

# Public Document Pack



## NOTICE OF MEETING

<b>Meeting</b>	Regulatory Committee
<b>Date and Time</b>	Wednesday 27th July, 2022 at 10.00 am
<b>Place</b>	Ashburton Hall - HCC
<b>Enquiries to</b>	members.services@hants.gov.uk

Carolyn Williamson FCPFA  
Chief Executive  
The Castle, Winchester SO23 8UJ

## FILMING AND BROADCAST NOTIFICATION

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## AGENDA

### 1. APOLOGIES FOR ABSENCE

To receive any apologies for absence received.

### 2. DECLARATIONS OF INTEREST

All Members who believe they have a Disclosable Pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to Part 3 Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore all Members with a Personal Interest in a matter being considered at the meeting should consider, having regard to Part 5, Paragraph 4 of the Code, whether such interest should be declared, and having regard to Part 5, Paragraph 5 of the Code, consider whether it is appropriate to leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with the Code.

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

To confirm the minutes of the previous meeting

**4. DEPUTATIONS**

To receive any deputations notified under Standing Order 12.

**5. CHAIRMAN'S ANNOUNCEMENTS**

To receive any announcements the Chairman may wish to make.

**6. FOREST LODGE, HYTHE (Pages 7 - 54)**

To consider a report from the Assistant Director of Waste, Planning and Environment regarding a variation of condition 23 of planning permission 20/10282 to allow additional heavy goods vehicle (HGV) movements to and from site to improve operational efficiency at Forest Lodge Home Farm, Fawley Road, Hythe.

**7. UPDATE REPORT ON PLANNING CODE OF CONDUCT (Pages 55 - 96)**

To consider a report from the Chief Executive, which asks the Regulatory Committee to recommend adoption of the updated Planning Code of Conduct to Full Council, together with the onward governance requirements necessary to give effect to the Code.

**8. MONITORING AND ENFORCEMENT UPDATE (Pages 97 - 110)**

To consider a report of the Director of Economy, Transport and Environment regarding the Monitoring and Enforcement work undertaken by Strategic Planning during the period April 2022 – July 2022.

**ABOUT THIS AGENDA:**

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

**ABOUT THIS MEETING:**

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

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

# Agenda Item 3

AT A MEETING of the Regulatory Committee of HAMPSHIRE COUNTY  
COUNCIL held at the castle, Winchester on Wednesday 22nd June, 2022

Chairman:

\* Councillor Peter Latham

\* Councillor Lance Quantrill  
\* Councillor Lulu Bowerman  
\* Councillor Steven Broomfield  
\* Councillor Mark Cooper  
\* Councillor Rod Cooper  
\* Councillor Michael Ford  
\* Councillor Keith House  
\* Councillor Gary Hughes

\* Councillor Adam Jackman  
\* Councillor Alexis McEvoy  
\* Councillor Stephen Parker  
\* Councillor Louise Parker-Jones  
\* Councillor Stephen Philpott  
\* Councillor Roger Price  
Councillor Kim Taylor

\*Present

## 1. **APOLOGIES FOR ABSENCE**

Apologies were received from Councillor Kim Taylor.

## 2. **DECLARATIONS OF INTEREST**

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

## 3. **MINUTES OF PREVIOUS MEETING**

The minutes of the last meeting were reviewed and agreed.

## 4. **DEPUTATIONS**

The Chairman confirmed that three deputations had been received for the meeting, along with County Councillor Andrew Joy.

## 5. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman confirmed that Member training would take place on Monday 25 July in the afternoon. It was also confirmed that the Three Maids Hill appeal had been successful following an inquiry and therefore permission had been granted.

6. **UNIT 5 WATERBROOK ESTATE, WATERBROOK ROAD, ALTON**

***Variation of condition 5 of 51471/007 to extend the life of trial period until 31 March 2023 at Unit 5 Waterbrook Estate, Waterbrook Road, Alton GU34 2UD (No. 51471/008) EH156***

The Committee considered a report from the Assistant Director of Waste, Planning and Environment regarding an application to extend a trial period regarding Condition 5.

The officer summarised the report, confirming that there had been a change of site operator and the previous consent had never been fully implemented. It was reinforced that the Committee could only focus on the application area as outlined within the report.

A liaison panel had been established, which was Chaired by County Councillor Andrew Joy. An update report had been circulated confirmed the following change to paragraph 36 (change highlighted in **bold**):

*“The proposed development has been assessed under Town & Country Planning (Environmental Impact Assessment) Regulations 2017. The development is classified as a Schedule 2 development as it falls within Category 13 (Changes and extensions), section (a) as it is a change to a installation falling which **was originally categorised as being within Category 11(b) (ii) and (iii) (Installations for the disposal of waste (unless included in Schedule 1)).** However, whilst being identified under the Regulations, it is not deemed an EIA development requiring an Environmental Statement.”*

Aerial photos were shown of the site and it was confirmed that the access was shared by two separate land uses. The proposals included 12 HGV movements at night, but this did not involve any processing or unloading. A video was shown to Committee depicting an HGV reversing. All HGVs entering and egressing the site out of hours would be set to silent reversing alarms and use white noise systems (be in ‘night mode’). Officers had received 13 letters of objection, predominantly regarding the noise impacts and HGV routing.

The Committee received three deputations and a local Member to speak on this item.

Duncan McGregor addressed the Committee as a local resident speaking against the application. He shared how he felt that relationships had broken down with the current operator and that some activities had continued after the current permission had ceased. Councillor Suzi Burns spoke on behalf of East Hants District Council, sharing concerns over the local residents to the site who suffered previously due to operations on the site. John Palmer spoke on behalf of the applicant and confirmed that processing of materials was only done during the day and its location made it accessible to the strategic road network. Trips would not take place every night, only when required for roadworks. Noise monitoring is being prepared for the whole of the site. The applicant was keen for the liaison panel to continue and thanked Councillor Joy for chairing.

County Councillor Andrew Joy shared his concerns regarding the application, including that roads were kept in the most elevated area of the site in line of sight to local dwellings, but accepted that there would be less issues if the site was properly managed and the conditions worked effectively and was also pleased that the new operator was taking positive steps to engage with residents and had significantly reduced the stockpiles and site levels on site.

During questions of the deputations the following points were clarified:

- The topography of the site and the fact that residents were situated higher made it more difficult to control noise;
- More complaints had been received over the recent months, but it could not be guaranteed that the cause of complaints was the applicant due to the operations in the area;
- The current applicant took over in 2021;
- There was a busy road separating the site and housing;
- The liaison panel covered all operations within the unit;

During questions of the officers, the following points were clarified:

- It could not be anticipated what would happen following the temporary permissions ceasing in 2023;
- Noise monitoring would be done across the site as a whole;
- It was anticipated that the noise generated would be less than the background noise and the Environmental Health Officer didn't feel there was additional need for mitigation measures, particularly for a temporary application;
- The weighbridge and HGV reverse alarms will not be used at night;
- Landscaping had been proposed to shield the wider site as a whole rather than focused on the application area as part of previous permissions.

Officers proposed to add an additional condition on tailgates and further informative's on noise monitoring and records of road planings imported to the site following questions from members.

In debate, Members agreed that the noise should be monitored, even though it was not anticipate that it would pose a problem, particularly with the precautions being taken at night with hydraulic tailgates and reversing of HGV's.

**RESOLVED**

Planning permission was GRANTED subject to:

- a) The recommended conditions set out in Appendix A;
- b) The completion of a Section 106 agreement providing obligations on out of hours Heavy Good Vehicle movements to and from the site;
- c) A condition being added on the use of hydraulic tailgates to minimise the noise of HGV's at night
- d) Information being added relating to noise monitoring
- e) Information being added requesting that records of road planings imported to the site should be kept and made available on request

Voting:  
Favour: 15 (unanimous)

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Chairman,

## HAMPSHIRE COUNTY COUNCIL Decision Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	27 July 2022
<b>Title:</b>	Variation of condition 23 (vehicle movements) of Planning Permission 20/10282 at Forest Lodge Home Farm, Fawley Road, Hythe SO45 3NJ (No. 22/10075) Site Ref: NF271
<b>Report From:</b>	Assistant Director of Waste, Planning and Environment

**Contact name:** Sam Dumbrell

**Tel:** 0370 779 7412

**Email:** [sam.dumbrell@hants.gov.uk](mailto:sam.dumbrell@hants.gov.uk)

### Recommendation

1. That planning permission be GRANTED subject to the conditions listed in **Appendix A** and the completion of a legal agreement to ensure that a right of way across the site is still delivered within the approved restoration and that a road survey of the section between the site's access - Fawley Road junction down to Fawley Road's junction with the Hardley Roundabout (at the Fawley Road - A326 junction).

### Executive Summary

2. The planning application is for variation of condition 23 of planning permission 20/10282 to allow additional heavy goods vehicle (HGV) movements to and from site to improve operational efficiency at Forest Lodge Home Farm, Fawley Road, Hythe.
3. This application is being considered by the Regulatory Committee as it has been called in by County Councillor Wade and has received objections from both the local District and Parish Councils, and local residents. Two representations have been received from local residents and interested third parties, objecting to / or raising concerns about the proposal.
4. With the exception of the local County Councillor, New Forest District Council's Planning Team and Hythe and Dibden Parish Council who are objecting to the proposal all other consultees raise no objection to the proposal.
5. A site visit was undertaken on 06 June 2022 in advance of the proposal being considered by the Regulatory Committee.
6. Key issues raised are:

- whether the proposed increase in HGV movements to and from the site would create unacceptable impacts on road safety and on highway capacity; and
  - whether the proposed increase in HGV movements to and from the site would create unacceptable levels of noise and disturbance and impacts through air quality to nearby sensitive receptors.
7. The proposed development is not an Environmental Impact Assessment development under the [Town & Country Planning \(Environmental Impact Assessment\) Regulations 2017](#).
  8. On balance, it is considered that the proposal would be in accordance with the relevant policies of the adopted [Hampshire Minerals and Waste Plan \(2013\)](#) and that the proposal would
    - Continue to contribute in providing a steady and adequate supply of sand and gravel for Hampshire at an existing quarry; .
    - Maintain its position as a temporary minerals' extraction site with a requirement for restoration after extraction to an agricultural use;
    - Not cause unacceptable adverse impacts on road safety and on highway capacity; and
    - Not cause unacceptable adverse public health and safety or unacceptable adverse amenity impacts.
  9. Therefore, it is recommended that planning permission be granted subject to the conditions listed in **Appendix A** and the completion of a legal agreement to ensure that a right of way across the site is still delivered within the approved restoration and that a road survey of the section between the site's access - Fawley Road junction down to Fawley Road's junction with the Hardley Roundabout (at the Fawley Road - A326 junction).

## The Site

10. The site is an active sand and gravel quarry and extends over 5.6 hectares (ha) of land. The site lies approximately two kilometres to the south of the town centre of Hythe and to the west of Southampton Water (**see Appendix B - Location Plan**).
11. Vehicular access to the site is via a purpose built junction with Fawley Road, near to its south-western corner (**see Appendix C - Site Plan**), south of which lies a roundabout junction with the A326. HGVs turn right to enter the site and turn left to exit the site only. Access to the wider highway network is achieved via the A35 at Totton before continuing north to the M27.
12. The site lies within the countryside and is bounded by hedgerows and trees, with woodland to the north-east.

13. To the north of the site lies agricultural land, Forest Lodge Home Farm and associated buildings and residential properties. Further agricultural land is situated to the south of the site.
14. With the exception of the middle section of the western boundary, all boundaries surrounding the site include mature hedgerows and trees. The middle section of the western boundary includes the current site access which connects to the local road network, namely Fawley Road.
15. The site is situated 35 metres to the north-east of Gringo's Copse and Crampool Copse Site of Importance for Nature Conservation (SINC) and 115 metres to the south-east of Fawley North SINC. Further ecological designations in the vicinity include the Hythe to Calcot Marshes Site of Special Scientific Interest (SSSI) and Southampton and Solent Water Special Protection Area (SPA)/RAMSAR/Special Area of Conservation (SAC) sites which are located 1000 metres to the north-east of the site. The New Forest SSSI is situated 340 metres to the south-east and 570 metres to the south-west of the site. The New Forest National Park lies approximately 550 metres to the south-west of the site.
16. The Netley View residential estate and settlement of Buttsash lies immediately adjacent to the west of the site beyond Fawley Road (see **Appendix C - Site Plan**). The nearest residential properties are found at Beech Crescent, which is located approximately 35 metres south west, 150 metres to the west and north-west and continuing to 480 metres north of the site beyond Frost Lane.
17. The Solent Way Public Right of way (PROW) runs outside the site boundary approximately 10 metres to the east. The majority of Fawley Road has a shared footway and cycleway and uncontrolled crossings are provided close to Butts Ash Lane to the north of the site and close to Cedar Road to the south of the site.
18. Mineral extraction was initially granted permission in March 2017 (planning permission 16/10450). This gave permission for the phased (3 phases - from west to east) extraction of 468,000 tonnes of mineral and the importation of 540,000 tonnes of clean, inert waste/soil and phased backfilling to restore the site to agriculture over a period of 10 years. The phasing is set out in **Appendix D - Site Layout Plan** of this report.
19. The development commenced on 11 July 2017. Mineral extraction extends over 4.2 ha of land within the site. The remaining area of the application site is occupied by soil storage bunds, mitigation/enhancement planting and the site management area/access.
20. The site is dry worked, with no de-watering required with the excavation of mineral by a 360 excavator and loading shovel. Mineral is dug, screened and loaded into tipper lorry before leaving the site. The site will be

progressively restored to original levels and use using inert fill and land uses of an agricultural nature.

21. Vehicular access to the Site is via a priority junction with Fawley Road near to its south-western corner (see **Appendix D - Site Layout Plan**). It comprises a 7.3m wide site access road, kerb radii of 15m with a taper of 1 in 10 over 25m to accommodate the turning of HGVs. Visibility splays of 160m can be achieved in each direction, providing the required visibility suitable for the recorded 85th percentile speed of 45mph.
22. All HGV trips travel north along Fawley Road from the roundabout junction with the A326 Hythe Bypass, with export vehicles and import vehicles following the same route. At the roundabout junction approximately 20% of the HGV traffic heads south-east along Long Lane to travel towards Blackfield, Langley in the south and Beaulieu and Brockenhurst in the west. The remaining 80% of the HGV traffic heads north along the A326 Hythe Bypass to the junction with the A35. From here approximately 20% of the HGVs route west along the A35 towards Lyndhurst, 40% route east along the A35 into Southampton and the remaining 40% continue north on the A326 towards the M27.
23. Approximately 50% of the light vehicle traffic routes south from the site along the A326 to the roundabout junction; at the roundabout junction 25% (of the total) route north along the A326 and 25% route south along Long Lane. The remaining 50% of all light vehicles route north towards Hythe
24. The site has an existing Liaison Panel, which meets on a quarterly basis.

