall waste planning strategy within the County.

47. Government policy seeks to ensure that waste is dealt with in a more sustainable manner and that the management of waste is moved up the waste hierarchy. In order to achieve this objective, PPS10 points to the need for a step change in the way waste is handled and for significant new investment in waste management facilities. The guidance indicates that when dealing with proposals for waste disposal facilities on unallocated sites, the applicants should be able to demonstrate that the envisaged facility will not undermine the waste planning strategy by prejudicing movement up the waste hierarchy.
48. WSSP Policy ERA8 indicates that provision should be made for sufficient capacity to manage waste that will arise in West Sussex and that account should be taken of the need to minimise landfill. The appellants' case is that there is a need to identify additional landfill capacity. The appeal proposal would not replace allocated sites but supplement the list of such sites. It is argued that it is far easier to control the timing and delivery of identified capacity than to accommodate an under-provision. The appeal proposal would help to reduce the real risk of an under-provision of landfill capacity.
49. On balance, I conclude that the proposal would not undermine and would even be of some benefit to the Council's waste planning strategy. It seems to me that at present there is greater risk of an under-provision of landfill capacity than an overprovision of such magnitude that would discourage a step change in waste management up the waste hierarchy. However, despite the assessments undertaken in the past, there is potential for new sites to come forward as part of the emerging development plan process. Moreover, the changes being encouraged in the way waste is managed are likely to accelerate and I do not consider that the threat of under-provision of landfill capacity is so serious that it represents an overriding issue in this case.
50. Although well sited to accommodate waste from parts of East Sussex and possibly some parts of London, I am not satisfied that the appeal site is well sited to encourage self sufficiency within the County and conclude that in this respect its siting detracts rather than contributes to the Waste Planning Strategy of the County.

The impact on the character and appearance of the area.

51. The appeal site is located within the High Weald AONB, approximately 2 kilometres south west of Danehill. It is surrounded by an area of undulating countryside which includes steep sided valleys and intervening ridges. A significant proportion of the surrounding area is woodland.
52. The revised regional guidance on waste and minerals (RPG9) indicates that waste management facilities should not be precluded from AONBs, if the objectives of more sustainable forms of waste management are to be met. However, the guidance adds that the type of facilities which are likely to be justified will probably be smaller scale than elsewhere and associated with rural communities. Bearing in mind that landfill is at the bottom of the waste hierarchy, I can see no encouragement for large scale waste landfill development in the AONB in regional planning guidance.
53. The appeal proposal has a number of components which have the potential to impact upon the character and appearance of the area. These include the proposed landfill and associated

works; the increased traffic that would be generated; the proposed temporary clay stockpile; and the proposed extension to the lower claypit.

54. There are a number of footpaths in the locality, including Route 25HK which runs through the site linking Treemans Lane with Freshfield Lane. This footpath passes close to the northern and north eastern edge of the proposed landfill and the southern edge of the Lower Pit. Route 22HK runs to the north of the site on high ground above the Lower Pit and the proposed extension to that pit. It is likely that the top edge of the landfill area would be seen above the treeline from this footpath. Another footpath, 26HK, runs to the south of the site. The proposed southern nib of the clay stockpile would be readily visible from one point on this footpath, although the view at that point is already marred by a large gas installation serving the brickworks. To the south east of the site, footpath 27HK runs alongside woodland and fields to the east of Freshfield Lane. The landfill operations would be largely screened by bunding and existing trees from this footpath, although glimpsed views of the proposed clay stockpile may be gained from this route.
55. Brickmaking has taken place at the Freshfield Lane site for at least 100 years. The works are a long established feature in the landscape and are readily apparent from Freshfield Lane and from a number of footpaths, particularly footpath 25HK. However, I agree with the Council that the appeal proposal would introduce activities that would be significantly different in character, scale and intensity to that which now occurs. During the landfilling operations, additional fencing and bunding would be sited around much of the site. Moreover, litter nets would almost certainly be required to minimise windblown litter. The operations would also require the construction of a gas management plant and a flare stack.
56. Although the existing brickworks development is lit, the landfill proposal would create a need for additional lighting of the site. External lighting would be required for the landfill support area and temporary lighting would be required for the landfill areas during dawn and dusk working in the winter months. It should be possible to ensure that lighting is directional and minimises light spill and glare, but I have no doubt that this feature would add to the urbanising effect of the development.
57. At certain times, particularly when work was being undertaken near the top of some landfill cells, plant and machinery used for the formation of bunds, spreading and compacting waste, or restoring the site, would probably be visible from certain viewpoints in the AONB. However, the number and extent of such views would be limited by the topography and wooded nature of the area. Nevertheless, I agree with the Council that the sensitivity of viewers at most of these viewpoints would be high, given the status of the area as an AONB and its obvious natural beauty and generally tranquil nature.
58. On footpath 25HK the degree of change would be high and adverse. Although the existing brickworks and Upper Pit can be seen from this footpath, and dust is created from time to time, the general level of activity is low at present for most of the year. Removal of woodland along the north west boundary of the Upper Pit would allow direct views into the site. Users of this footpath would be subject to noise from greatly increased activity on the site, offensive odours would no doubt occur from time to time, and they would have views of landfill activities and litter nets. From other viewpoints the impact would not be so great but would nevertheless be moderate and adverse from time to time.

59. There was considerable debate at the inquiry about the level of odour that would occur. Although measures could be taken to minimise this impact, experience of landfill sites suggests that odour would have an impact on amenities from time to time. Reference was made by the Council to odour problems at a landfill site at Brookhurst Wood. In response, the appellants pointed out that significant investment has been made by the operator of that site to overcome odour problems and that complaints have substantially reduced. However, during my site visit to that area, I noted strong odours from the highway which appeared to emanate from the site.
60. The appellants presented the results of a modelling exercise which suggest that odours from the proposed landfill would be acceptable even under a worst case scenario. The Council, however, points out that the data used by the appellants from a site at Mucking gives a lower odour figure than those from Frechen and Cranfield data. Although the data from Frechen is older and may have included waste streams not proposed at the appeal site, the same cannot be said of the Cranfield University data. Whichever is more accurate, the Council points out that the appellants' data does not appear to be a worst case scenario. I am mindful that the results use wind rose data from some distance away at Gatwick Airport and presumably rely on odour reduction practices being undertaken consistently to a high standard. I appreciate that the appellants' assessment adopts a worst case scenario in relation to a number of factors, but in practice a very wide range of factors could affect the odour experienced by neighbours and users of the area. Odours from landfill are considered by many people to be one of the most offensive forms of odour.
61. The EA has published working draft guidance on odour assessment and control entitled 'Horizontal Guidance for Odour Part 1 – Regulation and Permitting'. This makes use of the term odour unit (ou_E) where $1\ ou_E\ m^{-3}$ is the point of detection, $5\ ou_E\ m^{-3}$ is a faint odour and $10\ ou_E\ m^{-3}$ is a distinct odour. For activities involving putrescible waste the guidance suggests a figure of $1.5\ ou_E\ m^{-3}$ as a starting point to assess the 98th percentile indicative criterion below which no reasonable cause for annoyance is likely to arise. The appellants argue that this figure is far too restrictive, pointing out that the guidance is only in draft form and that consultation responses have yet to be published. The appellants refer to an appeal decision published in 1993 which adopted a level of $5\ ou_E\ m^{-3}$ as being a reasonable and cautious limit. However, that decision predated the draft EA guidance, which has not been withdrawn despite it having been published several years ago. It seems to me that the $1.5\ ou_E\ m^{-3}$ limit is a conservative limit, but odour control and assessment is not a precise science and odour has the potential to seriously affect the amenities of an area and the perception of its character. I therefore consider that considerable care must be taken on this issue, particularly when bearing in mind the close proximity of existing dwellings.
62. I agree with the appellants that, where an issue relates to the protection of living conditions, the same standards should apply equally in an urban area as in an AONB. However, I do not agree that the anticipated impact of odour on the users of footpath 25HK can be dismissed as low, partly because it is transitory. The appellants' analysis suggests a maximum figure of somewhere between 10 and $13.6\ ou_E\ m^{-3}$ could be experienced by users of the footpath. Although such odours may only be experienced rarely and along a short stretch of the footpath, I have no doubt that offensive odours would be experienced by users of the path from time to time and that this would seriously affect the recreational value of the footpath and the perceived character of that part of the AONB.