### Planning History

25. The planning history of the site is as follows:

<b>Application No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date Issued</b>
<a href="#">20/10282</a>	Variation of conditions 16 of planning permission 18/11586 to allow additional mobile kit (Excavator, Dumper truck, and cell engineering equipment) on site to improve operation efficiency	Granted	20/04/2021
<a href="#">18/11586</a>	Variation of Conditions 19 and 20 of planning permission 16/10450 to allow screening operations to take place at Forest Lodge Home Farm, Fawley Road, Hythe, SO45 3NJ.	Granted	20/09/2019
<a href="#">16/10450</a>	Extraction of soft sand and sharp sand and gravel, the construction of an improved access onto Fawley Road, the importation of inert materials and restoration of the site to agriculture.	Granted	23/03/2017

## The Proposal

26. The proposal is for the variation of condition 23 of planning permission [20/10282](#) to allow additional heavy goods vehicles (HGV) to enter and exit the site to improve operation efficiency at Forest Lodge Home Farm, Fawley Road, Hythe.
27. The planning application seeks to increase the number of permitted two-way HGV movements to and from the site from 96 per day to 192 HGV per day.
28. The applicant advises that they are seeking these increased HGVs / HGV movements to ensure that the approved cessation date for completing the approved restoration (11 July 2027) is met.
29. As a result of the impact of Covid-19, delays to the approved mineral extraction and restoration operations have occurred. The site is not yet 50% worked and / or restored despite being five years into the permitted ten year operational period.
30. Vehicular access to the site is via a priority junction comprising a 7.3m wide site access road, kerb radii of 15 metres (m) with a taper of 1 in 10 over 25m to accommodate the turning of HGVs (see **Appendix D - Site Layout Plan**). Visibility splays of 160m can be achieved in each direction, providing the required visibility suitable for the recorded 85th percentile speed of 45mph.
31. All HGVs travel north and south along Fawley Road between the site's access point and the Hardley Roundabout junction with the A326 Hythe Bypass (see **Appendix E - HGV route**).
32. At the roundabout junction, approximately 20% of the HGV traffic heads south-east along Long Lane to travel towards Blackfield, Langley in the south and Beaulieu and Brockenhurst in the west. The remaining 80% of the HGV traffic heads north along the A326 Hythe Bypass to the junction with the A35. From here approximately 20% of the HGVs route west along the A35 towards Lyndhurst, 40% route east along the A35 into Southampton and the remaining 40% continue north on the A326 towards the M27. Approximately 50% of the light vehicle traffic routes south from the site along the A326 to the roundabout junction; at the roundabout junction 25% (of the total) route north along the A326 and 25% route south along Long Lane. The remaining 50% of all light vehicles route north towards Hythe.
33. The variation has been requested to allow more flexibility for the site regarding vehicle movements exporting material and delivering restoration materials in accordance with the approved phasing plans. The applicant has indicated that the variation seeking an increased daily maximum number of HGV trips is needed due to extraction and restoration works

being severely delayed and the limited time available left to restore the site (by 11 July 2027) as triggered by Condition 1 of the planning permission [18/11586](#).

34. The **Transport Statement** submitted in connection with the planning application provides an overview of the site in terms of the local and wider infrastructure, traffic volumes and trends and road safety.

35. Condition 23 of planning permission 20/10282 is as follows:

*Heavy Goods Vehicle (HGV) movements to and from the site shall be restricted to no more than 96 per day. A daily record of HGVs entering and leaving the site shall be kept at the site and made available to the Mineral & Waste Planning Authority on request.*

36. It is proposed to amend condition 23 as follows:

*Heavy Goods Vehicle (HGV) movements to and from the site shall be restricted to no more than ~~96 per day~~ **192 per day**. A daily record of HGVs entering and leaving the site shall be kept at the site and made available to the Mineral & Waste Planning Authority on request.*

37. The proposal does not result in any changes to on-site working practices nor to the approved hours of operation (Monday to Friday 0700 - 1800 and Saturday 0700 - 1300 with no operations on a Sunday or recognised Public Holidays).

38. The site management area (located in the north-western area of the site) will also remain unchanged, retaining its main component parts, including temporary cabin/office, temporary weighbridge, temporary wheel wash; Internal access road; and designated parking area for six cars.

39. Finally, there will be no changes to the approved duration, the volume of mineral extraction, planned restoration works using imported waste/materials are proposed or to the approved aftercare (to agriculture) as a result of the proposal.

40. The proposed development is not an EIA development under the [Town & Country Planning \(Environmental Impact Assessment\) Regulations 2017](#). Although listed under Schedule 2 of the regulations, it is considered by the minerals and waste planning authority that the proposed development would not have adverse amenity impacts nor, by nature of the type, scale and location of the proposal, to cause any significant environmental effects that would benefit from the proposal being considered an EIA development.

## **Development Plan and Guidance**

41. Paragraph 47 of the [National Planning Policy Framework \(2021\)](#) (NPPF) requires 'applications for planning permission (to) be determined in accordance with the development plan, unless material considerations indicate otherwise'. Therefore, consideration of the relevant plans, guidance and policies and whether the proposal is in accordance with these is of relevance to decision making.
42. The following plans and associated policies and guidance are considered to be relevant to the proposal:

### **National Planning Policy Framework (2021) (NPPF)**

43. The following paragraphs are relevant to this proposal:
  - Paragraphs 11 & 12: Presumption in favour of sustainable development;
  - Paragraph 47: Determination in accordance with the development plan unless material considerations indicate otherwise;
  - Paragraphs 55 - 59 (Use of planning conditions and obligations, and effective enforcement);
  - Paragraphs 104 - 105 & 109 - 113: Assessing traffic impact and sustainable transport;
  - Paragraphs 119 - 120: Effective use of land;
  - Paragraphs 126 & 130, 133 - 135: Achieving well-designed places;
  - Paragraphs 152, 154, 159, 167 & 169: Planning and flood risk;
  - Paragraphs 174, 180 - 188: Conserving and enhancing the natural environment; and
  - Paragraphs 209, 211 - 213: Facilitating the sustainable use of minerals.

### **National Planning Policy for Waste (2014)**

44. The NPPW sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. Paragraph 7 sets out what Waste Planning Authorities [WPA] should consider when determining planning applications including:
  - Consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B (below) and the locational implications of any advice on health from the relevant health bodies; and;
  - Ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;

### **National Planning Practice Guidance**

45. Elements of (NPPG) (Live) are also relevant to the potential proposal, those being:

- Air quality (1 November 2019);
- Effective use of land (22 July 2019);
- Flood risk and coastal change (20 March 2021);
- Healthy and safe communities (1 November 2019);
- Minerals (17 October 2014);
- Natural environment (21 July 2019);
- Noise (22 July 2019);
- Open space, sports and recreation facilities, public rights of way and local green space (6 March 2014);
- Planning obligations (1 September 2019);
- Travel plans, transport assessments and statements (6 March 2014);
- Use of planning conditions (23 July 2019);
- Waste (15 October 2015); and
- Water supply, wastewater and water quality (22 July 2019).

46. Elements of [National Planning Practice Guidance](#) (NPPG) are also relevant to the potential proposal. In particular the section on [Minerals](#). The following paragraphs are relevant to the proposal:

- What are mineral resources and why is planning permission required? (Paragraph: 001 Reference ID: 27-001-20140306 - Revision date: 06 03 2014);
- Under what circumstances would it be preferable to focus on extensions to existing sites rather than plan for new sites? (Paragraph: 010 Reference ID: 27-010-20140306 - Revision date: 06 03 2014);
- How and when are the details of any significant environmental impacts best addressed? (Paragraph: 011 Reference ID: 27-011-20140306 - Revision date: 06 03 2014);
- What is the relationship between planning and other regulatory regimes? (Paragraph: 012 Reference ID: 27-012-20140306 - Revision date: 06 03 2014);
- What are the environmental issues of minerals working that should be addressed by mineral planning authorities? (Paragraph: 013 Reference ID: 27-012-20140306 - Revision date: 06 03 2014);
- What issues are for other regulatory regimes to address? (Paragraph: 014 Reference ID: 27-012-20140306 - Revision date: 06 03 2014);
- What issues are for other regulatory regimes to address? (Paragraph: 014 Reference ID: 27-012-20140306 - Revision date: 06 03 2014);
- How should mineral planning authorities assess the cumulative impact of minerals development? (Paragraph: 017 Reference ID: 27-012-20140306 - Revision date: 06 03 2014);
- Are separation distances/buffer zones appropriate? (Paragraph: 018 Reference ID: 27-012-20140306 - Revision date: 06 03 2014);
- Noise emissions (Paragraphs: 019 - 022 Reference ID: 27-019-20140306 - Revision date: 06 03 2014);
- Dust emissions (Paragraphs: 023 - 032 Reference ID: 27-015-20140306 - Revision date: 06 03 2014);

- Restoration and aftercare of minerals sites (Paragraphs: 036 - 49 Reference ID: 27-015-20140306 - Revision date: 06 03 2014);
- Aftercare conditions (Paragraphs: 050 - 058 Reference ID: 27-040-20140306 - Revision date: 06 03 2014);
- Local Aggregate Assessments (Paragraphs: 061 - 071 Reference ID: 27-040-20140306 - Revision date: 06 03 2014); and
- Aggregate landbanks (Paragraphs: 080 - 085 Reference ID: 27-040-20140306 - Revision date: 06 03 2014).

### **Hampshire Minerals & Waste Plan (HMWP) 2013**

47. The following policies are relevant to the proposal:

- Policy 1 (Sustainable minerals and waste development);
- Policy 2 (Climate change - mitigation and adaptation)
- Policy 5 (Protection of the countryside);
- Policy 8 (Protection of soils);
- Policy 9 (Restoration of minerals and waste developments);
- Policy 10 (Protecting public health, safety and amenity);
- Policy 11 (Flood risk and prevention);
- Policy 12 (Managing traffic);
- Policy 13 (High-quality design of minerals and waste development);
- Policy 14 (Community benefits);
- Policy 16 (Safeguarding - minerals infrastructure);
- Policy 17 (Aggregate supply - capacity and source); and
- Policy 20 (Local land-won aggregates).

### **NFLP 2016-2036 Part One: Planning Strategy (2020)**

48. The New Forest Local Plan 2016-2036 Part One: Planning Strategy (2020) is the relevant Local Plan for this proposal. The Plan's most relevant policies are:

- Policy STR1: Achieving sustainable development;
- Policy STR2: Protection of the countryside;
- Policy STR6: Sustainable economic growth;
- Policy STR7: Strategic transport policies;
- Policy ENV3: Design quality and local distinctiveness;
- Policy ENV4: Landscape character and quality; and
- Policy CCC1: Safe and healthy communities.

49. It replaced the [New Forest Core Strategy \(Part 1\) \(2009\)](#) & [New Forest Core Strategy \(Part 2\) \(2014\)](#) and some policies were saved.

### **New Forest Core Strategy (Part 1) (2009) (Saved Policies)**

50. The most relevant saved policies are:

- Policy CS7: Open spaces, sport and recreation; and
- Policy CS21: Rural economy

### [New Forest Core Strategy \(Part 2\) \(2014\)](#)

51. The most relevant saved policies are:
- Policy DM2: Nature conservation, biodiversity and geodiversity.
  - Policy DM26: Development generating significant freight movements
52. [New Forest Core Strategy \(Part 1\) \(2009\)](#) and [New Forest Core Strategy \(Part 2\) \(2014\)](#) replaced the [New Forest District Local Plan First Alteration \(2005\) \(Saved Policies\)](#). The most relevant saved policy is:
- Policy DW-E12: Protection of the landscape features.

### [Hythe and Dibden Neighbourhood Plan \(2019\)](#)

53. The Plan aims to conserve and enhance the existing qualities of the local environment for the benefit of and to protect the quality of life of the local population of the parish, both inside and outside the National Park. It also seeks to minimise the environmental impact of development, including housebuilding, which is acknowledged will happen.
54. The most relevant policy is:
- Policy WEL2: New developments should be designed so as not to exacerbate, and where possible improve, air pollution, traffic congestion, road safety and parking.

### **Consultations**

55. The below consultation responses have been summarised. The full versions of the responses can be viewed on the County Council's website via <https://planning.hants.gov.uk/Planning/Display/HCC/2021/0788>.
56. **County Councillor Wade:** Objected to the proposal on the grounds that further HGVs visiting the site will lead to a greater impact on its neighbours through dust and noise, road safety levels would be worsened as would climatic impacts, and is another example of continued planning creep at the site.
57. **County Councillor McEvoy:** Was notified.
58. **New Forest District Council:** Objection with regard to noise and disturbance on neighbours and on air quality grounds.

59. **New Forest District Council - Environmental Health Officer (EHO):** No objection subject to increased HGV movements being conditioned. The retention of all conditioned schemes controlling emissions to air and through noise on permission 20/10282 must also be re-imposed.
60. **Hythe & Dibden Parish Council:** Aware of local residents' ongoing concerns and request that condition 23 remain unchanged to limit the volumes of traffic in the interests of the amenity of residents on and near the approaches to the site.
61. **Local Highway Authority:** No objection subject to a road survey being undertaken to assess the current condition of the Fawley Road from the site to its junction with the Hardley Roundabout (A326).
62. **County Ecologist:** Was notified.

### **Representations**

63. Hampshire County Council's [Statement of Community Involvement \(2017\)](#) (SCI) sets out the adopted consultation and publicity procedures associated with determining planning applications.
64. In complying with the requirements of the SCI, Hampshire County Council:
  - Published a notice of the application in the [Hampshire Independent](#);
  - Placed notices of the application at the application site;
  - Consulted all statutory and non-statutory consultees in accordance with [The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#); and
  - Notified by letter all residential properties within 100 metres of the boundary of the site (52 properties due west of the site within the Netley View residential estate).
65. When further information was submitted by the applicant in response to comments received, all consultees and the local population originally notified of the proposal, plus those who submitted comments independently, were all informed and invited to comment further.
66. As of 15 July 2022, a total of five representations (from two representors) to the proposal have been received. All representations objected to the proposal. The main areas of concern raised in the objections related to the following areas:
  - Increased HGV movements adversely affecting local road safety;
  - Increased dust / emissions from increased HGV movements adversely affecting local air quality and local residents;
  - Lack of sheeting of existing vehicles; and
  - Increased noise emissions from increased HGV movements adversely affecting local residents.

67. The above issues will be addressed within the following commentary, (except where identified as not being relevant to the decision).

### **Habitats Regulation Assessment (HRA)**

68. Planning permission [16/10450](#) included a **HRA Table**. These included mitigation measures relating to dust suppression, impacts to nearby statutory designated sites (the closest being the New Forest SSSI) and SINCs (the closest being the Gringo's Copse and Crampool Copse SINC, designated for its habitats and species including ancient woodland, within 50 metres to the north-west of the proposal site). The HRA concluded that mitigation measures would ensure any harm would be avoided. No adverse impacts to designated sites were therefore anticipated. The initial proposal did therefore not result in any adverse likely significant effects to any European designated sites. The current proposal, which adheres to the extant working practices and operations, would continue to not conflict with these outcomes.

### **Climate Change**

69. Hampshire County Council declared a [climate change emergency](#) on 17 June 2019. A [Strategy](#) and [Action Plan](#) have also been prepared. The Strategy and Action Plan do not form part of the Development Plan so are not material to decision making. However, it is true to say that many of their principles may be of relevance to the proposal due to the nature of the development in seeking to increase the amount of miles travelled by HGVs transporting extracted minerals from and inert waste / materials to the site for use in the approved restoration.
70. This proposed development has been subject to consideration of Policy 2 (Climate change - mitigation and adoption) of the [HMWP \(2013\)](#) when the main planning permission [16/10450](#) was originally granted in 2017 for the quarry. The current proposal has also been considered under Policy 10 (Protection of public health, safety and amenity) as documented in the **Commentary** section below.
71. Whilst the application does not contain a bespoke Climate Change Assessment, in considering the existing activities on site and the nature of the proposed changes, the submitted Air Quality Assessment attempts to address impacts resulting from emissions from increased usage of HGVs, which have the potential to adversely affect the local environment, and as a consequence local climatic conditions.
72. Existing environmental standards installed and imposed on site operations, including to all plant, equipment, machinery, by Government (and via the Environmental Permitting Regime regulated by the Environment Agency), help to achieve environmental best practice, specifically in terms of regulating any effects from their emissions on the local environment. This also applies to HGVs, with the majority of those used being under the control

of the applicant, and relatively modern and as result fitted with the most up to date manufacturers' technology, including to exhaust and emissions' systems. Whilst these requirements are outside of the remit and control of the planning regime, it is expected that all plant, equipment, machinery and HGVs employed are fully maintained and operated in full accordance with manufacturers' specifications and that the best environmental practices are adhered to.