63. With regard to traffic, the landfill development would generate an increase in the amount of HGVs using Freshfield Lane. The appellants argue that the amount of HGV traffic generated by the landfill would not be large, and that although the percentage increase of such traffic may appear to be substantial, this is of little consequence because it merely reflects the existing low volume of HGVs presently using the road. It is submitted that the actual increase in HGV traffic is the important factor rather than the percentage increase.
64. I am mindful, however, that Freshfield Lane has a rural character. It is a winding road with no footways or kerb edging other than at its junction with the A275, which has kerbed radii and a short length of footway on the northern side. There are a number of sharp bends on Freshfield Lane where forward visibility is restricted and the width of the carriageway is such that large vehicles would not be able to pass one another. The impact of an increased volume of HGV traffic using such a road, both in terms of the effects on the character of the area and the functional operation of the road is likely to be far greater than a similar increase on a road designed and expected to carry significant volumes of HGV traffic.
65. The number of additional HGV movements generated by the landfill proposal would depend upon such matters as the precise quantity of waste and other material to be imported; the type and nature of the material to be imported and hence its imported and final density; the time taken to fill the site; and the size of lorries used to carry the material. However, most estimates suggest an approximate doubling of the number of HGV movements on Freshfield Lane, with a range of between about 92 and 160 additional HGV movements per day. This would not be noticeable on a busy main road, but in my judgment would have a significant detrimental impact on the rural character of Freshfield Lane and its surroundings, including that part of Danehill through which Freshfield Lane passes. The potential for two HGVs to meet on one of the bends in Danehill, where they would be unable to pass one another with ease, would be significantly increased. The resulting additional braking, manoeuvring and possibly reversing of large vehicles would not only be harmful to road safety, but would have a detrimental impact on the tranquil rural character of this part of the village.
66. The associated highway improvements would be limited to local widening of the carriageway where overrunning of the verges would occur. The edges of the road being defined by 'haunches' rather than kerbs. A minor amendment to the northern kerblines of Freshfield Lane at its junction with the A275 in Danehill would be undertaken to discourage vehicles from 'cutting the corner' as they turned into Freshfield Lane from the north. 'Gateway features' would be sited on Freshfield Lane and the A275 as vehicles entered Danehill to emphasise the reduction in the speed limit and the fact that vehicles were entering a settlement where a greater number of hazards are likely to be encountered. It is also proposed that a feature narrowing the Freshfield Lane carriageway near its junction with the A275 be introduced to emphasise the need for care approaching the junction.
67. In my judgment, these improvements are all minor and would not have a significant effect on the character of the area. By virtue of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the Danehill Conservation area. I am mindful that the village green and nearby Church are important elements in the overall character of the conservation area, and I am satisfied that the proposed highway improvements have been sufficiently restrained to ensure that this aspect of the overall scheme would preserve the character and appearance of the area. However, the junction of Freshfield Lane and the A275

is at a sensitive and conspicuous part of the conservation area being next to the village green and War Memorial. Large vehicles turning left into Freshfield Lane have to slow down to a very low speed and swing across the full width of the carriageway of Freshfield Lane in order to negotiate the junction. The increased number of vehicles that would be required to undertake this manoeuvre as a result of the appeal proposal would have some detrimental impact upon the general and historic character of the Conservation Area, despite the fact that it is already subject to noise and speed of traffic using the A275.

68. In summary, I consider that the highway improvements associated with the scheme are relatively minor and would not have a significant impact on the rural character of the area. However, I have serious concerns about the impact of the landfill proposal, and the traffic it would generate, upon the tranquil rural character and natural beauty of the AONB. Although the existing brickworks and associated claypits form a substantial industrial facility in an otherwise rural landscape, the facility is a long standing feature which has links with historical industry in the area. In contrast, the landfill proposal would be an alien feature which from time to time would introduce new harmful effects such as odour, windblown litter (or the visual impact of litter nets), additional lighting and noise and disturbance associated with the intensification of activity on the site and on the surrounding road network. For 11 years, there would be substantial activity at the Upper Pit, whilst material was being placed in the landfill, and HGV traffic on Freshfield Lane would be doubled.
69. These factors would harm the tranquil rural character and natural beauty of the AONB. The fact that the brickworks already has some detrimental impact on the AONB does not justify further significant harm. In my judgment, the impact of the landfilling operations at the site and the additional HGV traffic on the local road network would have an unacceptable effect on the environment in this part of the AONB, contrary to the objectives of WSSP Policies CH2 and ERA8, ESSP Policies EN2 and EN3, WLP Policy EN6 and MSLP Policy C4 which are designed to protect the natural beauty and character of AONBs and/or ensure that the impact of development on the environment is acceptable.
70. The proposed landfill would enable the Upper Pit to be restored to a similar landform to that which existed before clay extraction took place. However, even after restoration, it is likely that the site's use for the deposit of landfill would be apparent because of the presence of features such as landfill gas extraction and monitoring wells, albeit that these may be kept at ground level by adjusting the levels as the landfill settles. In addition, the gas and leachate management plant would need to be retained for a long time after completion of landfilling operations.
71. With regard to the proposed clay stockpile, although it would be about 13 metres high, it would be substantially screened from most viewpoints. However, it would be seen in glimpses from short sections of the local footpath network, including footpath No 27HK which lies to the east of Freshfield Lane. It seems to me that it would be particularly noticeable at a relatively close distance when viewed from footpath 26HK although views from this location are already dominated by the presence of the gas compound close to the footpath. The appellants point out that the stockpile mound would be landscaped, or at least grass covered, and like the remainder of the landfill proposal would be a temporary feature. Moreover, the stockpile would be slowly eroded as the clay was used and its maximum impact would occur only in the early stages of the development.

72. The construction of the stockpile would have some detrimental impact on the character of the area, particularly whilst earthmoving plant was forming or working on the most exposed surfaces of the feature. However, given the relatively few locations from where the stockpile would be seen as an obtrusive feature in the landscape, and its perceived benign nature as a mound of inert material slowly being reduced, I consider that its impact on the character of the area would be limited.
73. The appellants argue that the temporary nature of the landfill and associated works minimise any harm that such development would cause to the character of the area. When considered against the permanent nature of the AONB and its intended protection for future generations, I agree that limiting an impact to a period of 11 years or so could make that impact acceptable. I consider that this is certainly the case in respect of the clay stockpile, which in my judgment would not be a prominent feature from public viewpoints and would not have a significant impact on the lives of local people. However, as objectors point out, 11 years can be a significant period in the lifetime of a person – it can form the majority of a childhood or the remaining years of an older person’s life. Those aspects of the scheme which have the potential to impact daily upon the lives of the community, such as the increased HGV traffic and its detrimental effect upon the character of the area therefore cannot, in my judgment, be dismissed because they would only last for a period of 11 years. In terms of an individual’s lifespan, these effects could well be considered medium or even long term.
74. Furthermore, the impact of the landfill would, in many respects, last considerably longer than 11 years. The need to manage landfill gas and leachate production/treatment would continue for many years after the completion of the deposit of waste. The landfill gas utilisation plant, the leachate pond, venting boreholes and leachate extraction points would remain as features of the area for many years. Moreover, as many objectors point out, the site’s use as a deposit for waste would remain in the consciousness of local people and would have a detrimental impact on the perceived naturalness and quality of the area.
75. The proposed extension of the Lower Pit would result in the loss of an existing area of ancient semi-natural woodland and a grass field. Clearly this aspect of the proposal would have a detrimental effect on the character and appearance of the AONB. The visual loss of the woodland would be ameliorated to some extent by screening that would be provided by the strip of woodland to be retained to the north, alongside footpath 22HK, and by existing woodland bounding the southern edge of the proposed extension, which also surrounds a man-made lake formed in the valley of the Danehill Brook. The physical loss of the Ancient Woodland would be partly offset by the intended re-use of its soils as part of the woodland management of the wider area as set in the Section 106 agreement.
76. The part of the existing sloping field that would be lost as a result of the lower pit extension is not screened by any natural feature along its northern boundary. However, the topography of the area and location of public footpaths is such that it should be possible to screen this extension from public viewpoints.
77. Although only limited evidence was presented at the inquiry in relation to the impact of this element of the scheme on the character and appearance of the area, I consider that the loss of Ancient Woodland and excavation of the existing landform would have a detrimental effect on the character and natural beauty of this part of the AONB.

78. There is a geological SSSI at the Freshfield Lane Brickworks. The existing exposure would be disturbed by the appeal proposals. However, following consultation with English Nature and others, it appears that appropriate mitigation measures could be taken which would satisfactorily conserve and protect the long term integrity of the geological exposure of the Wealden sequence.

Highway safety and traffic flows

79. Vehicular access to the site is gained off Freshfield Lane. At present, Freshfield Lane is lightly trafficked although it is used by a number of heavy goods vehicles, including the fleet of 8 HGVs that serve the brickworks. Except for a short stretch of narrow footway on the northern side of its junction with the A275, the road has no footways, is unlit, contains a number of horizontal bends which restrict forward visibility, and has a carriageway width which is insufficient to allow two HGVs to pass one another at a number of locations. However, despite these factors the road does not have a poor accident record. The number of recorded accidents over the last 10 years is less than one tenth of the national rate for rural roads.
80. As indicated above a range of figures for the traffic that would be generated by the landfill operations has been put forward. As the nature and source of the non inert waste to be imported is unknown there is obviously potential for variation from any estimated figure. However, with estimates varying from about 92 to 166 additional HGV movements per day, it appears that there would be approximately a doubling of HGV movements on Freshfield Lane. Bearing in mind the relatively low volume of traffic currently using the road and the results of the PICADY modelling assessments set out in the Supplementary Traffic and Transport Statement (STTS), I am satisfied that the local road network has adequate capacity to accommodate the additional traffic that would be generated without excessive traffic queues or delays occurring. However, such a conclusion does not imply that the layout, design and nature of the existing road network are well suited to accommodate the additional HGV traffic that would be generated.
81. In particular, I am concerned about the layout of the junction of Freshfield Lane with the A275, together with the restricted width of the carriageway of Freshfield Lane and the limited forward visibility at some points on this road, particularly as it passes through the village of Danehill. Drivers of vehicles turning right into Freshfield Lane from the A275 have a forward visibility to the near side edge of the carriageway of the A275 of about 57 metres. At the inquiry, WSCC and objectors pointed out that this is far below the standard of 120 metres derived from guidance in Design Bulletin 32 Residential Roads and Footpaths (DB32) for a road having a speed limit of 40mph. Even if the 85th percentile speed of 36mph from a number of surveys is used, it was argued that a forward visibility of 90 metres should ideally be available if drivers are to make this manoeuvre safely.
82. I am mindful, however, that since the inquiry was closed, Manual for Streets (MfS) has been published, which supersedes DB32 and its companion guide 'Places, Streets and Movement'. The impending publication of this new guidance was referred to at the inquiry, but its status was of course limited at that time. Although MfS focuses on lightly trafficked residential streets, it indicates that its key principles may be applicable to other types of street, such as high streets and lightly trafficked lanes in rural areas. It is arguable that the new guidance is relevant to the sections of road in Danehill under consideration, particularly as the guidance supersedes DB32. The new guidance suggests that the stopping sight distance for a street

accommodating traffic having an upper 85th percentile speed of 60 kph (37mph) should be 59 metres, taking into account the bonnet length of vehicles. Using the new guidance, the forward visibility available for traffic turning right into Freshfield Lane is only marginally short of the recommended standard. Nevertheless, given the time that a heavily laden vehicle can take to move from a standing start, it seems to me that the forward visibility at this location is only barely sufficient to accommodate the additional HGV traffic movements that would be generated.

83. Of greater concern is the small radius on the southern corner of this acute angled junction, which forces large vehicles turning left into Freshfield Lane to cross into the opposing lane and thereby create potential conflict with eastbound vehicles on Freshfield Lane approaching the junction or seeking to emerge from the junction onto the A275. The appellants have put forward a proposal to narrow the Freshfield Lane carriageway shortly before the junction in order to slow down vehicles and warn of potential conflict. However, I am not convinced that this would overcome the problems associated with the design of this junction, especially when bearing in mind that the junction is also used by pedestrians, cyclists and even equestrians from time to time. I consider that the junction is not well suited to accommodate the increased volume of HGV traffic associated with the appeal proposal.
84. With regard to Freshfield Lane itself, I am mindful that some sections of the carriageway are only about 5.2metres wide. HGVs travelling in opposite directions must either stop or slow down before meeting at such a pinch point in order to pass one another on a wider section of carriageway, or one must reverse to a wider passing place. The other alternative, which appears to happen in many instances at present, is that vehicles overrun the verge. The appellants propose that the carriageway be widened at locations where overrunning of the verge has occurred. This would no doubt help to alleviate the situation at some locations, but, in the narrow confines of the village of Danehill I do not consider that such an approach would solve the problem of vehicles being unable to pass or result in a solution that would provide a safe environment for all road users.
85. Other than the short section on the northern side of the junction with the A275, there are no footways on Freshfield Lane and pedestrians share the carriageway with vehicles, or use available sections of verge to step out of the way of vehicles. Moreover, forward visibility for drivers on one bend in the village is only about 46 metres and visibility for drivers of vehicles emerging from Enholms Lane and a number of individual properties is extremely limited. I appreciate that the forward visibility of 46 metres, referred to above, meets the stopping sight distance for vehicles travelling at 30mph set out in MfS, but it would give little warning to allow the drivers of two HGVs approaching one another to stop at appropriate locations where the vehicles could pass. I am also mindful that at some points, the use of the verge to enable widening of the carriageway would reduce the ability of pedestrians to step off the carriageway as vehicles approached, whilst at other points land would need to be acquired to allow adequate widening.
86. Some time was spent at the inquiry debating which standards should be applied in relation to improving the highway and achieving an appropriate design and width of carriageway to accommodate the traffic that would be generated by the development. The advice relied upon by the appellants in 'Guidance on Minor Improvements to Existing Roads – TA 85/01' from the Design Manual for Roads and Bridges, merely provides guidance for the identification and development of minor improvement schemes. It does not replace current

standards. It seems to me that a minimum carriageway width of about 6.0 metres is necessary to allow two HGVs of the type likely to require access to the proposed landfill to pass one another with reasonable ease. On certain bends in the highway, even this width may be inadequate. An early study undertaken by Owen Williams Consultants suggested that widening of Freshfield Lane to 6m would be necessary, although as indicated above this would have necessitated land acquisition and resulted in the carriageway being close to residential properties. The appellants had originally envisaged a similar scheme being necessary, although in the light of subsequent safety assessments moved to a low intervention scheme.

87. The appellants suggest that this low intervention scheme, which consists of localised widening where the verge shows signs of overrunning together with other minor measures, would result in an overall improvement in highway safety after taking account of the increased traffic generated by the development. I do not agree. The proposed road improvements associated with the appeal proposal are minor and would do little to improve road safety on Freshfield Lane and at its junction with the A275. In contrast, an approximate doubling of HGV traffic on Freshfield Lane could have a material detrimental impact on road safety. Despite the low accident record, I have no doubt that there are significant potential hazards from HGVs using the substandard local road network. Although the recommended visibility and stopping sight distances in MfS are significantly less than those set out in earlier guidance, I am mindful that one of the main changes in the approach to street design as set out in MfS is the application of a user hierarchy to the design process with pedestrians at the top. In my judgment, the appeal proposal would be detrimental to the safety of pedestrians in Freshfield Lane, particularly in the village of Danehill. The narrow width, winding nature and limited amount of forward visibility on sections of Freshfield Lane are such that the route is not suitable to accommodate a significant increase in HGV traffic.
88. Photographic evidence, submitted by Freshfield Action Group, confirms the swept path analysis of HGV movements on Freshfield Lane put forward by WSCC, which demonstrates the difficulties that HGVs encounter in attempting to pass one another on sections of the lane. The lack of adequate safe refuge for pedestrians is also apparent from the photographs. The appeal proposal would approximately double the volume of HGV traffic using this route and thereby significantly increase a road user's chance of encountering such a vehicle. I consider that the proposal would substantially increase the potential for conflict between vehicles in the future and increase the possibility of accidents occurring which may well involve vulnerable road users. I conclude that the appeal proposal would increase HGV traffic on Freshfield Lane to an extent that it would present a real and significant risk of deterioration in road safety.
89. Freshfield Action Group and other objectors are also concerned that some HGVs travelling to and from the site would use other routes on the network of narrow roads serving the area. Although the provisions of the S106 agreement would help to ensure that the majority of generated HGV traffic used the length of Freshfield Lane linking the site to the A275 at Danehill, there may be circumstances where drivers would be tempted to use alternative routes where journey distances could be considerably reduced. Many of these routes are even less suitable than Freshfield Lane to accommodate increases in HGV traffic.