73. It is worth reiterating that the increase in HGVs / HGV movements being sought is to ensure that the approved cessation date for completing the approved restoration (11 July 2027) is met. They might not actually be needed on a daily basis, and with no other means of transporting extracted minerals and /or restoration materials from and to this site, HGV movements remain the only means of achieving this, and the completion of the 2017 approved mineral development at this allocated site.
74. The applicant would continue to use HGVs under their control to transport both extracted mineral off-site and imported restoration materials on to site. For example, an HGV that has deposited its load of restoration materials at the site would, when practicable, then be loaded with extracted minerals to ensure empty HGVs were not exiting the site. This would contribute to using only fossil fuels and derivatives on a limited as basis as they can at this time.
75. Therefore, on balance, the impact of the proposal on climate change is considered to be in accordance with Policy 2 (Climate change - mitigation and adaptation) and 25 (Sustainable waste development) of the [HMWP \(2013\)](#).

## **Commentary**

### Principle of the development and need

76. The site was identified as a site allocation in Policy 20 (Local land-won aggregates) of the [Hampshire Minerals and Waste Plan \(2013\)](#) (HMWP). The principle of the use of the site for sand and gravel extraction and restoration, through infill with imported inert waste, within 10 years (by 11 July 2027), therefore, has already been established through the granting of planning permission [16/10450](#) in March 2017. The site is also safeguarded as an existing minerals quarry under Policy 16 (Safeguarding – minerals infrastructure) of the [HMWP \(2013\)](#) as it is required to meet current and future demands.
77. The applicant is not proposing any changes to the levels of sand and gravel to be extracted or the volumes of imported clean, inert waste for backfilling at the site. There are also no changes proposed to the phased restoration of the site to agriculture by 11 July 2027.

78. Through the determination of the planning permission [16/10450](#), the potential impacts of mineral extraction and restoration using imported fill materials in this location in terms of sustainable development, on climate change, on ecology, on the countryside, cultural heritage, protection of soils and restoration, on local amenity and to minimise pollution, the water environment, on the local highway network and in terms of appearance and visual impact (in accordance with Policies 3 (Protection of habitats and species), 5 (Protection of the countryside), 7 (Conserving the historic environment and heritage assets), 8 (Protection of soils), 9 (Restoration of minerals and waste developments), 9 (Protection of public health, safety and amenity), 11 (Flooding and flood risk), 12 (Managing traffic), 13 (High-quality design of minerals and waste developments) and 14 (Community benefits) of the [HMWP \(2013\)](#) were previously examined, and deemed acceptable.
79. The granting of planning permission [16/10450](#) in 2017 means the location of the site as a suitable location for mineral extraction, inert filling and restoration to agriculture has already been found to be in accordance with policy. In terms of assessing need, paragraph 213 of the [NPPF \(2021\)](#) requires Minerals Planning Authorities to provide a steady and adequate supply of local sand and gravel, and which comprises a minimum landbank of seven years for sand and gravel. The supply of land-won aggregate is very important in order to ensure an adequate and steady supply of indigenous minerals for Hampshire and surrounding areas. The supply of land-won aggregate is very important in order to ensure an adequate and steady supply of indigenous minerals for Hampshire and surrounding areas.
80. Policy 17 (Aggregate supply – capacity and source) of the [HMWP \(2013\)](#) sets out the need for a supply of land-won primary aggregate supply in Hampshire alongside marine-won aggregates, recycled and secondary aggregates and importation of minerals (particularly limestone) from outside of Hampshire. It states that *“an adequate and steady supply of aggregates will be provided from local sand and gravel sites at a rate of 1.56 million tonnes per annum (mtpa) for the period ending 2030.”*
81. On the basis this current proposal supports the delivery of land won aggregate, the proposal is considered to be in accordance with the provisions of Policies 17 (Aggregate Supply – capacity and source) and 20 (Local land-won aggregate) of the [HMWP \(2013\)](#). Hampshire’s most recent [Hampshire County Council's Local Aggregate Assessment 2021](#) indicates that the supply of local sand and gravel is currently at a rate of 1.15 million tonnes per annum (mtpa). This is substantially below the requirement of Policy 17 of 1.56 mtpa.
82. As the principle of the site is already agreed, the focus here is on whether the additional Heavy Goods Vehicle (HGV) movements are appropriate in terms of impact/s on road safety and capacity and on local amenity and to the local environment and whether it meets Policy 12 (Managing traffic). The continuation and completion of mineral extraction and phased restoration remains in accordance with Policy 17 (Aggregate Supply – capacity and

source) of the [HMWP \(2013\)](#) and the provisions of paragraph 213 of the [NPPF \(2021\)](#).

83. Whether this new proposal meets other policies in the development and can be considered to be a sustainable minerals development, meeting the requirements of Policy 1 (Sustainable minerals and waste development) as well as Policy STR1: Achieving sustainable development) of the [NFLP 2016-2036 Part One: Planning Strategy \(2020\)](#) will be considered in the remaining sections of this commentary.

#### Visual impact and landscape

84. The site benefits from an approved **Restoration and Aftercare Scheme** - to a mixture of agriculture, nature conservation and informal recreational use (including a right of way) with a five-year period of aftercare - controlled by conditions and legal agreement imposed and retained on the initial planning permission [16/10450](#) and all subsequent variations. There is no plan to alter this or its completion date following the completion of mineral extraction and restoration using imported fill by 11 July 2027 by way of this proposal.
85. Policy 10 (Protecting public health, safety and amenity) of the [HMWP \(2013\)](#) also protects residents from significant adverse visual impact. In addition, Policy 13 (High-quality design of minerals and waste development) of the [HMWP \(2013\)](#) requires that development should not cause an unacceptable adverse visual impact and should maintain and enhance the distinctive character of the landscape.
86. A **Landscape Visual Impact Assessment (LVIA)** was submitted with planning permission [16/10450](#), its findings were accepted when the application was granted. There is also an approved **Landscaping Scheme**. It concluded that there would be no significant landscape or visual effects both locally or on the setting of the nearby New Forest National Park.
87. The site benefits from existing screening by both natural features such as the hedgerows and tree line running across western side of the site as well as the man-made features such as screening bunds and fencing installed as part of planning permission [16/10450](#), and have been retained on all subsequent variations, including on [20/10282](#) (see conditions 7 - 8, 13, 15, 22 and 37 - 38). These help to disrupt the view from the nearby Netley View estate both during day to day operations and with the eventual phased and overall restoration of the site, once completed.
88. The screening detailed above reduces the visual impact of the site itself and the proposed changes to HGV movements accessing the site. It is considered that the visual impact and effect on the locality would continue to be acceptable for this time-limited development, and not be significantly different to current impacts and effects.

89. The recommendation includes a requirement for the completion of a legal agreement to ensure that the proposed right of way across the site is still delivered within the approved restoration. This secures the right of way route proposed as part of planning permission [16/10450](#).
90. On the basis of the existing mitigation measures and the proposed legal agreement, the proposal is therefore considered to be in accordance with Policies 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) of the [HMWP \(2013\)](#).

### Ecology

91. As with the visual impact and landscape section above, the site benefits from an approved **Ecological Mitigation Strategy, Landscaping Scheme and Lighting Scheme** that all seek to prevent adverse ecological impacts. These are controlled by conditions on the initial planning permission [16/10450](#) and have been retained on all subsequent variations, including on [20/10282](#) (see conditions 6 - 9 and 22). There is no plan to alter these or to conflict with the site's completion date of 11 July 2027.
92. As already set out, the HRA work undertaken did not result in any adverse likely significant effects to any European designated sites. The current proposal, which adheres to the extant working practices and operations, would continue to not conflict with these outcomes.
93. In light of the above the retention of the approved Ecological Mitigation Strategy, Landscaping Scheme and Lighting Scheme, the proposal will not result in adverse ecological impacts and would be in accordance with Policy 3 (Protection of habitats and species) of the [HMWP \(2013\)](#).

### Water environment

94. As with the Ecology section above, the site benefits from approved surface water and groundwater protection measures, with further protections given through the Environmental Permitting regime - that controls the safe use of waste materials within restoration schemes like here - that is regulated and enforced by the Environment Agency (EA) through the Permit issued here to the applicant
95. Water-related mitigation measures, including a site-wide **Surface Water Management Scheme**, avoiding groundwater during extraction and protecting it from operations, if encountered, HGV cleaning, and careful storage and use of oils/chemical etc, are all controlled by conditions on the initial planning permission [16/10450](#) and have been retained on all subsequent variations, including on [20/10282](#) (see conditions 5, 20 - 21, 27 and 32 - 35). There is no plan to alter these or to conflict with the site's completion date of 11 July 2027.

96. The Planning and Permitting regimes are designed to work together and complement one another not to conflict. Controls in relation to protecting air, land and water quality from and within a proposed operational development should be discussed and agreed between the two regulators, the Waste Planning Authority and the Environment Agency, to ensure any controls imposed are correct and appropriate, and work with other regimes.
97. The proposal would not generate significantly different impacts to currently managed impacts and effects, and is therefore, considered to be in accordance with Policies 10 (Protecting public health, safety and amenity) and 11 (Flood risk and prevention) of the [HMWP \(2013\)](#).

### Highways

98. Vehicular access to the site is from Fawley Road, south of which lies a roundabout junction with the A326. Access to the wider highway network is achieved via the A35 at Totton before continuing north to the M27. HGVs entering the site turn right in and HGVs exiting the site turn left only. This would remain unchanged (see **Appendix E - Vehicular Access**).
99. Vehicular access to the site is via a purpose built junction comprising a 7.3m wide site access road, kerb radii of 15m with a taper of 1 in 10 over 25m to accommodate the turning of HGVs. Visibility splays of 160m can be achieved in each direction, providing the required visibility suitable for the recorded 85th percentile speed of 45mph.
100. All HGV trips travel north along Fawley Road from the roundabout junction with the A326 Hythe Bypass, with export vehicles and import vehicles following the same route. At the roundabout junction approximately 20% of the HGV traffic heads south-east along Long Lane to travel towards Blackfield, Langley in the south and Beaulieu and Brockenhurst in the west. The remaining 80% of the HGV traffic heads north along the A326 Hythe Bypass to the junction with the A35. From here approximately 20% of the HGVs route west along the A35 towards Lyndhurst, 40% route east along the A35 into Southampton and the remaining 40% continue north on the A326 towards the M27. Approximately 50% of the light vehicle traffic routes south from the site along the A326 to the roundabout junction; at the roundabout junction 25% (of the total) route north along the A326 and 25% route south along Long Lane. The remaining 50% of all light vehicles route north towards Hythe.
101. Policy 12 (Managing traffic) of the [HMWP \(2013\)](#) requires minerals and waste development to have a safe and suitable access to the highway network and where possible minimise the impact of its generated traffic through the use of alternative methods of transportation. It also requires highway improvements to mitigate any significant adverse effects on highway safety, pedestrian safety, highway capacity and environment and amenity.

102. The proposed increase to HGV movements to and from the site from 96 two-way movements (48 HGVs) each working day to 192 two-way movements (96 HGVs) is a fundamental change to all three previously approved permissions at this site.
103. Under Condition 12 of planning permission 20/10282, the movement of HGVs to and from the site are restricted to: 07:00 - 18:00 hours on Monday to Friday and 07:00 - 13:00 hours on Saturday.
104. At current permitted levels, 96 two-way HGV movements equates to 8/9 two-way movements (4 HGVs) per hour on Monday to Friday and 16 two-way movements (8 HGVs) per hour on Saturdays.
105. The proposed 192 two-way movements (96 HGVs) represent a doubling of permitted movements, equating to equating to 17 two-way movements (8-9 HGVs) per hour on Monday to Friday and 32 two-way movements (16 HGVs) per hour on Saturdays.
106. The applicant has advised that the doubling of HGV two-way movements (HGVs) and the variation to condition 23 on [20/10282](#) is required to allow more flexibility for the site regarding vehicle movements exporting material and delivering restoration materials in accordance with the approved phasing plans. Furthermore, the applicant has indicated that the increased daily maximum number of HGV trips being sought is mainly needed due to restoration works being severely delayed by Covid-19 and the limited time available left to restore the site (by 11 July 2027) as triggered by Condition 1 of the planning permission [18/11586](#).
107. The applicant has also indicated that the increased daily maximum sought would not be always be used fully everyday but that it is needed to ensure enough commercial flexibility is achieved.
108. The local County Councillor, Hythe and Dibden Parish Council and two representees have all objected to the proposed increase in HGV movements / numbers and these concerns are noted. They cite that existing road safety levels and that of other users would be adversely affected through the proposed doubling of HGV movements on this section of Fawley Road. They add that material lost from some HGVs on to the Fawley Road also create safety hazards.
109. The applicant submitted a **Transport Statement** with the planning application, which looked at traffic and accident data (slight and serious collision records) on the local road network, and specifically the Fawley Road and its junction with the A326 south of the site. Impacts on other modes of transport within the locality, including non-motorised users and pedestrians, close to the site and its vehicular access point with Fawley Road, were also assessed.

110. In response, the Local Highway Authority requested that the speed and accident data be updated to reflect the current status of the local highway situation used by HGVs travelling to and from the site.
111. In response, a further **Transport Statement** was submitted using more up to date highway traffic and accident data. All accident data studied (up until 2021) was evaluated with no proven link to or causation attributed to the current development rather from deficiencies within the local highway, and its infrastructure, being cited and / or proven. Overall, the updated Statement concluded that the proposed increase in HGV trips/numbers would not create adverse impacts to existing road safety or capacity levels. The retention of existing mitigation measures at the site including the sheeting and cleaning of HGVs before they exit the site, ensuring visibility at the site access was maintained and HGV routeing to and from the south and the A326 continued, remained sufficient in terms of mitigation.
112. In response, the Local Highway Authority concurred with the updated Transport Statement that the proposed increase in HGV trips / numbers would not create 'significant' adverse impact on the operation of Fawley Road and the Hardley Roundabout (the Fawley Road - A326 junction).
113. A road survey of the section between the site's access - Fawley Road junction down to Fawley Road's junction with the Hardley Roundabout (at the Fawley Road - A326 junction) was requested and this would be secured through the proposed legal agreement. This would need to be undertaken prior to the additional HGVs travelling to and from the site along the section of Fawley Road to its junction with the Hardley Roundabout (on the A326).
114. The Highway Authority also agreed with the updated Statement's conclusions that the retention of existing mitigation measures conditioned under planning permission 20/10282 at the site including the sheeting and cleaning of HGVs before they exit the site, ensuring visibility at the site access was maintained and HGV routeing to and from the south and the A326 continued, remained sufficient in terms of mitigation.
115. Changes to onsite wheel wash facilities are being implemented. More information on this is set out in [Complaints about site operations](#).
116. Concerns raised about the proposal by the local County Councillor and two representees and its impact on the highway are noted. However, in light of the updated Transport Statement, and its revised safety and capacity analyses, the additional HGV traffic proposed is not deemed to be unacceptable in terms of road capacity or safety. Therefore, the proposal is in accordance with Policy 12 (Managing traffic) of the [HMWP \(2013\)](#).