The effects on local residents' living conditions

90. The Council points to its experience of other landfills where analysis carried out prior to development has suggested that mitigation measures in relation to air quality, noise and other amenity issues would ensure that the impact on sensitive receptors would be acceptable, but this has not always proved to be the case in practice. It refers to intermittent problems of odour, air quality, noise and litter having occurred at a number of sites in the County.
91. There are a number of dwellings in close proximity to the appeal site. The development would result in increased activity on the site and on the highway network, primarily along Freshfield Lane. Although much of the additional activity would be screened behind bunding, it is likely that operations at the top of the filling area and the clay stockpile would result in some additional noise and disturbance from the site being perceived by local residents. Noise assessments suggest that noise levels could exceed MPS2 criteria for a short time at Latchetts, a dwelling to the north east of the appeal site. Moreover, it is possible that the proposed gas engines would be audible from Stoaches Farm and Field House. The Freshfield Action Group is concerned that noise from this source would be at such a level that complaints would be likely from local residents. Although the appellants point out that their noise assessment is conservative as account has not been taken of the existing noise generated by the brickworks, the Action Group is concerned that a full suite of background noise levels has not been obtained for Stoaches Farm and Field House, which are two of the dwellings closest to the principal noise sources.
92. Notwithstanding the above, I am satisfied that it should be possible to introduce mitigation measures which would keep noise limits to within those set out in Government guidance. Nevertheless, it appears that noise from operations at the site would be close to the advised limits and significantly above the current noise climate. Moreover, temporary operations for up to 8 weeks per year would produce significant noise levels albeit well within the limit of 70 dB that MPS2 advises as being acceptable. The ambient noise levels would go up at most, if not all, of the nearby dwellings. The maximum predicted increase of 5.5dB being at Tremaine Stables.
93. In addition to the noise generated by clay extraction and landfilling operations, the doubling of HGV movements on Freshfield Lane would have an impact on the noise experienced by residents of Freshfield Lane from road traffic. Although the noise from this source would be generated during the working day and would not affect sleeping patterns at night, it would nevertheless be a potential source of annoyance to local residents. The residents of Danehill village would also be adversely affected by the increased HGV traffic which would arise as a result of this proposal.
94. Government policy does not indicate that different noise standards should apply in an AONB compared to other locations. Indeed it is arguable that an excessive increase in noise would affect a greater number of people in a densely populated urban area than a sparsely populated rural location. However, policy advice indicates that tranquillity may be a material consideration in assessing the impacts on the character of an AONB. I appreciate that the existing brickworks is a reasonably large industrial operation which generates a degree of activity, traffic and noise, but, it seems to me that the area is nevertheless a reasonably quiet and tranquil location and that local residents presently enjoy the benefits of this tranquillity. They are therefore likely to be sensitive to and particularly aware of the impacts of the proposed development. Although the noise generated by the various elements of the development would be within limits generally considered to be acceptable and would not in

itself justify the withholding of planning permission, it would, in my judgment, be a source of annoyance and stress for local residents and would have some adverse material impact on the living conditions of local residents.

95. Many local residents use the local footpath network for recreation. It seems to me that the enjoyment of use of a number of these footpaths is likely to be reduced. In particular, Footpath HK25, which in places passes through the appeal site, would be particularly affected. At one point the footpath skirts around the north eastern boundary of the site close to the edge of the site where stage 3 of the landfilling would take place. At this point, downwind of the prevailing wind direction, I have no doubt that unpleasant odours would be encountered from time to time. As indicated above the appellants' assessment suggests that an odour level of up to $13.6 \text{ ou}_E \text{ m}^{-3}$ could be experienced from time to time. Although such odour problems may well be intermittent and footpath users would experience such odours only along a short length of the footpath at any one time, I do not agree that such impacts are of little consequence.
96. Users of this footpath would also pass alongside a section of the intended haul road to certain landfill stages. The noise, disturbance and visual impact arising from this feature of the development would also have a detrimental impact on the enjoyment of the footpath. I am mindful that the Upper Claypit excavation and brickworks buildings can presently be seen from the length of this footpath to the north east of the site. Although this presents an industrial vista it is one of an industry which is associated with the history of the area and is not exacerbated by unpleasant odours or regular use of earthmoving machinery, as the excavation of clays is undertaken only for a short period each summer. In my opinion the enjoyment of the use of this footpath would be seriously harmed by the appeal proposal. Views of the development would also be possible from a number of other locations. However, for the most part they would be only glimpses of development and would not intrude seriously into the overall appreciation of the AONB from those routes.
97. The odour assessment undertaken by the appellants suggests that the $1.5 \text{ ou}_E \text{ m}^{-3}$ odour figure, referred to at paragraph 61 above, could be exceeded at a number of dwellings on Freshfield Lane. Although there are many potential ways of controlling odour and the assessment suggests that even in the worst case scenario odour levels at existing dwellings are likely to be only marginally above the threshold of detection, I am mindful, as indicated above, that odour control and assessment is not a precise science and landfill odour has the potential to seriously affect the amenities of an area. Given the close proximity of a number dwellings to the proposed landfill operations, it seems to me that the development has the potential to cause some harm to local residents' living conditions as a result of odour.
98. Understandably, some residents, including Dr Lynch who lives close to the appeal site, are concerned about the potential effects of the development on human health. However, as the appellants point out, PPS10 makes it clear that modern, appropriately located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health. Given the controls imposed by the pollution control regime, I am satisfied that it should be possible to ensure that the development is operated in a manner that would not create an unacceptable risk to human health. My only reservation in this respect relates to the reference to 'appropriately located' facilities in the guidance, bearing in mind the close proximity of existing dwellings to the site and the juxtaposition of the proposed elements of the scheme with such dwellings. These

factors would require strict adherence to pollution control standards and leave little room to accommodate human error.

99. Similarly, it should be possible to ensure adequate control of litter, pests, vermin and birds, although again the proximity and juxtaposition of existing dwellings would require high standards of control to be adopted and maintained at all times.
100. The Council points to the cumulative impact of various factors upon the living conditions of local residents. I accept the appellants' argument that where the cumulative impact of a number of unrelated potential effects is being considered, the threshold of acceptability for each impact should not be reduced. However, it seems to me that this approach applies where each individual impact does not exceed the normal threshold of acceptability. Where assessments suggest that individual impacts may reach or even exceed thresholds of acceptability, albeit by such small amounts that individually they may not justify withholding planning permission, cumulatively they may become significant when considering the balance of benefits versus harm.
101. I consider that the scheme has the potential to result in detrimental impacts upon the living conditions of local residents and the public amenity of the area as a whole. Although these may be insufficient in themselves to justify withholding planning permission for this reason alone, they add weight to my conclusions on other issues that the development would cause significant harm.

The implications for the hydrology and hydrogeology of the area

102. The County Council considers that inadequate information has been supplied by the appellants in relation to hydrology and hydrogeology. It points out that the proposed landfill would be at a sensitive location lying above minor aquifers and situated below the water table. The outstanding issue on this matter relates to the lack of borehole information to the south east of the site between the proposed landfill, Bray Brook and a number of wells in properties along Freshfield Lane. It is argued that the lack of information leads to uncertainty about the location of any groundwater divide. The Council submits that such a divide could exist on the site of the proposed landfill. If this were the case and a fault developed in the landfill liner, the wells, springs and brook to the south east would be at risk of contamination.
103. The County Council submits that insufficient measurements have been made to take account of seasonal variations in groundwater levels. It is submitted that a groundwater divide could follow the north-south ridge which cuts across the site of the proposed landfill and that ground water level measurements at various locations suggest that this may be the case. In contrast the appellants point out that groundwater does not necessarily follow the original ground level topography. Moreover, Danehill Brook to the north is at a much lower level than Bray Brook, and the Lower Tunbridge Wells Sand (LTW), which has a higher permeability than the Upper Tunbridge Wells (UTW), outcrops near Danehill Brook. The appellants argue that these factors, together with groundwater level measurements indicate that groundwater below the proposed landfill site drains towards Danehill Brook and that any groundwater divide is near Freshfield Lane. Moreover, it is submitted that it would be possible to install a bentonite screen to act as a second liner if this were required although such a provision is considered unnecessary.
104. Considerably more information is now available on the subject of hydrology and hydrogeology than at the time of the planning application because of the submission of the

PPC permit application to the EA and subsequent responses made by the appellants to Schedule 4 Notices issued by the EA requiring further information. Throughout this process the EA has maintained its position of not objecting to the appeal proposal.

105. On balance, it seems to me that the evidence suggests that groundwater at the site of the proposed landfill flows towards Danehill Brook. However, the geology and hydrogeology in the vicinity of the site is complicated by a number of factors and I consider that the site investigation information obtained to date is insufficient to accurately determine the location of any groundwater divide. However, in the unlikely event that this should be found to occur at the site of the proposed landfill, it would be possible to engineer the development in a manner that would adequately protect groundwater, Bray Brook, its associated springs and the wells at properties in Freshfield Lane.