#### Noise

117. The applicant included a [Noise Assessment and Noise Management Plan \(June 2021\)](#) (under conditions 28 and 31 of planning permission 20/10282)

with this application to address the impact of noise associated with the proposed additional HGV movements to and from the site.

118. No other changes to permitted on-site operations, permitted plant and machinery to undertake extraction and restoration works and permitted hours of use are proposed here. These activities, and the control of emissions of noise on the local area and specifically chosen 'nearest sensitive receptors' or 'nsrs', are controlled by conditions 12 (approved plant and machinery), 17 (no crushing), 28 (noise level at nearest nsr), 29 (restoration work noise levels), 30 (silencers and white noise alarms) and 31 (noise management plan) on planning permission 20/10282. These would be retained.
119. Previously, the Committee recommended that the applicant investigate the feasibility of the installation of a live display of noise levels provided by on site noise monitoring equipment within the quarry and whether this can be located outside of the site. This system is now in place on site.
120. Policy 10 (Protection of public health, safety and amenity) of [HMWP \(2013\)](#) requires that any development should not cause adverse public health and safety impacts, and unacceptable adverse amenity impacts. Also, any proposal should not cause an unacceptable cumulative impact arising from the interactions between minerals developments and other forms of development.
121. The local County Councillor, Hythe and Dibden Parish Council and representees have all objected to the proposed increase in HGV movements / numbers. These are noted. They cite that additional noise and general disturbance would be created, and which would exceed approved levels controlled by condition. As a result, the nearby residents would be adversely affected through the proposed doubling of HGV movements on this section of Fawley Road.
122. It is possible that the proposed introduction of additional HGV traffic, could create impacts on the locality through additional noise sources in excess of that being generated by the current permitted development. The approved [Noise Assessment and Noise Management Plan \(June 2021\)](#) (under conditions 28 and 31 of planning permission 20/10282) has been submitted as part of the application to address this issue. This has been used by the applicant to assess the predicted noise contribution of additional HGVs - beyond the existing permitted HGVs of the quarry and operational noise levels and confirms compliance with the conditions 28 and 31 of the planning permission 20/10282.
123. It states that the existing noise conditions require that the total noise from operations at the hereby approved site shall not exceed 55dB LAeq 1 hour (free field) at the boundary of the nearest noise sensitive properties. The condition's limit is unchanged by the proposal.

124. The Local Environmental Health Officer (EHO) required that the approved [Noise Assessment and Noise Management Plan \(June 2021\)](#) be reviewed through a further Noise Impact Assessment that specifically assesses and analyses the impact of noise arising from the additional HGVs, to confirm condition 28 remains compliant. In response, the applicant undertook and submitted a [Noise Assessment \(May 2022\)](#) to address the EHO's concerns. The Assessment confirmed that the additional HGVs being sought would only create a +1dB 'predicted' noise increase at two of the nearest sensitive receptors (nsr) to the site, the first being on Beech Crescent opposite the site and at Forest Lodge Farm, located north of the site. An increase of +1dB would not be discernible to the human ear. Additionally, the Assessment also confirmed that the predicted noise levels from the site, including the proposed level of HGV movements being sought, are below the limits contained within condition 28 on planning permission 20/10282 at all nsrs considered.
125. It is noted that the updated Assessment takes into consideration all plant, machinery and equipment used within the site and additional HGV traffic being sought through this proposal. This contribution ensures compliance with the current noise limits and the [National Planning Practice Guidance \(NPPG\)](#) which sets out guidance for the determination of planning applications for mineral extraction and identifies noise limits for such developments. [Paragraph 021](#) sets out noise limits for normal day to day operations.
126. New Forest District Council's Environmental Health Officer (EHO) was reconsulted and concluded the updated [Noise Assessment \(May 2022\)](#) has considered the noise contribution of the additional HGVs with the 'normal' use of the quarry, commenting:

*"Having reviewed the submitted information it is apparent that the noise assessment has appropriately considered the noise impact of additional HGV movements to the site (an increase from 10 to 20 movements per hour) upon nearby sensitive receptors. The report has further considered the impact upon the total site noise level (55dB LAeq1hour) which is required to be met in accordance with condition 28 (planning reference 20/10282).*

*The predicted increase in noise level associated with the doubling of HGV movements appears to result in only a small increase in the noise emitted from the site (an increase of 1dB) at two of the receptor locations (Forest Lodge Farm and Beech Crescent), at all other locations no difference was calculated. A change of 1dB is unlikely to be perceptible to the human ear.*

*In terms of the impact upon the total noise limit for the site, it is apparent that this will continue to be met at all receptor locations. It is understood that a further period of continuous noise monitoring will be undertaken upon the commencement of extraction in phase 3 or infilling activities within phase 2 (whichever is sooner) to confirm that the total*

*sound emitted from the site activities continues to be compliant with the overall site noise level.*

*Overall, it has been demonstrated that noise would not adversely affect those living in the vicinity of the site and therefore Environmental Health do not raise any objection to the application on the basis of noise.”*

127. Noting the EHO’s position, the noise-related conditions that include noise monitoring and methods of investigating any complaints received at different phases of site operations between now and 2027, it is considered that there would be no adverse impacts caused to local sensitive receptors and on local amenity through the additional proposed HGVs being sought. Therefore, the proposal is considered to be in accordance with Policies 10 (Protection of public health, safety and amenity) and 12 (Managing traffic) as well as the relevant development considerations set out in the site allocation in the adopted [HMWP \(2013\)](#) in relation to noise.

#### Air quality

128. The applicant submitted **Air Quality Assessments** to address the impact on local air quality associated with the proposed additional HGV movements to and from the site. This was in response to objections and concerns initially raised New Forest District Council, including from their Environmental Health Officer (EHO), and from the local County Councillor, Parish Council and two representees.
129. The local County Councillor, Hythe and Dibden Parish Council and two representees have all objected to the proposed increase in HGV movements / numbers. These are noted. They cite that additional impacts to local air quality through emissions would cause unacceptable impacts on the local environment and to the local population. As a result, the nearby residents would be adversely affected through the proposed doubling of HGV movements on this section of Fawley Road.
130. No other changes to permitted on-site operations, permitted plant and machinery to undertake extraction and restoration works and permitted hours of use are proposed here. These activities, and the control of emissions to air the local area are controlled by conditions 3 (approved dust management plan), 16 (approved plant and machinery) 17 (no crushing), 26 (sheeting of loaded HGVs) and 27 (HGV cleaning) on planning permission 20/10282. These would be retained.
131. Policy 10 (Protection of public health, safety and amenity) of the [HMWP \(2013\)](#) requires that any development should not cause adverse public health and safety impacts, and unacceptable adverse amenity impacts. Also, any proposal should not cause an unacceptable cumulative impact arising from the interactions between minerals developments and other forms of development.

*Extant on-site operations:*

132. With the method of mineral extraction, restoration operations and storage of minerals and materials not proposed to change as part of this proposal, it is therefore considered that the Air Quality Assessment (originally submitted under planning permission [16/10450](#)), which demonstrated that there would be no significant impacts or effects on local air quality subject to conditional controls over the use of on-site plant, machinery, equipment and permitted HGVs (48) entering and departing the site continues to be valid. The Air Quality Assessment was reviewed by the Environmental Health Officer at the time of the granting of both subsequent planning permissions after [16/10450](#) in 2017.
133. No objection on the grounds of air quality impacts was raised then, provided that conditions including the site-specific **Dust Management Plan** were retained and re-imposed on the site. These are again appropriate and should be retained on any subsequent planning permission granted to ensure the continuing protection of impacts to local air quality, and to ensure the objections cited by objectors are mitigated and controlled. These conditions are included in **Appendix A**.

*Additional HGVs / two-way HGV movements:*

134. In assessing the impact and effect of the proposed additional daily 48 HGVs - and the doubling of permitted HGV numbers and two-way movements under condition 23 on [20/10282](#) - the Environmental Health Officer (EHO) was consulted on this proposal. The EHO initially raised concerns that the assessment of additional HGVs on local air quality had not been properly assessed, and as result it had not been demonstrated that air quality within the locality, and specifically as a result of the routeing of current and proposed HGVs, would not be harmed.
135. In response to this, the applicant undertook a detailed Air Quality Assessment, which specifically assessed and analysed the additional HGVs and their two way movements cumulatively within the locality and on the local road network and against the local air quality regulations too.
136. Following re-consultation, the EHO advised as follows:

*'The submitted Air Quality Assessment appropriately considers the impact of current and additional HGV movements from the site on local air quality within the New Forest and Southampton districts. The Assessment follows national guidance and utilises current methodologies and local monitoring data. As such the conclusions reached of a negligible (not significant) impact from pollutants associated with vehicle emissions (nitrogen dioxide and particulate matter including PM2.5) at all noted sensitive receptors along the transport routes are accepted.'*

*As such Environmental Health (pollution) has no objection to the variation of condition 23 with regards to application 20/10282 subject to a suitable condition being applied limiting the increase in HGV movements from the site to 96 HGV per working day’.*

137. The EHO’s findings, in accepting that the detailed Air Quality Assessment concludes that the additional HGVs / HGV two-way movements would not adversely affect local air quality (and local residents) and air quality within the applicant’s existing and predicted HGV routes and destinations. No further mitigation is required. The proposal is therefore considered to be in accordance with Policy 10 (Protection of public health, safety and amenity) of the [HMWP \(2013\)](#).

#### Environmental Permitting

138. The site benefits from an Environmental Permit, issued and regulated by the Environment Agency, controlling the restoration operations and the use of imported, inert waste / materials.
139. The Permitting regime and Planning regime should work together and complement each other not duplicate or conflict. Permitting controls the operational impacts and effects of a development whereas the planning concerns the acceptable use of the land, which has already been established here as a quarry through the granting of planning permission [16/10450](#).
140. The Permit contains controls on waste / materials’ type/s allowed on site, pollution control measures and the protection of air, land and water from emissions. Any changes to the Permit would be provided to the Mineral Planning Authority, who would assess the materiality of any changes to the relevant extant planning permission.

#### Complaints about site operations

141. Concerns about alleged breach of planning conditions on the extant planning permission 20/10282 were raised in representations (and by third party outside of this planning application) in 2021 and 2022 and these are noted.
142. Monitoring Officers have investigated all complaints received by the Mineral Planning Authority in order to ascertain the source of any issues, even if the source is not the application site. The Mineral and Waste Planning Authority acknowledges that twelve complaints have been received about the application site since the summer 2021 (the grant of planning permission 20/10282 was in April 2021). Several were substantiated following investigation. They concerned stockpile heights, unsheeted HGVs, concern mud on the highway / road condition and noise generated by the road sweeper.

143. The single complaint concerning stockpile heights was received in March 2022. This concerned Condition 36 that requires 'stockpiles and waste stored or deposited on the site shall not exceed 39 metres AOD (2 metres above existing ground level).' The operator was contacted advised to lower their heights. This was undertaken and no further action was taken.
144. The three complaints relating to unsheeted HGVs were received in February, March and May 2022. Condition 26 requires that 'all loaded HGVs entering or leaving the site must be sheeted'. Again, the operator was contacted and dates and timings were provided. The operator advised that they would speak to all drivers, including those identified here, to remind them of the need for full compliance with the condition. No further action was taken over this breach of condition.
145. Recurring complaints (seven received between summer 2021 and July 2022) of mud / material on the road (Fawley Road) cannot all be attributed to the site itself, and any allegation made must be evidenced. In many cases, material could be seen 'tracking' out of the site. The issue then is, is there any road safety concerns being caused that are no longer being mitigated by Condition 27, which requires 'all HGVs being clean before leaving site'.
146. Again, the site was contacted (visited mostly) to observe the allegations and observe site operations. The applicant advised that their road sweeper had been deployed to clean the highway (Fawley Road) in light of these complaints, some of which were not solely the site's cause. The Sweeper cleans the highway twice a day when the site is operational anyway but during wetter and / or busier periods of activity on site, the sweeper is used more frequently. On all of these occasions, the highway was cleaned and HGVs leaving the site were checked more thoroughly to comply with the condition.
147. In light of these recurring complaints, the operator has decided to replace the 'dry' wheel cleaner with a water-based one. At the time this report was written, it is not known if this system has been installed yet. The operator had advised that it was due to be installed in July 2022. This should ensure that HGVs are cleaned better than is currently undertaken before exiting the site. If this does not work, and complaints continue, the Mineral Planning Authority will have to consider further steps to ensure compliance.
148. The fourth substantiated complaint from early 2022 concerned noise emanating from site operations, once in 2021 and three times in 2022 (February, March and May). Following investigation, it transpired that the site operator had deployed their road sweeper to clean sections of Fawley Road close to the site. The operator of the road sweeper had decided to stay out on Fawley Road for a considerable period of time. The continuing noise from the vehicle travelling up and down Fawley Road repeatedly had been heard by the complainant over a period of hours during daytime hours. The site operator spoke with the driver of the sweeper and this

prolonged activity has not been repeated. No further action has been taken to date.

149. Following investigations by the Monitoring Officers and discussions with the site operator, the operator has instigated changes to ensure compliance with the extant planning permission. No further substantiated complaints have been received since May 2022.
153. The Mineral Planning Authority cannot comment on any complaints received directly by the Environment Agency or Environmental Health other than to say that officers have been in regular discussions with the agencies as they do with all permitted minerals (and waste management) sites. We are reliant on those regulators telling us about any complaints received relative to the planning permission in force.

#### Site Liaison Panel

154. Paragraph 5.59 of the [HMWP \(2013\)](#) states that there is an expectation that all 'major' minerals and waste development will be accompanied by a site Liaison Panel. A Liaison Panel was set up following the grant of planning permission 18/11586 in 2019. Meetings commenced in 2019. It is chaired by County Councillor McEvoy and County Councillor Wade is also a member. At the time of writing, the last Panel sat on 15 June 2022. These meetings continued throughout the Covid-19 pandemic.
155. At the last meeting, the above reported complaints were discussed as were day to day operations, and the proposed installation of the new wheel wash system. No exact date has been agreed for the next meeting but they tend to occur every three months.
156. The Mineral Planning Authority supports the continuation and development of this panel, to facilitate effective engagement with stakeholders in the interests of promoting communication between the site operator and local community. Furthermore, all members of the panel generally agree that it is useful and allows discussions to take place about all issues associated with the site between all interested parties, including the Parish Council and local residents. An informative is included in **Appendix A** on this matter.

#### Planning conditions and legal agreement

157. The proposed amendment to Condition 23 (HGV movements) of planning permission 20/10282 is the sole amendment being sought by the applicant. All other conditions are being retained from previous consents and are included in **Appendix A**.
158. The wording of Condition 31 has been slightly tweaked as condition has only been partially discharged to date.

159. A legal agreement providing obligations for the operator and landowners to deliver a public right of way across the site within its final restoration was attached to the original planning permission [16/10450](#) and renewed under variations 18/11856 and 20/10282 is required. In addition, a further legal agreement will need to be agreed between all interested parties to ensure that the required road survey is undertaken and completed to a standard acceptable to the Local Highway Authority.

### Conclusions

158. On balance, it is considered that the proposal would be in accordance with the relevant policies of the adopted [Hampshire Minerals and Waste Plan \(2013\)](#) and that the proposal would:
- Allow an existing quarry to continue contributing to a steady and adequate supply of sand and gravel for Hampshire at an existing quarry; .
  - Maintain its position as a temporary minerals' extraction site which would be completed within agreed timescales and with a requirement for restoration after extraction to an agricultural use;
  - Not cause unacceptable adverse impacts on road safety and on highway capacity; and
  - Not cause unacceptable adverse public health and safety or unacceptable adverse amenity impacts.

### **Recommendation**

159. That planning permission be granted subject to the conditions listed in **Appendix A** and the completion of a legal agreement to ensure that a right of way across the site is still delivered within the approved restoration and that a road survey of the section of Fawley Road down to its junction with the Hardley Roundabout (at the Fawley Road - A326 junction).

#### Appendices:

- Appendix A – Conditions
- Appendix B – Location Plan
- Appendix C – Site Plan
- Appendix D – Site Layout Plan
- Appendix E – Vehicular Access

Other documents relating to this application:

<https://planning.hants.gov.uk/ApplicationDetails.aspx?RecNo=21056>

**REQUIRED CORPORATE AND LEGAL INFORMATION:**

**Links to the Strategic Plan**

<b>Hampshire maintains strong and sustainable economic growth and prosperity:</b>	No
<b>People in Hampshire live safe, healthy and independent lives:</b>	No
<b>People in Hampshire enjoy a rich and diverse environment:</b>	No
<b>People in Hampshire enjoy being part of strong, inclusive communities:</b>	No

**OR**

**This proposal does not link to the Strategic Plan but, nevertheless, requires a decision because:**

the proposal is an application for planning permission and requires determination by the County Council in its statutory role as the minerals and waste or local planning authority.

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

<u>Document</u>	<u>Location</u>
20/10282 NF271	Strategic Planning Hampshire County Council
Forest Lodge Home Farm, Fawley Road, Hythe SO45 3NJ (Variation of condition 23 (HGV movements) of planning permission)	Elizabeth II Court West Sussex Street Winchester SO23 8UD

## **EQUALITIES IMPACT ASSESSMENTS:**

### **1. Equality Duty**

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Officers considered the information provided by the applicant, together with the response from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

## CONDITIONS

### Reason

On balance, it is considered that the proposal would be in accordance with the relevant policies of the adopted [Hampshire Minerals and Waste Plan \(2013\)](#), helping to facilitate a steady and adequate supply of sand and gravel for Hampshire at an existing quarry (Policies 16, 17 and 20), for the agreed temporary period, with a requirement for restoration (Policy 9). The proposal would not cause unacceptable adverse impacts on road safety and on highway capacity (Policy 12) or an unacceptable adverse impacts public health and safety and amenity. The proposal is therefore considered to be a sustainable minerals development (Policy 1).

### Duration of permission

1. Approved mineral extraction and restoration works shall cease by 11 July 2027.

Reason: To secure the satisfactory restoration of the site in accordance with Policy 9 (Restoration of minerals and waste developments) of the Hampshire Minerals & Waste Plan (2013).

### Schemes approved under 16/10450

2. The offsite highways works approved in writing by the Mineral Planning Authority on 30 October 2017 shall be retained as constructed throughout the duration of the mineral extraction and restoration works approved under Condition 1 above.

Reason: In the interests of highway safety in accordance with Policy 12 (Managing traffic) of the Hampshire Minerals & Waste Plan (2013).

3. The site-specific Dust Management Scheme approved writing by the Mineral Planning Authority on 31 May 2017 shall be implemented in full throughout the duration of the mineral extraction and restoration works approved under Condition 1 above.

Reason: To ensure that the development does not have an unacceptable impact on human health and safety and is in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

4. The Soil Management Scheme approved writing by the Mineral Planning Authority on 31 May 2017 shall be implemented in full throughout the duration of the mineral extraction and restoration works approved under Condition 1 above. There shall be no export of topsoil or subsoil from the site.

Reason: To ensure the protection of the soil resource in accordance with Policy 8 (Protection of soils) of the Hampshire Minerals & Waste Plan (2013).

5. The Surface Water Management Scheme approved writing by the Mineral Planning Authority on 31 May 2017 shall be implemented in full throughout the duration of the mineral extraction and restoration works approved under Condition 1 above.

Reason: To ensure adequate measures for the management of surface water from the site and to ensure the development is in accordance with Policies 10 (Protecting public health, safety and amenity) and 11 (Flood risk and prevention) of the Hampshire Minerals & Waste Plan (2013).

6. The Lighting Scheme approved in writing by the Mineral Planning Authority on 31 May 2017 shall be implemented in full throughout the duration of the mineral extraction and restoration works approved under Condition 1 above.

Reason: In the interests of visual and landscape impact in accordance with Policies 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste developments) of the Hampshire Minerals & Waste Plan (2013).

7. The Arboricultural Method Statement (AMS) approved writing by the Mineral Planning Authority on 31 May 2017 shall be implemented in full throughout the duration of the mineral extraction and restoration works approved under Condition 1 above.

Reason: To prevent damage to T3 both structurally and physiologically and to ensure the development is in accordance with Policies 3 (Protection of habitats and species) and 13 (High-quality design of minerals and waste development) of the Hampshire Minerals & Waste Plan (2013).

8. Details of enhancement landscaping works approved in writing by the Mineral Planning Authority on 31 May 2017 shall be implemented in full throughout the duration of the mineral extraction and restoration works approved under Condition 1 above.

Any trees or shrubs which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The scheme shall be implemented as approved for the duration of the development, unless otherwise approved in writing by the Mineral Planning Authority.

Reason: In the interests of visual amenity in accordance with Policies 10 (Protecting public health, safety and amenity) and 13 (High-quality design of

minerals and waste development) of the Hampshire Minerals & Waste Plan (2013).

9. The Ecological Mitigation Strategy approved in writing by the Mineral Planning Authority on 19 June 2017 shall be implemented in full throughout the duration of the mineral extraction and restoration and aftercare works in accordance with Conditions 1, 13 and 37 of this permission.

Reason: In order to avoid ecological impacts and to ensure the development is in accordance with Policy 3 (Protection of habitats and species) of the Hampshire Minerals and Waste Plan (2013).

10. The conclusions of the Written Scheme of Investigation for Watching Archaeological Brief approved in writing by the Mineral Planning Authority on 31 May 2017 shall be implemented in full throughout the duration of the mineral extraction and restoration works approved under Condition 1 above.

Reason: In the interests of archaeology in accordance with Policy 7 (Conserving the historic environment and heritage assets) of the Hampshire Minerals & Waste Plan (2013).

11. The buildings and structures on site as shown on plan 003 REV D approved in writing by the Mineral Planning Authority on 31 May 2017 shall be implemented in full throughout the duration of the mineral extraction and restoration works approved under Condition 1 above.

Not later than six months following the completion of the approved restoration works (under Condition 1 above) any buildings and structures not required for the purposes of the five year aftercare period shall be removed from the site and the land restored and integrated into the wider restoration scheme as approved in writing by the Mineral Planning Authority.

Reason: In the interests of visual and landscape impact and to ensure the development is in accordance with Policy 13 (High-quality design of minerals and waste developments) of the Hampshire Minerals & Waste Plan (2013).

### **Ongoing Operational Conditions**

12. No Heavy Goods Vehicles (HGV) shall enter or leave the site and no plant or machinery shall be operated except between the following hours: 0700-1800 Monday to Friday and 0700-1300 Saturday. There shall be no working on Sundays or recognised Public Holidays.

Reason: In the interests of local amenity in accordance with Policies 10 (Protecting public health, safety and amenity) and 12 (Managing traffic) of the Hampshire Minerals & Waste Plan (2013).

13. The working of the site shall be carried out in a progressive manner in accordance with paragraphs 3.6-3.8 inclusive of the Environmental

Statement approved under planning permission 16/10450 (except where modified by condition herein) and the following programme and drawing numbers:

- Development Timescales and Programme Chart;
- 003 REV D;
- 004 REV D;
- 005 REV D; and
- 006 REV D.

Topsoil shall not be stripped from Phase 3 until the restoration of Phase 1 has been completed in accordance with the scheme approved herein.

Reason: To enable the Mineral Planning Authority to adequately control the development and to minimise its impact on the amenities of the local area, in accordance with Policies 5 (Protection of the countryside), 9 (Restoration of minerals and waste developments) and 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

14. Throughout the duration of the permission, contact information for the operator of the site in relation to operational impacts and in the event of an emergency at the site, shall be displayed at the entrance to the site.

Reason: In the interests of public health, safety and amenity and to ensure the development is in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

15. The eastern and western perimeter bunds shown on plan 003 REV D shall measure 2.0 metres in height from base to top except for the southern part of the western boundary where they shall taper up from north to south to 3.0 metres in height.

Reason: To ensure the development is implemented in accordance with the details assessed within the Environmental Statement and that the development is in accordance with Policies 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste developments) of the Hampshire Minerals & Waste Plan (2013).

16. Notwithstanding the provisions of Schedule 2, Part 4, Class B and Part 17 Classes A and B, of the Town & Country Planning (General Permitted Development) Order 2015 (or any subsequent amendment to the order), On-site plant and machinery shall comprise only:

- One 25 tonne excavator;
- One 13 tonne excavator;
- One dump truck;
- One screener as approved under Condition 38 of permission 18/11586 (to screen the quarry's extracted clay-rich sand only);
- One loading shovel; and

- One tractor and bowser.

The following Cell Engineering equipment is only to be permitted on site following the approval of the Revised Noise Assessment and Noise Management Plan detailed in Condition 31 of this permission and any subsequent updates:

- One 25 tonne bulldozer;
- One 26 tonne excavator; and
- One 5.5 tonne roller.

Reason: To ensure that the development is implemented in accordance with the details assessed as part of the application and to ensure the development is in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

17. No crushing or washing of mineral, waste or materials shall take place on site.

Reason: To ensure that the development is implemented in accordance with the details assessed as part of the application and to ensure the development is in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

18. Excavation of mineral shall be by 360 excavator only.

Reason: In the interests of amenity, to ensure the development is implemented in accordance with the application and to ensure the development is in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

19. Prior to the tipping of waste in each phase (1, 2 and 3), a Topographical Survey of the most recently excavated phase shall be submitted to the Mineral Planning Authority for review. Tipping shall commence following notification in writing from the Mineral Planning Authority.

Reason: For the purposes of monitoring to ensure that development and restoration is implemented in accordance with the approved plans and in accordance with Policy 9 (Restoration of minerals and waste developments) of the Hampshire Minerals & Waste Plan (2013).

20. The maximum depth of excavation shall be no lower/deeper than 1.5 metres above the inferred groundwater level of 24th February 2016 as shown on drawings 009 Rev A and 010 Rev, and in any event no lower than 26 metres AOD.

Reason: To protect the water environment in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals &

Waste Plan (2013) and for the avoidance of doubt to ensure the development is implemented in accordance with the approved details

21. In the event groundwater is encountered within the mineral extraction void, no further excavation of mineral shall take place. An assessment of the impact on the water environment as a result of continued working, and any recommended mitigation measures associated with this shall be submitted to and approved in writing by the Mineral Planning Authority. Once approved, the mitigation shall be implemented in full throughout the duration of mineral extraction operations.

Reason: To protect the water environment in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

22. The development shall be implemented in accordance with the Arboricultural Impact Assessment (dated 13 June 2016) and Tree Protection Plan (dated July 2016) approved under planning permission 16/10450. The tree protection barriers shall be retained as approved throughout the duration of development.

Reason: In the interests of biodiversity, landscape character and visual amenity in accordance with Policies 3 (Protection of habitats and species), 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste developments) of the Hampshire Minerals & Waste Plan (2013).

23. Heavy Goods Vehicle (HGV) movements to and from the site shall be restricted to no more than 192 per day. A daily record of HGVs entering and leaving the site shall be kept at the site and made available to the Mineral Planning Authority on request.

Reason: To limit the volumes of traffic in the interests of the amenity of residents on and near the approaches to the site in accordance with Policy 12 (Managing traffic) of the Hampshire Minerals & Waste Plan (2013).

24. Access to the site shall only be from the access shown on plan HT/001 Rev 2 from Fawley Road. Heavy Goods Vehicles (HGVs) shall turn right into the site and left out of the site only. A sign stating that all HGVs shall turn left out of the site shall be displayed throughout the duration of the development in a location visible to drivers within the site and near to the highway access.

Reason: In the interests of protecting the amenity of residential areas to the north of the site in accordance with Policies 10 (Protecting public health, safety and amenity) and 12 (Managing traffic) of the Hampshire Minerals & Waste Plan (2013).

25. The Site Management Area and access haul road specifications approved in writing by the Mineral Planning Authority on 14 November 2017 shall be

retained and maintained free of potholes in full throughout the duration of the mineral extraction and restoration works approved under Condition 1 above.

Reason: To limit the potential for the generation of dust and to mitigate against mud and debris from being tracked onto the public highway in accordance with Policies 10 (Protecting public health, safety and amenity) and 12 (Managing traffic) of the Hampshire Minerals & Waste Plan (2013).

26. All Heavy Goods Vehicles entering or leaving the site loaded with waste or materials shall be securely sheeted.

Reason: In the interests of highway safety to prevent the deposition of material on the public highway or the generation of wind blown dust in accordance with Policies 10 (Protecting public health, safety and amenity) and 12 (Managing traffic) of the Hampshire Minerals & Waste Plan (2013).

27. No vehicle shall leave the site unless it has been cleaned sufficiently to prevent mud and spoil being carried on to the public highway. In the event that mud and spoil from vehicles leaving the site is deposited on the public highway, measures shall be taken to clean the highway. In any event at the end of each working day the highway shall be cleaned to the satisfaction of the Mineral & Waste Planning Authority.

Reason: In the interests of highway safety in accordance with Policies 10 (Protecting public health, safety and amenity) and 12 (Managing traffic) of the Hampshire Minerals & Waste Plan (2013).

## **Noise**

28. The total noise from operations at the hereby approved site shall not exceed 55dB LAeq 1 hour (free field) at the boundary of the nearest noise sensitive properties (as identified within chapter 8 of the Environmental Statement approved under planning permission 16/10450).

Reason: To prevent noise disturbance to the residents of the nearest houses in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

29. The noise level from work to facilitate essential site preparation, restoration and construction of baffle mounds shall not exceed 70 dB LAeq 1 hour (free field) at the boundary of noise sensitive premises for a period of up to eight weeks in one calendar year. Written records of the duration of such works shall be kept on site and made available for inspection by the Mineral Planning Authority upon request.

Reason: To prevent noise disturbance to the residents of the nearest houses in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

30. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturers' specification at all times, shall be fitted with and use effective silencers and be fitted with and use white-noise type reversing alarms.

Reason: To minimise noise disturbance from operations at the site in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

31. Not later than two months following the grant of planning permission, the partially approved (on 20 April 2021) Noise Assessment and Noise Management Plan (ref: 0492 version 1, dated June 2021) and the Long-Term Real-Time Noise Monitoring Report (ref: 0492, dated May 2021) shall be updated and submitted to the Mineral Planning Authority for approval. Once approved, they shall be implemented in full at all times throughout the duration of the development hereby permitted.

Reason: In the interest of public amenity in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

### **Protection of Water Environment**

32. Surface water draining from areas of hardstanding shall be passed through an oil interceptor or series of oil interceptors, prior to being discharged into any watercourse, soakaway or surface water sewer. The interceptor(s) shall be designed and constructed to have a capacity compatible with the area being drained, shall be installed prior to the occupation of the development and shall thereafter be retained and maintained throughout the lifetime of the development. Clean roof water shall not pass through the interceptor(s). Vehicle washdowns and detergents shall not be passed through the interceptor.