Other matters

106. The landfill operation would provide employment for about 5 people at the site. This is a benefit in favour of the proposal, although given the importance of other considerations to be taken into account, I consider that it is of limited weight in my deliberations.

Overall Conclusions

107. PPS7 confirms that AONBs have the highest status of protection in relation to landscape and natural beauty. The guidance indicates that major development should not take place in such areas except in exceptional circumstances and that such development should be shown to be in the public interest before being allowed to proceed. I am also mindful of the requirement to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. This approach is replicated throughout relevant development plan policies. WSSP Policy CH2 makes it clear that major development should only be permitted in the AONB in very exceptional circumstances and that the natural beauty, distinctive character and remote and tranquil nature of the AONB should be maintained. These are stringent requirements.

108. The guidance in RPG9 suggests that only smaller scale waste management facilities associated with rural communities are likely to be justified in AONBs. I am not convinced that the guidance clearly precludes large scale waste management facilities from such areas but it certainly does not give any encouragement for such development. The draft MWCS DPD 'Preferred Option' suggests that landfill proposals may be justified in the AONB to restore the landscape. However, although this may be implied from Policy CSG3(c)(iv) and paragraph 5.4.14 of the document, I note that CSG3(c)(iii) refers to inert material in relation to the restoration of mineral workings. More importantly, this document has not yet been the subject of public consultation and I give its content little weight.

109. I have no doubt that although the site is reasonably well screened and the restoration of the Upper Pit would be to a level similar to its original landform, the appeal proposal would nevertheless have a harmful effect on the natural beauty of the AONB, particularly during the 11 or so years of its operation. Moreover, during this period, the intensification of operations at the site and the increased volume of HGV traffic on Freshfield Lane would have a serious and detrimental impact on the general tranquillity and rural character of this part of the AONB. For such harm to be justified, prevailing planning policy requires exceptional circumstances to be justified.

110. I have also concluded that the appeal proposal would increase HGV traffic to an extent that it would present a real and significant risk of deterioration in road safety in the area, primarily at Danehill.
111. With regard to the need for the development, it appears that there is no suggestion that the continued operation of the brickworks is dependent upon the landfill operations taking place. The justification for the landfill element of the proposal is based upon the claim that there is a need for additional landfill capacity particularly in this part of the County, and the opportunity that the landfill proposal would provide to restore the Upper Claypit to its original contours.
112. At paragraphs 23 to 28 above, I consider the merits of restoring the Upper Pit by means of landfill compared to a 'low level' form of restoration that would be most likely to occur if the landfill proposals did not proceed. Although restoration to original contours would have obvious benefits for the appearance of the area, I consider that a 'low level' form of restoration has the potential to provide equal or greater benefit than that proposed as part of the appeal scheme, particularly with regard to the nature conservation value of the site and biodiversity considerations. I conclude that the proposal does not satisfy any overriding need for a particular form of restoration.
113. With regard to the need for additional landfill capacity, I conclude at paragraph 45 above that although there is a risk that all the various assumptions made by WSCC may not come to fruition with the result that a shortage of non-inert waste management facilities could arise in the County, the risk of such a shortage is not so great that it represents the exceptional circumstances that justify major development in the AONB where such development is likely to cause harm to the AONB. In this case, for the reasons given above, I consider that the appeal proposal would cause considerable harm, both to the character and appearance of the AONB and to highway safety on the local road network. I have no hesitation in concluding that these elements of harm outweigh the need for non-inert landfill facilities at this location.
114. There is a need for additional resources of Wadhurst clay or similar material to be released if the brickworks is to continue producing its valuable product in the future. The appellants point out that they are aware of only one alternative source of similar clay and this is controlled by a competitor in the industry. Moreover, sourcing additional clay reserves from the Freshfield Lane area would have the important benefit of avoiding an increased demand for road transport. However, the release of any further reserves of Wadhurst clay does not need to be accompanied by a proposal for the provision of non-inert landfill facilities. Notwithstanding this, if a scheme for an extension of mineral working were to be considered in isolation from the landfill proposal, it would be essential to determine comprehensive restoration proposals for existing and proposed workings and to fully assess the alternatives that might be available. The appellants accept the need for further consideration of these matters and specifically indicated at the inquiry that they do not seek a split decision in the event that I were to decide that the landfilling proposals are unacceptable.
115. I have concluded that there is a pressing and significant need for the release of further clay reserves, and I am satisfied that this need could well outweigh the harm that would be caused in relation to the loss of ancient woodland at the site, subject to an appropriate woodland management plan being undertaken for the wider area. However, it would be inappropriate for me to give an indication of my views on the overall balance of harm versus benefits in relation to an extension of the Lower Pit in isolation from the landfill proposal, as requested

by the appellants. Any such conclusions would be premature until detailed restoration options for the site have been fully assessed, and could unreasonably influence or prejudice future decisions on this matter.

116. In summing up their case, the appellants refer to a fall back position at Freshfield Lane which envisages a scenario where the brickworks eventually close whilst clay continues to be extracted and is then exported from the site. It is argued that this could prevent early restoration of the site and result in traffic generated by exporting the clay. However, there are two aspects to consider in relation to this scenario. The first is that the ROMP permission requires a review and subsequent implementation of a restoration scheme. The second, and possibly more important point, is that in seeking to extend mineral extraction outside the ROMP area in order to continue brickmaking at the site, Freshfield Lane Brickworks Ltd may well be prepared to enter into an agreement which would provide for relinquishment of certain rights under the ROMP as is the case in the present appeal proposal. Given the unknown outcome of such matters, I can give little weight to the possible scenario referred to above.

117. In relation to the Council's waste planning strategy, I consider that the proposal would be of some benefit insofar as it would help to reduce the risk of an under-provision of landfill capacity. However, I am not satisfied that the site is well located to encourage self sufficiency of waste management within the County and in this respect it does not accord with the Waste Planning Strategy. Moreover, I conclude that the scheme has the potential to result in detrimental impacts upon the living conditions of local residents and the public amenity of the area as a whole. Although these impacts would not be so severe that they would in themselves justify withholding planning permission in this case, they add weight to my concerns about the inappropriateness of the proposed landfill development at this location.

118. I have taken account of the various suggested planning conditions and the S106 agreement referred to above, but these would not overcome the harm that the development would cause.

Conclusions

119. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

120. I dismiss the appeal, and refuse to grant planning permission for works at Freshfield Lane Brickworks involving a 2.3 ha extension of the lower pit, to release 133,000 m³ of blue clay and its restoration using mineral wastes from the upper pit; the importation of 1.45 million m³ of non-hazardous residual waste to restore the upper pit; and the development of a landscaped clay stockpile adjacent to the brickworks.

M P Hill

INSPECTOR

APPEARANCES

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Mr J Patterson BA(Hons) MA MRTPI	Principal Planner (Development Control), Development, Minerals and Waste Group, Transport and Environment Dept., East Sussex County Council
Mr A Howick HNC	Planning Liaison Engineer, Development Control, Highways and Transport Department, West Sussex County Council.
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Mr A Abrahams	Cragg Wood House, Cinder Hill, Horsted Keynes, Sussex RH17 7BD
Mr J Stevens	21 Oaktree Cottages, Danehill RH17 7HY

INQUIRY DOCUMENTS

PROCEDURAL DOCUMENTS

- i. WSCC's letter of notification of inquiry and circulation list.