Reason: To prevent pollution of the water environment in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

33. All cleaning and washing of vehicles, plant, equipment and machinery should be carried out in areas isolated from any surface water system and only draining to the foul drainage system or sealed system. The area should be clearly marked and a kerb surround provided.

Reason: To prevent pollution of the water environment in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

34. Any facilities, above ground, for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the

capacity of the tank plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata or sewer. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

### **Permitted Waste Type and Storage**

35. Only inert waste/materials for the purposes of the approved restoration operations (approved under planning permission 16/10450) shall be imported to the site.

Reason: To ensure the development is implemented in accordance with the details assessed within the Environmental Statement and that the development is in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013).

36. Stockpiles of waste or materials stored or deposited on site shall not exceed 39 metres AOD (2 metres above existing ground level as shown on drawing 008 Rev 1) at the highest point.

Reason: In the interests of visual amenity and to ensure the development is in accordance with Policies 10 (Protecting public health, safety and amenity) and 13 (High-quality minerals & waste development) of the Hampshire Minerals & Waste Plan (2013).

### **Restoration**

37. The site shall be progressively restored to agriculture in accordance with drawing no. 007 REV C and Technical Appendices 10.6 Landscape of the Environmental Statement both approved under planning permission 16/10450.

Reason: To ensure satisfactory restoration in accordance with Policies 5 (Protection of the countryside) and 9 (Restoration of minerals and waste developments) of the Hampshire Minerals & Waste Plan (2013).

### **Aftercare**

38. The Aftercare scheme approved in writing by the Mineral & Waste Planning Authority on 19 December 2018 (under planning permission 16/10450) shall be implemented in full following written confirmation that the approved restoration has been completed to the satisfaction of the Mineral & Waste Planning Authority in accordance with Condition 37 above.

Reason: To ensure that the land is satisfactorily restored in accordance with Policy 9 (Restoration of minerals and waste developments) of the Hampshire Minerals & Waste Plan (2013).

**Plans**

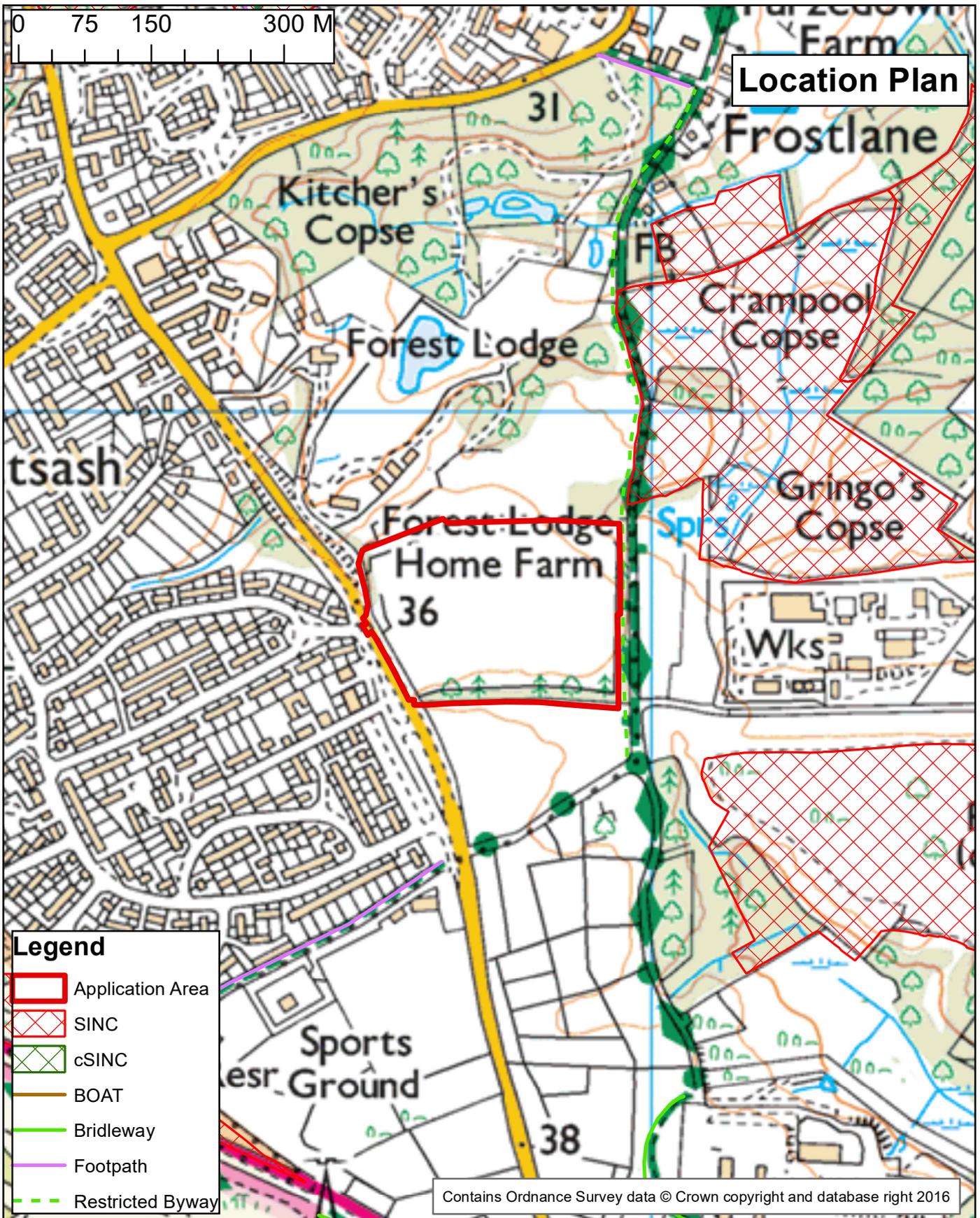
39. The development hereby permitted shall be carried out in accordance with the following approved plans: 001Rev1, 002Rev1, 008Rev1, 009RevA, 010RevA, 007RevC, 011RevC, 003RevD, 004RevD, 005RevD, 006RevD.

Reason: For the avoidance of doubt and in the interests of proper planning.

**Notes to Applicant**

1. In determining this planning application, the Mineral Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been taken positively and proactively in accordance with the requirement in the National Planning Policy Framework, as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015.
2. This decision does not purport or convey any approval or consent which may be required under the Building Regulations or any other Acts, including Byelaws, orders or Regulations made under such acts
3. For the purposes of matters relating to this decision Heavy Goods Vehicles (HGVs) are defined as vehicles over 3.5 tonne un-laden.
4. The existing Liaison Panel should continue between the site operator, Mineral Planning Authority and community representatives at a suitable frequency to facilitate effective engagement with stakeholders in the interests of promoting communication between the site operator and local community.
5. There is a legal agreement attached to this permission to secure the dedication of a public right of way from west to east across the site connecting with Footpath no. 3a (Solent Way) following completion of restoration of the site and to secure a road survey of Fawley Road's condition between the application site's vehicular access point with Fawley Road and Fawley Road's junction with the A326 at the Hardley Roundabout.

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Variation of condition 23 (vehicle movements)  
of Planning Permission 20/10282 at Forest  
Lodge Home Farm, Fawley Road, Hythe  
SO45 3NJ

Regulatory Committee

Date 27 July 2022

1:6,000



Application No: 22/10075

Site Reference: NF271

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Hampshire  
County Council

Drawn by: Development Management and Minerals & Waste Policy

Economy, Transport and Environment

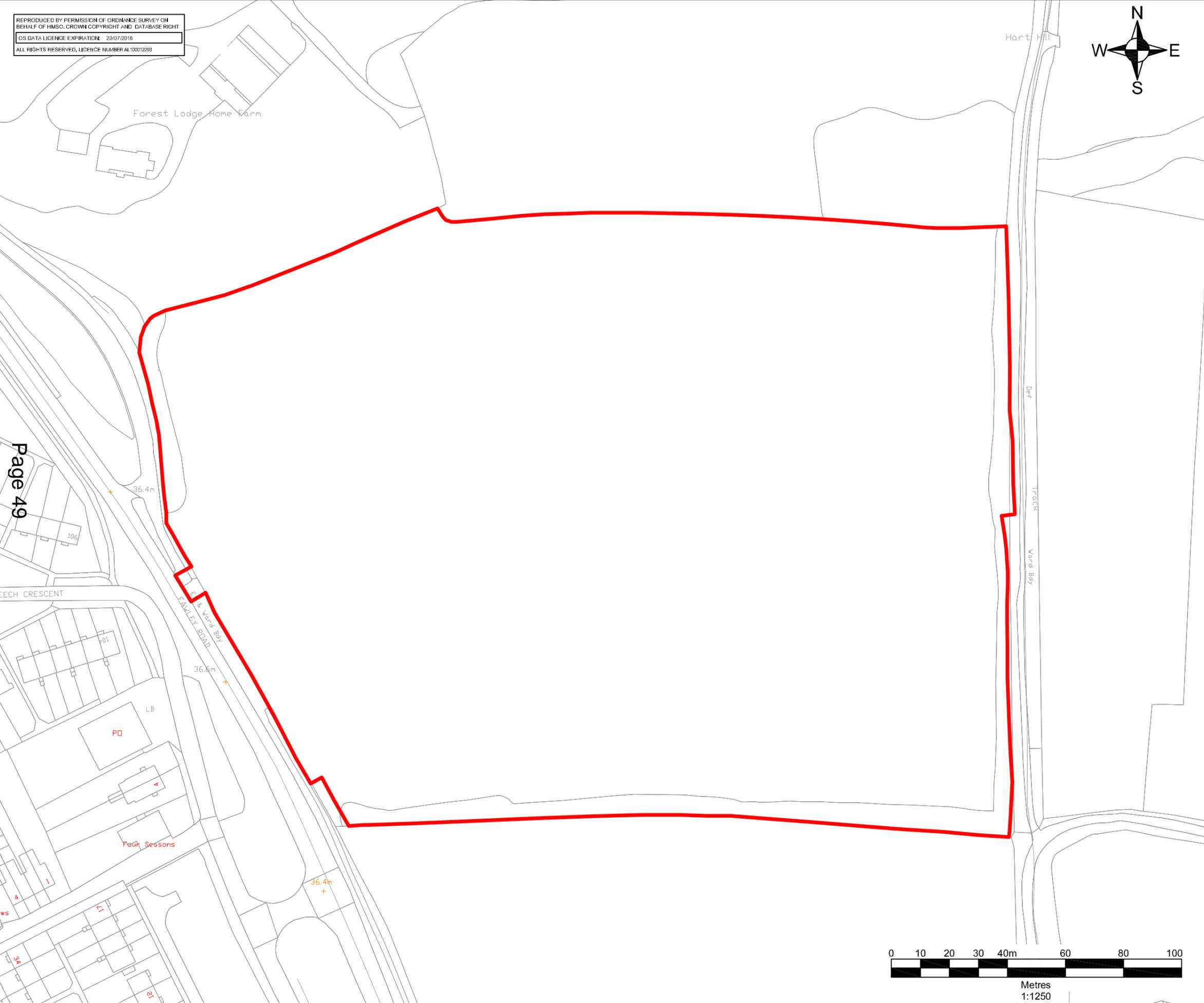
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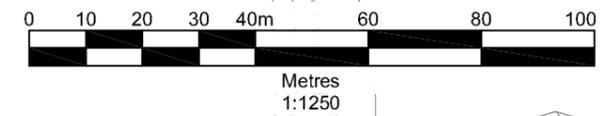
LEGEND

 SITE BOUNDARY



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**SLR**  
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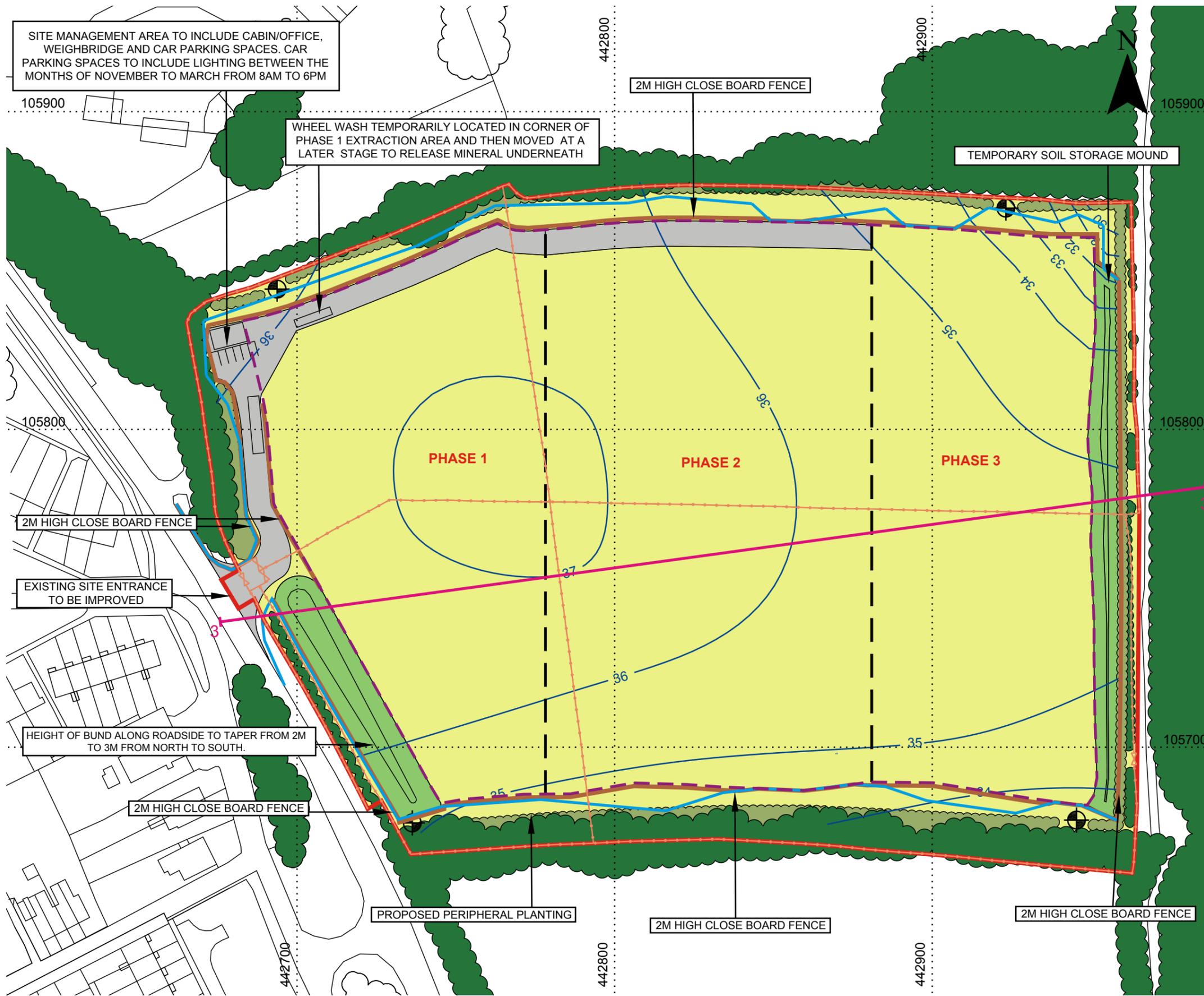
PLANNING APPLICATION AT LAND  
AT FOREST LODGE HOME FARM,  
HYTHE, HAMPSHIRE

**SITE BOUNDARY**

002 Rev 1

Scale 1:1250@A3 Date MARCH 2016

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SITE MANAGEMENT AREA TO INCLUDE CABIN/OFFICE, WEIGHBRIDGE AND CAR PARKING SPACES. CAR PARKING SPACES TO INCLUDE LIGHTING BETWEEN THE MONTHS OF NOVEMBER TO MARCH FROM 8AM TO 6PM

WHEEL WASH TEMPORARILY LOCATED IN CORNER OF PHASE 1 EXTRACTION AREA AND THEN MOVED AT A LATER STAGE TO RELEASE MINERAL UNDERNEATH

2M HIGH CLOSE BOARD FENCE

TEMPORARY SOIL STORAGE MOUND

2M HIGH CLOSE BOARD FENCE

EXISTING SITE ENTRANCE TO BE IMPROVED

HEIGHT OF BUND ALONG ROADSIDE TO TAPER FROM 2M TO 3M FROM NORTH TO SOUTH.

2M HIGH CLOSE BOARD FENCE

PROPOSED PERIPHERAL PLANTING

2M HIGH CLOSE BOARD FENCE

2M HIGH CLOSE BOARD FENCE

REV B ALTERATIONS TO SOIL BUNDS AND ADDITION OF TREE FENCING

REV C INCLUSION OF ROOT PROTECTION AREA AND ALTERATIONS TO EXISTING VEGETATION

REV D ADDITIONAL FENCING



**NOTES**

PLEASE REFER TO DRAWINGS 011 FOR CROSS SECTION INFORMATION

**LEGEND**

- APPLICATION BOUNDARY
- CROSS SECTION LINE
- CONTOURS (1m INTERVALS)
- PROPOSED MINERAL EXTRACTION BOUNDARY
- MINERAL EXTRACTION WORKING PHASE BOUNDARY
- 2M HIGH CLOSE BOARD FENCE
- EXISTING STOCK PROOF FENCE
- LIMIT OF ROOT PROTECTION AREA
- BOREHOLE LOCATIONS
- EXISTING PERIMETER VEGETATION
- PROPOSED PLANTING
- UNDISTURBED FARMLAND/ GROUND
- SITE MANAGEMENT AREA/ROADS
- SOIL STORAGE BUNDS

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**FOREST LODGE HOME FARM**

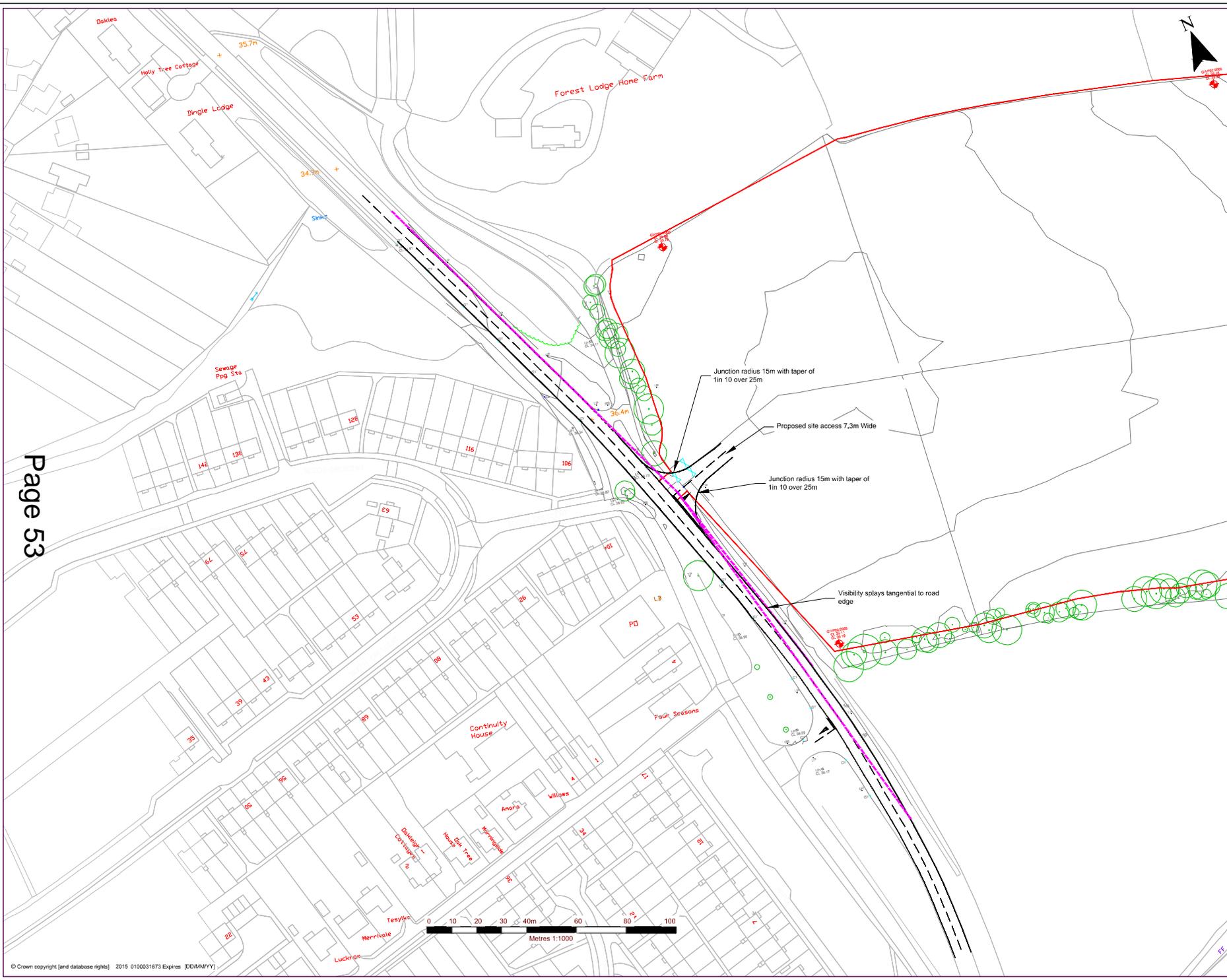
**PLANNING APPLICATION**

**WORKING PLAN PHASES**

**003 REV D**

Scale: 1:1250 @ A3 Date: AUGUST 2016

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**NOTES**  
 Vertical alignment and drainage has not been taken into account at this stage.  
 Junction to be designed on Topographical, Survey data when available.

**LEGEND**

- Site Boundary
- 4.5m x 160m visibility splay

00492/00018\_14-HT-001.2 Proposed Junction Arrangement.dwg

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global environmental solutions

**FOREST LODGE HOME FARM**  
**ENVIRONMENTAL IMPACT ASSESSMENT**  
**PROPOSED JUNCTION ARRANGEMENT**  
**HT/001 Rev 2**

Scale: 1:1,000 @ A2

Date: JUNE 2016

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## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	27 July 2022
<b>Title:</b>	Update Report on Planning Code of Conduct
<b>Report From:</b>	Chief Executive

**Contact name:** James Hammond

**Tel:** 0370 779 3793

**Email:** james.hammond@hants.gov.uk

#### **Purpose of report**

- 1 The purpose of this report is to inform Regulatory Committee members of the updated Planning Code of Conduct (“the Code”), the reasons for the update and the governance requirements required to bring this updated Code into effect. The Committee need to consider the amendments to the Code and decide whether to recommend the Code for adoption by full Council. If recommended the Code will then be taken to the next full Council meeting (on the 29th of September 2022) for adoption.

#### **Recommendation**

2. That Regulatory Committee recommends adoption of the updated Planning Code of Conduct to Full Council, together with the onward governance requirements necessary to give effect to the Code.

#### **Contextual information**

3. Hampshire County Council’s Legal Services has recently undertaken a review of the Code. This is to ensure the Code is compliant with current legislation and to reflect good practice. The Code was last reviewed in February 2014.
4. The current Code forms part of the County Council’s Constitution and can be found at Part IV Appendix B within the Constitution.
5. The Code has been redrawn to provide a clearer document setting out the conduct responsibilities of both Members and Officers when considering matters brought to Regulatory Committee. These responsibilities are set out separately for Members and Officers for easier reference. They have been updated where necessary in accordance with current legislation.

6. The proposed changes to the Code have been informed by discussions with the County Council's Monitoring Officer. Legal Services has also worked with officers from Economy Transport and Environment and Culture, Communities and Business Services departments that work closely with Regulatory Committee. An Equalities Impact Assessment has been completed and can be found at Appendix B.
7. The Code now has an index to aid interpretation and permits easier cross-referencing via hyper-links to other relevant documents or parts of the Constitution when viewed electronically.
8. The intention of the updated layout of the Code is to better group together the content of the Code to make accessing the relevant procedural rules more intuitive.
9. A breakdown of all of the updates and changes to the Code is set out below at paragraphs 20 - 38. The more substantive updates for Members to consider are described in paragraphs 10 - 19 below.

### **Member's Training**

10. The Code expands the rules on Member Training. Paragraph 4.3 introduces a mandatory requirement for Members to have attended basic training in advance of their first sitting on Regulatory Committee.
11. There is more detail around the practicality and requirement of attending and the content of refresher training sessions at paragraphs 4.4 – 4.9.
12. Paragraphs 4.11 and 4.12 include a mechanism for referral to the Chair and Monitoring Officer if a Member consistently fails to attend training.

### **Amendments to Recommendation**

13. Paragraph 11.3 that addresses has been updated to more clarify the procedure for compiling the reasons of members in the event a recommendation is not adopted.
14. The Code now incorporates at paragraphs 13.5 – 13.12 an express procedure for the introduction and adoption of any proposed amendments to a recommendation.

### **Site Visits**

15. Paragraph 14.1 has been updated to clarify when decisions of the Officers for a site visit will take place
16. Paragraph 14.2 now provides that Members will be expected to attend site visits unless an access issue arising from a Member's disability prevents attendance.

17. Paragraph 14.3 expressly incorporates the Public Sector Equality Duty in the context of the Officers making arrangements for Members attendance at Site Visits.
18. Paragraph 14.9 of the Code clarifies the limited role of landowners at site visits to allow admission and for any health and safety guidance required during the visit.
19. Paragraph 14.10 and 14.11 includes a mechanism for referral to the Chair and Monitoring Officer if members fail to attend site visits.

### **Further Updates**

20. Paragraph 1.8 now incorporates reference to the relevant parts of the County Council's Standing Orders.
21. Paragraph 1.9 summarises general principle that only Offices and Members who observe the Code should take part in Regulatory Committee.
22. Paragraph 2.20 clarification on need to declare 'dual hat' interest as a Personal Interest at Committee.
23. Paragraph 7 clarification on basis of Member appointment to Committee in accordance with Constitution and link to Member details.
24. Paragraph 8.1 – 8.3 express reference and links to schemes of authorisation and delegation for Planning and Rights of Way and further description of Committee remit.
25. Paragraph 9.2 express reference to legislative timeframe for publication of reports.
26. Paragraph 9.5 reference and link to tests for conditions attached to planning permission.
27. Paragraph 9.6 – 9.7 detail on process for publication of update reports.
28. Paragraph 9.8 additional detail on the content of reports for Rights of Way, Common and Town or Village Green matters.
29. Paragraph 10.4 removal of reference to withdrawn circular.
30. Part 11 on Committee Process now separates guidance on decision making between planning matters (paragraphs 11.1 – 11.4) and Rights of Way, Common and Town or Village Green matters (paragraphs 11.5 – 11.6).
31. Paragraph 11.4 provides more detail on process for departing from recommendation or deferring a decision.
32. Paragraph 11.8.2 to allow for Members to declare any declaration of interest after the introduction of the item.

33. Paragraph 12.1 regarding deputations includes reference to rules in County Council Standing Orders
34. Paragraph 12.4 allows for Members of adjacent authorities or authorities within the administrative area of the County Council to make a deputation to Committee.
35. Paragraph 12.7 provides link to Standing Order 40 as the basis for Members of the County Council who are not Members of the Committee to speak, removal of reference to 'local.'
36. Paragraph 13.13 and 13.14 provide for grant of delegated authority for Officers to finalise wording in consultation with the Chair and Vice Chair of reasons for a decision of Committee not to adopt a recommendation or to defer a decision.
37. Removal in Annex B on Guidelines for determining planning applications of reference to withdrawn planning circulars
38. Link to Countryside Scheme of Authorisation at new Annex D

#### **Future direction**

39. In order to effect the proposed changes to the Code, the updated Code must be approved by full Council as an amendment to the Constitution. Subject to Regulatory Committee recommending adoption of the Code a Part I report will be presented to full Council on the 29th of September 2022 to seek approval of the updated Code and its subsequent incorporation into the constitution.

**REQUIRED CORPORATE AND LEGAL INFORMATION:**

**Links to the Strategic Plan**

<b>Hampshire maintains strong and sustainable economic growth and prosperity:</b>	No
<b>People in Hampshire live safe, healthy and independent lives:</b>	No
<b>People in Hampshire enjoy a rich and diverse environment:</b>	No
<b>People in Hampshire enjoy being part of strong, inclusive communities:</b>	No

**OR**

**This proposal does not link to the Strategic Plan but, nevertheless, requires a decision because:**

The report outlines changes to the Planning Code of Conduct which governs the Regulatory Committee and so the report is required to inform members and promote transparency.

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

None



# **Part 4**

## **Appendix B – Planning Code of Conduct**

### **Local Protocol on Planning, Rights of Way, Commons and Village Greens Registration for Members of Regulatory Committee, Substitute Members of Regulatory Committee and Officers**

- 1. General Matters and Role of the Committee**
- 2. Members Conduct:**
  - General
  - Registration and Disclosure of Disclosable Pecuniary Interests, Personal Interests, Gifts and Hospitality
  - Declarations of Interest
  - Bias or Pre-determination
  - Pre-disposition
  - Dual Hatted Members
- 3. Lobbying of and by Members and attendance at public meetings**
  - Lobbying
  - Public Meetings prior to Committee date
- 4. Member Training**
- 5. Officers Conduct:**
  - General
  - Officer Attendance at Public Meetings
- 6. Officer Pre-Application and Pre-Decision-Making Discussions**
- 7. Membership of the Committee**
- 8. Items to be considered by the Committee**

**9. Officer Reports to the Committee:**

- General
- Planning Reports
- Rights of Way, Village Green and Commons Registration Reports

**10. Development, modification or registration proposals submitted by Members, Officers and County Council:**

- Member or Officer Applications
- County Council Applications (including Reg. 3 applications)

**11. The Committee Process:**

- Determining Planning Matters
- Determining Rights of Way, Town or Village Greens and Common Registration Matters
- Meeting Structure and Order

**12. Deputations to the Committee:**

- Applicants, agents, interested parties other than County Council Members
- County Council Members wishing to address the Committee

**13. Decision Making by the Committee:**

- General
- Amendments to Recommendations
- Planning - Decision making
- Rights of Way, Town or Village Greens, Commons Registration - Decision making

**14. Site Visits by the Committee**

**15. Record of Committee meetings**

**16. Complaints about the Committee**

**17. Freedom of Information/Environmental Information requests related to the Committee**

**Annex A -Links to procedural guidance for public path orders, definitive map modification and town and village green applications**

**Annex B -Guidance for determining planning applications under the Town and Country Planning Act 1990 (TCPA) (as amended)**

- Material Considerations

**Annex C - Scheme of delegation for planning decisions**

**Annex D – Scheme of authorisation for Countryside and Rights of Way**

## **1. General Matters and Role of Committee**

- 1.1 The public is entitled to expect the highest standards of conduct and probity by all persons holding public office. There are statutory provisions and codes (for both [members](#) and [officers](#)) which set standards that must be followed if the public perception of the integrity of public service is to be maintained.
- 1.2 Planning Applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.<sup>1</sup> The emphasis in determining applications is upon a plan-led system.
- 1.3 Town or Village Green registration applications are to be determined in accordance with the [Commons Act 2006](#), accompanying relevant legislation, government guidance, and supporting case law.
- 1.4 Rights of Way matters will be determined in accordance with relevant legislation, government guidance and supporting case law.
- 1.5 Commons Registration matters will be determined in accordance with relevant legislation, government guidance and supporting case law.
- 1.6 Whilst this local Protocol ('the Protocol') deals primarily with regulatory matters listed above, the principles apply equally to consideration of local development documents and briefs, enforcement cases and all other related matters.
- 1.7 Throughout the Protocol references to Regulatory Committee ("Committee") apply equally to all sub-committees, panels and meetings of the County Council when exercising regulatory functions.
- 1.8 This Protocol is supplemental to the relevant parts of the County Council Standing Orders the [Members' Code of Conduct](#) and [Officer's Code of Conduct](#) (and also supplemental to other relevant legislation) and provides further specific advice and guidance for Members and Officers involved in Committee matters.
- 1.9 Only Officers and Members who are prepared to observe this Protocol should be involved in the process of dealing with regulatory matters and determining planning, rights of way, town or village greens or commons registration applications.