CORE DOCUMENTS

Application and Appeal Documents

CDA1	Planning Application CD/445/06 and Environmental Statement Volumes 1 and 2
CDA2	Addendum to Environmental Statement, January 2006
CDA3	Supplementary Traffic and Transport Statement, January 2006
CDA4	Freshfield Landfill PPC Application, June 2006
CDA5	Brookhurst Wood – extension of time to end 2009, committee report September 2006
CDA6	Brookhurst Wood- extension of time to end 2009, committee report July 2006
CDA7	Leaflet Distributed by Biffa to Local Residents
CDA8	Agreed Core Data for Lidsey Inquiry, Landfill Capacity in West Sussex as at end March 2005
CDA9	Screening Letter Submitted to East Sussex County Council, March 2006
CDA10	Quarry Restoration and Working Plan (the Working Plan), Submitted in 2002- Not Submitted
CDA11	Review of Mineral Planning Permission (ROMP), March 1999
CDA12	National Transport Statistics, Department for Transport, September, 2005 – Not Submitted
CDA13	Letter from applicants dated 6 th December 2006 containing additional highway information
CDA14	Draft Statement of Common Ground
CDA15	PINS Lidsey Landfill Appeal (APP/3800/A/05/1190859) Decision Letter of 8 th December 2006
CDA16	Feasibility Study by Owen Williams-2004
CDA17	Traffic and Transport Assessment Review, Mayer Brown
CDA18	E-mail from Claire Brook of Walker Morris dated 14/12/06 Highway
CDA19	Response to Schedule 4 Notice for Freshfield Landfill submitted for Cory Environmental on 30 Nov 2006
CDA20	Response to Schedule 4 Notice for Freshfield Landfill submitted on 8 September 2006

West Sussex County Council documents

CDC1	West Sussex Waste Local Plan Revised Deposit Draft, July 2004
CDC2	West Sussex Waste Local Plan Deposit Draft, February 2003
CDC3	West Sussex Structure Plan 2001 – 2016, February 2005
CDC4	West Sussex Minerals Local Plan, July 2003
CDC5	West Sussex Waste Local Plan, Revised Deposit Draft, Statement of Pre-Deposit and Deposit Consultation, October 2004
CDC6	Municipal Waste Strategy for West Sussex, 2004 to 2009
CDC7	Matrices referred to in paragraph 5.14 of Waste Local Plan Background Paper 5
CDC8	Waste – the challenge we all face. Non-technical summary, November 2000
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CDC12	Best Practicable Option for the Management of Commercial and Industrial Wastes in West Sussex, AEA Technology, August 2005
CDC13	West Sussex Waste Local Plan: Strategic Environmental Assessment and Sustainability Appraisal – Sustainability Report, August 2005
CDC14	Waste Forecasts for West Sussex, AEA Technology, April 2006
CDC15	Waste Forecasts for West Sussex AEA Technology, November 2006
CDC16	Public Baseline Assumptions as of December 2006 – WSCC Waste Management Services
CDC17	A Strategy for the West Sussex Landscape, Chris Blandford Associates on behalf of WSCC, October 2005
CDC18	Third Party objections to Freshfield Lane Landfill Planning Application
CDC19	WSCC Planning Committee Report 7 th March 2006
CDC20	WSCC Supplementary Planning Committee 7 th March 2006
CDC21	WSCC Planning Committee Meeting Minutes 23 rd May 2006
CDC22	Third Party Objections to Lidsey Landfill Appeal
CDC23	Report to County Council, 16 th December 2005: Waste Development Planning for West Sussex- Consideration of Options
CDC24	WSCC Strategic Planning Committee Report dated 16 th December
CDC25	WSCC Report by Director for Environment and Development and Head of Planning Services to Cabinet Member for Strategic Planning on West Sussex Minerals & Waste Development Scheme , 28 th Feb 2006
CDC26	West Sussex Minerals and Waste Development Scheme (2006-2009)
CDC27	Report by Director for Environment and Development and Head of Planning Services to Strategic Environmental Services Select Committee, 14 November 2006
A)	Minerals & Waste Core Strategy DPD: Draft Visions, Objectives, Strategies, and Policies
B)	Strategic Waste Site Allocations Development Plan Document: Potential Sites and Appendices
CDC28	Draft Joint Materials Resource Management Strategy for West Sussex (2005 – 2035)

CDC29	Horton Landfill- extension of time, WSCC Committee report, June 2004
CDC30	Pre-Deposit Consultation Document (for the West Sussex Waste Local Plan), November 2000
CDC31	Establishing Criteria for the Selection of Locations and Sites for New Waste Management Facilities, Background Paper No. 3, November 2002
CDC32	Minerals and Waste Development Framework Sustainability Appraisal: Scoping Report, May 2006
CDC33	Core Data for the Lidsey Inquiry for Brookhurst Wood
CDC34	Press Release by Mr S. Waight, 11 May 2004
CDC35	BPEO for the Management of Municipal Waste in West Sussex, AEA Technology, March 2005.
CDC36	Minerals and Waste Core Strategy Development Plan Documents: Preferred Option and Strategic Waste Site Allocations Development Plan Document: Preferred Option – not submitted see CDC49
CDC37	Minerals and Waste Core Strategy Development Plan Documents: Preferred Option and Strategic Waste Site Allocations Development Plan Document: Preferred Option – Appendix A
CDC38	Minerals and Waste Core Strategy Development Plan Documents: Preferred Option and Strategic Waste Site Allocations Development Plan Document: Preferred Option – Appendix B
CDC39	Minerals and Waste Core Strategy Development Plan Documents: Preferred Option and Strategic Waste Site Allocations Development Plan Document: Preferred Option – Appendix C
CDC40	Minerals and Waste Core Strategy Development Plan Documents: Preferred Option and Strategic Waste Site Allocations Development Plan Document: Preferred Option – Appendix D
CDC41	A report to the December 2006 Strategic Environmental Services Select committee of WSCC
CDC42	Forestry and Woodlands Framework Steering Group 2004, 'Seeing the Wood for the Trees' A forestry and woodlands framework for South East England
CDC43	The High Weald AONB Management Plan 2004 a 20 – year strategy, Adopted March 2004
CDC44	2000, Habitat Action Plan for Sussex
CDC45	Ancient Woodland Inventory (AWI)
CDC46	West Sussex County Council Cuckfield Rural District Definitive Map 1999
CDC47	West Sussex Mineral Sites A Biodiversity Action Plan
CDC48	West Sussex Waste Plan- Background Paper 5 Feb 2003
CDC49(a)	West Sussex Minerals & Waste Core Strategy Development Plan January 2007
CDC49(b)	West Sussex Minerals & Waste Core Strategy draft sustainability appraisal Report January 2007
CDC49(c)	West Sussex Strategic Waste Site Allocations Development plan document – Preferred Option January 2007
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CDE1	East Sussex and Brighton & Hove Structure Plan 1991-2011 (Dec 1999)
CDE2	East Sussex and Brighton & Hove Waste Local Plan (February 2006)
CDE3	East Sussex County Landscape Assessment 2004 (The High Weald: areas 2 and 3 (Ashdown Forest and the Upper Ouse Basin))
CDE4	East Sussex County Council Remoteness at the Local Scale (May 1997)
CDE5	Inspector's Report of the Deposited Waste Local Plan for East Sussex
CDE6	Adopted East Sussex Minerals Local Plan
CDE7	East Sussex Local Transport Plan
CDE8	East Sussex Freight Network – not submitted
CDE9	East Sussex Freight Strategy
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CDE11	Weald Ancient Woodland Survey, 'A revision of Ancient Woodland Inventory for Wealdon District, East Sussex, 2006, Sally Westerway of the High Weald AONB unit - not submitted

Government and other National organisations' documents (excluding regional guidance)

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CDG2	Planning and Compulsory Purchase Act 2004
CDG3	Town and Country Planning (Development Plan) (England) (Regulations) 1999
CDG4	Town and Country Planning (Transitional Arrangements) (England) Regulations 2004
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CDG6	Waste Strategy 2000 England and Wales, Part 1
CDG7	Waste Strategy 2000 England and Wales, Part 2
CDG8	The Planning System: General Principles, ODPM, February 2005
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CDG10	PPS7: Sustainable Development in Rural Areas, August 2004
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CDG27	ODPM Circular 06/2005 (Defra Circular 01/2005): Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system
CDG28	Design Manual for Roads and Bridges (DMRB) Volume 6, 1993 –not submitted
CDG29	Design Bulletin 32 (DB32)
CDG30	Places, Streets & Movement – A Companion Guide to Design Bulletin 32
CDG31	Guidelines for Landscape and Visual Impact Assessment, The Landscape Institute of Environmental Management& Assessment (Second Edition) 2002
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CDG33	Landscape Character Assessment, Guidance for England and Scotland, The Countryside Agency and Scottish National Heritage, April 2002
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CDG40	PPG7
CDG41	PPS15
CDG42	Wildlife and Countryside Act 1981 – not submitted
CDG43	EIA Regulations 1999
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CDG55	Environment Agency Note RGN3 - Groundwater Protection: Locational Aspects of Landfills in Planning Consultations Responses and Permitting.
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CDG57	Environment Agency - Groundwater Protection Policy
CDG58	Assessment of Community Response to Odorous Emissions, R&D technical report, P4-095/TR, Environment Agency 2002
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CDG60	Landscape Assessment of West Sussex, Section Three, Landscape Management Guidelines, Countryside Commission, West Sussex County Council, 1995.
CDG61	Areas of Outstanding Beauty, a guide for AONB partnership members, The Countryside Agency, 2001
CDG62	Report on the Landfill Allowances and Trading Scheme (LATS) 2005/6, November 2006 (Env Agency)
CDG63	Reducing the Reliance on Landfill in England, July 2006 (National Audit Office)
CDG64	Transport in the Urban Environment, 1997, IHT – not submitted
CDG65	Royal Society review of DEFRA's health and environmental effects of waste management options report, Nov 2003.

CDG66	Review of Environmental and Health Effects of Waste Management: municipal solid waste and similar wastes. DEFRA, 2004
CDG67	Review document: Waste management and public health: the state of the evidence, South West Public Health Observatory, July 2002
CDG68	Calculation of Road Traffic Noise, 1988, Department of Transport/Welsh Office
CDG69	Guidelines for Noise Impact Assessment – Consultation Draft, 2002, IEMA and Institute of Acoustics
CDG70	Horizontal Guidance Note IPPC H1- IPPC Environmental Assessment and Appraisal of BAT. EA July 2003
CDG71	IPPC Draft Technical Guidance Note IPPC H4, Horizontal Guidance for Odour (October 2002)
CDG72	Local Air Quality Management Technical Guidance, Part IV of the Environment Act 1995, LAQM.TG(03), Defra (February 2003)
CDG73	LFTGN03 Guidance on the Management of Landfill Gas, Environment Agency, (September 2004)
CDG74	LFTGN05 Guidance for Monitoring Enclosed Landfill Gas Flares, Environment Agency, (September 2004)
CDG75	LFTGN08 Guidance for Monitoring Landfill Gas Engine Emissions, Environment Agency, (Sept 2004)
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CDG81	Defra 2006, 'England's trees, woods and forests: a consultation document'
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CGG84	The Forestry Authority 1998, 'the UK Forestry Standard: The Governments Approach to Sustainable Forestry
CGG85	UKWAS (2006): The UK Woodland Assurance Standard
CGG86	The Woodland Trust 2000, 'Why UK's Ancient Woodland is still under threat'
CDG87	Environment Agency memo 22/01/07 Freshfield Landfill, comments on schedule 4 Notice response
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Other Local Documents

CDL1	Mid Sussex Local Plan, 2004
CDL2	Wealden Local Plan, December 1998
CDL3	Non Statutory Wealden Local Plan, December 2005
CDL4	The High Weald AONB Management Plan 2004
CDL5	The High Weald, Exploring the Landscape of the Area of Outstanding Natural Beauty, Countryside Commission, November 1994
CDL6	A landscape Character Assessment for Mid Sussex (November 2005)
CDL7	Danehill Conservation Area, Designation Report, October 1995
CDL8	High Weald Natural Area Profile, English Nature (Sussex and Surrey team), 1997
CDL9	The Making of the High Weald AONB Management Plan 2004

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CDR1	Regional Planning Guidance for the South East (RPG9), March 2001
CDR2	Regional Planning Guidance for the South East (RPG9) – Waste and Minerals, June 2006
CDR3	South East Regional Waste Management Statement, SERTAB, June 2003
CDR4	Strategic Waste Management Assessment for the South East, Environment Agency, 2000
CDR5	The South East Plan Core Document– A Clear Vision for the South East (March 2006)
CDR6	South East of England Draft Plan, Submission from the East of England Regional Assembly to EiP, October 2006
CDR7	<i>not used</i>
CDR8	Alternative Apportionment Options: Revision for EiP, December 2006
CDR9	A study carried out by Jacobs Babbie on behalf of the South East Region which was reported in July 2005.

DOCUMENTS SUBMITTED BY APPELLANTS

Relating to the evidence of Mr Lockhart

APP 1/1	Proof
APP 1/2	Appendices
APP 1/3	Summary
APP 1/4	Supplementary proof
APP 1/5	Ancient Woodland, Statement of Common Ground version 2; Plan 3198/C01/M14 Rev 7; and Plan ESD/07/44
APP 1/6	Plan showing woodland loss/retention on basis of ESD/07/44
APP 1/7	Calculations for standoff in relation to proposed stockpile

Relating to the evidence of Mr Smith

- APP 2/1 Proof
- APP 2/2 Appendices
- APP 2/3 Summary
- APP 2/4 Supplementary proof re-design of the Clay Stockpile
- APP 2/5 Revised landscape & visual assessment of amended stockpile design
- APP 2/6 Viewpoint montages FLB/JNS/13 – 17
- APP 2/7 Plan of existing area of clay stockpile together with photographs of site of proposed stockpile.
- APP 2/8 Addendum to Mr Smith's proof of evidence
- APP 2/9 Plan showing land over which FLB has control and where woodland is to be retained

Relating to the evidence of Dr Edwards

- APP 3/1 Proof
- APP 3/2 Appendices
- APP 3/3 Summary
- APP 3/4 Note on the hydrogeological & hydrological implications of the re-design of the stockpile and generation of the 'nib'
- APP 3/5 Letter to EA dated 13/02/07 commenting on WSCC 7/6
- APP 3/6 Briefing Note- Private Water supplies

Relating to the evidence of Mr Brownstone

- APP 4/1 Proof
- APP 4/2 Appendices
- APP 4/3 Summary
- APP 4/4 Supplementary proof relating to the re-design of clay stockpile

Relating to the evidence of Dr Gair

- APP 5/1 Proof
- APP 5/2 Appendices
- APP 5/3 Summary
- APP 5/4 Extract from Guidance for Landfill Managers on Assessment and Control of Odours -Table 3.3a: Odour Emissions from Area Sources.
- APP 5/5 Revised Odour Contour Plots.

Relating to the evidence of Mr Hardy

- APP 6/1 Proof
- APP 6/2 Appendices
- APP 6/3 Summary

Relating to the evidence of Mr Hamshaw

- APP 7/1 Proof
- APP 7/2 Appendices
- APP 7/3 Summary

Relating to the evidence of Mr Miles

- APP 8/1 Proof
- APP 8/2 Summary
- APP 8/3 Mr Miles assessment of alternative sites, using Mr Foster's scoring system.
- APP 8/4 Extracts from Draft Early Alterations to the London Plan, and The London Plan Alterations.

Relating to the evidence of Mr Leeson

- APP 9/1 Proof
- APP 9/2 Appendices
- APP 9/3 Summary
- APP 9/4 Supplementary/Errata to Proof

Relating to the evidence of Ms Dugdale

- APP 10/1 Proof
- APP 10/2 Appendices
- APP 10/3 Summary
- APP 10/4 Correspondence from PriceWaterhouseCoopers to Ms Dugdale dated 10/02/07 re prospects for EfW development

General Documents Submitted by Appellants

APP/GEN/1 Draft Statement of Common Ground
APP/GEN/2 Certified copy of S106 Agreement
APP/GEN/3 Opening Statement on behalf of Appellants
APP/GEN/4 WSCC Statement to South East Plan EIP
APP/GEN/5 ESCC Statement to South East Plan EIP
APP/GEN/6 Revised Application Plans – See List of Plans
APP/GEN/7 Appellants’ submission to the SE Plan EIP
APP/GEN/8 Note on the Wheatcroft case
APP/GEN/9 Landscape comments by Esmond Turner 12/07/05
APP/GEN/10 Extract from DMRB including TA85/01- Guidance on Minor Improvements to Existing Roads
APP/GEN/11 Extract from Inspector’s Report East Sussex & Brighton & Hove Waste LP – Part Two: Statement of Reasons
APP/GEN/12 Description FLB at 1st stage of Waste Local Plan - 1 of 386 assessments
APP/GEN/13 Extract from Background Paper No. 8 Response to the pre-deposit consultation of the West Sussex Waste LP
APP/GEN/14 Plan showing Brookhurst Wood Extension from Strategic Waste Allocations DPD
APP/GEN/15 Potential for Woodland Establishment on Landfill Sites 1993 – DOE document , Chapter 8 extract. *Updated 1997*
APP/GEN/16 Sensitive Receptors in Close Proximity to the FLB Landfill
APP/GEN/17 Guidance Manual for Landfill Managers on the Assessment and Control of Landfill Odours
APP/GEN/18 Chances of 2 HGVs passing on Freshfield Lane
APP/GEN/19 Consideration of Table 3.1 of Mr Whittingham’s proof
APP/GEN/20 Assessment of Rock Common Sandpit, Washington
APP/GEN/21 EA letter to Golder Assoc Ltd dated 31/08/05
APP/GEN/22 Rock Common Action Group Newsletter date 02/02/07
APP/GEN/23 Closing Submissions on behalf of Appellants

DOCUMENTS SUBMITTED BY WEST SUSSEX COUNTY COUNCIL

Relating to the evidence of Mr Farrelly

WSCC 1/1 Proof
WSCC 1/2 Appendices
WSCC 1/3 Summary
WSCC 1/4 Supplementary Proof
WSCC 1/5 Memo from Nadeem Shad of Mid Sussex DC dated 15.04.05 commenting on the ES.
WSCC 1/6 Note on Draft Condition 26 – Noise (Landfill Gas Engines)

Relating to the evidence of Ms Darrie

WSCC 2/1 Proof of evidence
WSCC 2/2 Appendices to proof – Vol 1
WSCC 2/3 Appendices to proofs – Vol 2
WSCC 2/4 Summary proof
WSCC 2/5 Supplementary proof
WSCC 2/6 Appendices to Suppl proof
WSCC 2/7 Summary Suppl proof
WSCC 2/8 Errata sheet to WSCC2/1
WSCC 2/9 Letter from Biffa dated 26 Jan 07
WSCC 2/10 Minerals & Waste Dev’t Framework - Changes between versions approved by WSCC & published documents.
WSCC 2/11 Errata of evidence and supplementary as result of AEAT amendments
WSCC 2/12 Spread Sheet showing amendments of AEAT figures
WSCC 2/13 Biffa letter to Ms Darrie dated 08/02/07 re: Brookhurst Wood conversion factor.
WSCC 2/14 Response to cross examination questions
WSCC 2/15 Note on importation of waste from London
WSCC 2/16 Letter from Biffa 16/02/07 to Ms Darrie re:Brookhurst Wood

Relating to the evidence of Mr Coulson

WSCC 3/1 Proof
WSCC 3/2 Appendices
WSCC 3/3 Summary
WSCC 3/4 Supplementary proof
WSCC 3/5 Note on possible low level restoration
WSCC 3/6 Mr Coulson’s response to JNS new view points.

Relating to the evidence of Mr Howick

WSCC 4/1 Proof
WSCC 4/2 Appendices

WSCC 4/3 Summary

Relating to the evidence of Mr Patterson

WSCC 5/1 Proof
WSCC 5/2 Appendices
WSCC 5/3 Summary
WSCC 5/4 Comments on air quality and noise by Mr Arnold.

Relating to the evidence of Mr Wright

WSCC 6/1 Proof
WSCC 6/2 Appendices (including extract from Draft MfS re stopping sight distance)
WSCC 6/3 Summary
WSCC 6/4 Extract from Chapter 3 DMRB Traffic Calming Measures - Specific traffic calming measures TA 87/04
WSCC 6/5 Extract from Chapter 2 DMRB - Guidance for Designers TA 87/04

Relating to the evidence of Mr Bowen

WSCC 7/1 Proof
WSCC 7/2 Appendices 1-3
WSCC 7/3 Summary
WSCC 7/4 Supplementary statement
WSCC 7/5 Local Well Sources
WSCC 7/6 Letter to EA dated 07/02/07 relating to the impact on wells

General Documents submitted by West Sussex County Council

WSCC/GEN/1 Suggested Conditions
WSCC/GEN/2 Opening Submissions on behalf of WSCC
WSCC/GEN/3 Set of 5 documents relating to planning applications at the appeal site
WSCC/GEN/4 Certificates of Publication of Notice of Inquiry.
WSCC/GEN/5 Closing submissions on behalf of WSCC

DOCUMENTS SUBMITTED BY FRESHFIELD ACTION GROUP

Relating to the evidence of Mr McGrath

FAG 1/1 Proof (incorporating appendices)
FAG 1/2 Plan showing geology of Surrey and Sussex.
FAG 1/3 Bundle of 9 documents on matters outstanding from Mr McGrath's evidence

Relating to the evidence of Ms House

FAG 2/1 Proof
FAG 2/2 Appendix A
FAG 2/3 Summary
FAG 2/4 Summary of sensitivity and magnitude, and significance level for representative viewpoints.
FAG 2/5 Photos of lorries associated with a landfill site

Relating to the evidence of Mr Taylor

FAG 3/1 Proof
FAG 3/2 Appendices
FAG 3/3 Summary
FAG 3/4 Supplementary proof
FAG 3/5 Letter to EA dated 13/02/07
FAG 3/6 Response to Dr Gair on distances between existing properties to site boundary

Relating to the evidence of Mr Whittingham

FAG 4/1 Proof
FAG 4/2 Appendices
FAG 4/3 Summary
FAG 4/4 Extract DMRB Vol 6 sec 1 TD 9/93 Design Speed
FAG 4/5 Geometric Design of Major/Minor Priority Junctions TD 42/95
FAG 4/6 Technical Note 1 Comment on and extract from Transport and the Urban Environment
FAG 4/7 Extract from PICADY 5.0 User Guide.

Relating to the evidence of Mr Foster

FAG 5/1 Proof
FAG 5/2 Appendices

FAG 5/3 Supplementary

FAG 5/4Rev -Revised table 2.3A substituted on 20/02/07 – Projection of Non-Inert Waste Disposal in West Sussex 2007-21.

FAG 5/5 Revisions to Table 5.1 Site Rankings (following cross-examination)

FAG 5/6 Land Uses and Water Resources – Submission by Golder Associates on behalf of applicants for development at Rock Common

FAG 5/7 Map showing Freshfield Lane SSSI

Relating to the evidence of Mr Denham

FAG 6/1 Proof

FAG 6/2 Letter from Danehill PC to Freshfield Lane Brickworks 14 July 2006

FAG 6/3 Photographs of verge damage

FAG 6/4 Letter from Danehill PC to ESCC dated 13th July 2006

FAG 6/5 Note of meeting of 11th Jan 2007 Danehill PC with ESCC re verges

Relating to the evidence of Mr Parsons

FAG 7/1 Proof (summary, proof and appendices bound as one)

FAG 7/2 Letter from Mr Hardy MD of FLB to West Sussex CC dated 29 January 2001

FAG 7/3 Letter from Mr Hardy MD of FLB to West Sussex CC dated 22 February 2001

FAG 7/4 Letter from Mr Hardy MD of FLB to Mrs Seear dated 15 March 2001

Relating to the evidence of Dr Lynch

FAG 8/1 Proof

General Documents Submitted by Freshfield Action Group

FAG/GEN/1 Not Used

FAG/GEN/2 Survey of Freshfield Lane - Plans 001-004

FAG/GEN/3 Tabular form of the survey in FAG/GEN/2

FAG/GEN/4 Email dated 1/3/07 from Elaine Seear to Programme Officer re accident on A275

FAG/GEN/5 Plan showing suggested area woodland to be retained

FAG/GEN/6 Closing Submissions on behalf of Action Group

FAG/GEN/7 Agreed Statement relating to visibility at Freshfield Lane/A275 Junction

OTHER DOCUMENTS

IP/1 Copy of Statement made by Mr A Abrahams

Written Representations submitted during the Inquiry

WR1 E-mail from Sarah Robinson CPRE Sussex dated 29 January 2007

WR2 E-mail from Barbara Low dated 21 February 2007

WR3 Representations of Lynne Mulcare on behalf of Horsted Keynes Parish Council (Change to Written Reps)

WR4 Letter from Dr M G Wells dated 21 February 2007

WR5 Letter from Mr Parsons dated 22 February 2007.

WR6 Letter from Robert and Paula Hershkowitz dated 22 February 2007.

PLANS

List of Application Drawings (as revised)

1	Site Location	FLA2/1
2	Application Site	FLA2/2
3	Development Elements	FLA3/1Rev A
4	Phase 1 (Initial Works)	FL3/2a
5	Phase 2 (Stage 1 Landfill)	FL3/3a
6	Phase 3 (Stage 2 Landfill)	FL3/4a
7	Phase 4 (Stage 3 Landfill)	FL3/5a
8	Phase 5 (Final Restoration)	FL3/6a
9	Final Restoration	FL3/7 (Rev A)
10	Final Restoration Sections	FL3/8 (Rev A)
11	Proposed Geological SSSI Locations	FL13/4 Rev A
12	Revised Stockpile Design	FLB/JNS/12
13	Proposed Highway Improvements on Freshfield Lane within West Sussex	JNY 4433/30A
14	Proposed Highway Improvements on Freshfield Lane within East Sussex	JNY 4433/31
15	Proposed Freshfield Lane/A275 Junction Improvements	JNY 4433/15