## **2. Members Conduct**

### **General**

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<sup>1</sup> Section 38(6) of the [Planning and Compulsory Purchase Act 2004](#) states: if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts (principally the Town and Country Planning Act 1990), the determination must be made in accordance with the plan unless material considerations indicate otherwise.

- 2.1 This Protocol applies equally to Members and Substitute Members of the Committee, as provided for in the County Council's [Constitution](#).
- 2.2 Dealing with regulatory matters places upon Members a particular need for probity and they must ensure that only relevant considerations are taken into account.
- 2.3 Members should not favour any individual or groups and must determine matters brought before the Committee in accordance with relevant policy and guidance. Whilst Members should take account of all views expressed, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.4 Members should not openly declare which way [they intend to vote in advance](#) of a Committee meeting, or give the impression that they have reached a final decision. To do so without all relevant information and views expressed at the Committee meeting would be unfair and prejudicial and may amount to predetermination.
- 2.5 Members should reach their own conclusions after full consideration of all available information at Committee, rather than follow the lead of another Member.
- 2.6 A Member should not use their position to further a private or personal interest, rather than the general public interest, or give the impression this is the case.
- 2.7 All Members are required to comply with the provisions of the [Members' Code of Conduct](#) or any successor document and the [Protocol for Member/Officer Relations](#) or any successor document.

### **Registration and Disclosure of Disclosable Pecuniary Interests, Personal Interests, Gifts and Hospitality**

- 2.8 Members should observe the requirements in respect of the registration and disclosure of both Disclosable Pecuniary Interests and Personal Interests set out in the [Members' Code of Conduct](#). Members who have substantial property interests, or other interests which would prevent them from voting on a regular basis, should avoid serving on the Committee.
- 2.9 Members should observe the requirements in respect of the registration of gifts and hospitality set out in [Members' Code of Conduct](#). Where hospitality is unavoidable it should be minimal and its receipt declared as soon as possible.

### **Declarations of Interest**

- 2.10 Members should declare an interest in any item at the beginning of a meeting or as part of the relevant agenda item for each meeting or when the interest becomes apparent. Declarations of interest shall be recorded

in the Minutes of the meeting.

- 2.11 The responsibility for determining the nature of and declaring any interest lies with the individual Member
- 2.12 Where a Member is unsure of their interest being a Disclosable Pecuniary Interest or a Personal Interest that should be declared, the Member shall seek advice from the Legal Adviser to the Committee, or the Monitoring Officer, as soon as the issue becomes apparent. To avoid undue delay at a meeting and to ensure that any interest is properly considered such advice should be sought at least three working days before the meeting at which the matter is being discussed.

### **Bias or Pre-determination**

- 2.13 Any Member of the Committee with bias or who have pre-determined<sup>2</sup> a matter should not participate at all in the decision-making process. If they do there is a strong risk that the decision will be vulnerable to challenge by way of judicial review and possibly quashed.
- 2.14 Bias can be assessed by asking two questions:
  - 2.14.1 Would a fair-minded observer, knowing the background, consider that there was a real possibility of bias arising from a particular Member being a member of the relevant decision-making body? and
  - 2.14.2 Would a fair-minded and informed observer consider that there was a real possibility that the Committee, or some of its members, were biased in the sense of approaching the decision with a closed mind and without impartial consideration of the relevant issues?
- 2.15 Pre-determination occurs when a Member's mind is closed to the merits of any arguments which differ from his/her own about a particular issue on which the Member is making a decision. It is objectively determined. Pre-determination is likely to be evidenced by previous statements by the Member either at meetings or in the Press, that he/she is determinedly for or against a proposal, that they have reached a decision, and nothing will change their mind.
- 2.16 Members should approach decision making with an open mind, having regard to all the material facts and remain open to the possibility that, however unlikely, they may hear arguments during debate that might change their mind about how they intend to vote. In doing so, such Member will not be held to have pre-determined an issue.

### **Pre-disposition**

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<sup>2</sup> Section 25 of the [Localism Act 2011](#) clarifies the distinction between pre-determination and pre-disposition and applies to all Members.

- 2.17 Members of the Committee are not precluded from expressing views favourable to or against matters that are likely to come before them for a decision at Committee.
- 2.18 Members should, to avoid the claim that they have pre-determined the matter, qualify any comments made (favourable or otherwise), with a statement that their views are not fixed or final and they will make their final decision taking into consideration all the information presented to them. This will include Officer Reports, deputations, questioning of deputations and Officers, and debate at the Committee meeting.

### **‘Dual Hatted’ Members**

- 2.19 Members of the Committee who are also members of a District, Borough or City Council or National Park Authority may be faced with taking a decision on the same matter at both tiers. Members are not precluded from making decisions at both tiers providing, at the meeting which deals with the matter first, they make it clear that any decision is being made on the basis of the information before them at that meeting, and any subsequent decision will be made on the basis of the information before that subsequent meeting. However, depending on the significance of the decision in question, Members may sometimes consider it preferable to abstain from decision making at one tier or the other.
- 2.20 Members who find themselves in the position described above are advised to declare any such involvement as a relevant Personal Interest at the relevant time during the Committee meeting.
- 2.21 Members unsure of their position should seek advice from the Legal Adviser at the Committee meeting, or the Monitoring Officer. Any final decision as to whether a Member should form part of decision making by the Committee rests with the individual Member.

## **3. Lobbying of and by Members and Member attendance at public meetings**

### **Lobbying**

- 3.1 For Members to undertake fully their constituency roles it is inevitable that they will be subject to lobbying on regulatory matters and specific applications. It is essential to maintain the integrity of both the County Council and Members and the public perception of the regulatory process when Members are lobbied. Members should not, therefore, favour or appear to favour, any person, company, group or locality.
- 3.2 Members of the Committee involved in the decision making on regulatory matters should not:
- 3.2.1 organise support or opposition to a proposal;

- 3.2.2 lobby other Members;
  - 3.2.3 act as an advocate; or
  - 3.2.4 put pressure on Officers for a particular recommendation.
  - 3.2.5 However, other County Councillors (who are not part of the decision making process) can make representations and address the Committee in accordance with 12.7 below.
- 3.3 Any political group meetings prior to Committee meetings should not be used to decide how Members should vote, and votes on such matters should not be taken at such political group meetings. The view of the Local Government Ombudsman is that the use of political `whips' at group meetings in this way amounts to maladministration.
- 3.4 If Members consider that they have been exposed to undue or excessive lobbying or approaches, these should be reported to the Monitoring Officer who will in turn advise the appropriate Officers (usually the Director of Economy, Transport and Environment or the Director of Culture, Communities and Business Services, as appropriate).

#### **Public Meetings prior to Committee date**

- 3.5 Members of the Committee should take great care to maintain impartiality when attending public meetings in relation to such matters. At such meetings it is preferable for no view on the merits or otherwise of a proposal or application to be given, but if a view is given the advice in paragraph 3.6 and 3.7 below should be followed.
- 3.6 Members should not openly declare which way they [intend to vote in advance](#) of the Committee meeting, or give the impression that they have reached a final decision. To do so without all relevant information and views expressed at the Committee meeting would be unfair and prejudicial, and may amount to predetermination.
- 3.7 If Members are in a position where they consider it necessary to express an opinion, they should make it clear that this is a preliminary view and that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee.

#### **4. Member Training**

- 4.1 Seminars are held after the County Council elections to give guidance to all Members on the declaration of interests and any other issues in the [Members' Code of Conduct](#).
- 4.2 Members (including Substitute Members) appointed to the Committee must demonstrate a commitment to being trained, both upon appointment and throughout their period of service. All Members of the Committee will receive training in the following areas:
- 4.2.1 committee protocol and procedures;

- 4.2.2 policy and procedure in respect of planning, rights of way, town or village greens and commons registration;
  - 4.2.3 the development plan; and
  - 4.2.4 past implemented planning decisions.
- 4.3 It is a mandatory requirement for new Members (including Substitute Members) of the Committee to undertake 'Initial Committee Training' before they are able to take a seat on the Committee. Initial Committee Training will provide new Members with an induction in the relevant legislative frameworks covering the matters considered by the Committee, committee protocol and procedures and their duties as a Member of the Committee.
- 4.4 All Members (including Substitute Members) must attend 'Refresher Training' sessions to be held as organised by Officers. The Refresher Training will provide all Members with a review of current legislation, recent caselaw and any anticipated future changes to legislation.
- 4.5 Where a Member (including a Substitute Member) is unable to attend any Refresher Training session it is the Member's responsibility to arrange alternative training pursuant to 4.9 below to ensure they are updated and maintain their competency.
- 4.6 Training will be discussed within Committee meetings and Members advised of any forthcoming training events or, if appropriate, informed of any recent decisions relevant to the operation of the Committee.
- 4.7 Every four years, after the County Council elections, a special event will usually be arranged usually in early June to ensure that all Members (including returning Members and Substitute Members) of the Committee are familiar with the operation of the Committee, this Protocol and current legislation.
- 4.8 The content of each Training Session will be determined by the Director of Economy, Transport and Environment, Director of Culture Community and Business Services, Legal Adviser, relevant Democratic and Member Services Officer or Monitoring Officer in discussion with the Chair of the Committee. Members may also make suggestions to the Officers and the Chair as to any particular areas or subjects upon which they would like training.
- 4.9 Members (including Substitute Members) can request individual coaching sessions with Officers if unable to attend Training Sessions.
- 4.10 Periodic tours are arranged for Members (including Substitute Members) to help develop an understanding and appreciation of the complex issues associated with planning decision making, and provide the opportunity for Members (including Substitute Members) to see the permissions that they have granted in operation and to assess the impacts of the committee's decision-making process. All Members (including Substitute Members) of

the Committee will be expected to attend these tours when they are arranged.

- 4.11 All Members (including Substitute Members) of the Committee are required to maintain their competency to determine matters brought to the Committee by attending the Training Sessions offered throughout the calendar year and the periodic tours. Those Members (including Substitute Members) who fail within a two year calendar period to attend Refresher Training (or don't make alternative arrangements as noted in 4.5 above) or fail to demonstrate adequate understanding of the operation of the Committee will be reported by Officers to the Chair and the Monitoring Officer.
- 4.12 The Monitoring Officer in consultation with the Chair of the Committee will consider whether the significance of any failure of a Member (including Substitute Member) to attend a sequence of training events warrants referral to the relevant Group Leader regarding exclusion from the Committee and any breach of the [Member's Code of Conduct](#).

## **5. Officers Conduct**

### **General**

- 5.1 Officers are employed by, and serve, the whole County Council. They advise the County Council, the Executive and its non-Executive committees, and are responsible for effective implementation of County Council decisions.
- 5.2 Officers must act in accordance with the requirements of the [Local Government and Housing Act 1989](#) , and all other relevant legislation, the County Council's [Constitution](#) the County Council's [Officers' Code of Conduct](#) and the [Protocol for Member/Officer Relations](#). Officers must also act in accordance with the orders of conduct of the professional bodies to which they belong.<sup>3</sup>
- 5.3 Officers must always act impartially. The County Council will review, on a regular basis, the restrictions in relation to outside activities under the [Local Government and Housing Act 1989](#) under which private work and interests are declarable.
- 5.4 Officers should observe the requirements in respect of the acceptance and registration of gifts and hospitality set out in the [Officers Code of Conduct](#).
- 5.5 Officers should (as a general premise) not accept gifts or hospitality. If, however, a degree of hospitality is unavoidable, it should be minimal and

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<sup>3</sup> Planning officers who are RTPI accredited must act in accordance with the [Royal Town Planning Institute's Code of Professional Conduct](#), or any successor documents. Solicitors advising the Committee will act in accordance with the principles and standards set out in the SRA Standards and Regulations and the Code of Conduct for Solicitors or any successor document.

its receipt declared as soon as possible.

## **Officer Attendance at Public Meetings**

5.6 Officers involved in the processing or determination of regulatory matters who, with their Chief Officer's consent, attend public meetings in connection with development proposals (i.e. pre-application) or submitted planning applications should take great care to maintain impartiality. They should concentrate on providing factual information and listening to comments and avoid giving views on the merits or otherwise of the proposal.

## **6. Pre-Application and Pre-Decision Making Discussions**

6.1 The County Council offers a [pre-application advice service](#) for planning matters. Advice given will be consistent and based upon the relevant law and guidance, development plan and other material considerations. Any views or opinions expressed in pre-application advice are made at Officer level in good faith, and to the best of ability, without prejudice to the formal consideration of any planning application. It does not constitute a formal response or decision of the County Council.

6.2 The final decision on any planning application will only take place after the County Council has consulted the local community, statutory consultees and any other interested parties as part of the formal planning application process, and taken into account the comments that they may raise.

## **7. Membership of the Committee**

7.1 Members will be appointed to the Committee in accordance with the County Council's [Constitution](#).

7.2 The County Council webpages include information on all [Members of the Committee and their contact details](#).

## **8. Items to be considered by the Committee**

8.1 Planning applications will be considered in accordance with the Director of Economy, Transport and Environment's [Scheme of Authorisation and Delegation](#).

8.2 Applications for registration of Rights of Way, Commons, and Town or Village Greens which in accordance with the Director of Director of Culture, Communities and Business Service's [Scheme of Authorisation and Delegation](#) require Committee consideration.

8.3 Consideration of local development documents and briefs, enforcement cases and all other related matters as required by the County Council's statutory role as (inter alia) a Local Planning Authority, Highway Authority, Commons Registration Authority, and Surveying Authority (for Rights of

Way).

## **9. Officer Reports to the Committee**

### **General**

- 9.1 Reports to Committee must be accurate and cover all relevant points.
- 9.2 All reports shall be prepared and published 5 clear working days before the date of the Committee. Reports will be published on [the County Council website](#).
- 9.3 Oral reporting of new information (other than to update an existing report) will only be used on rare occasions when absolutely necessary and will be carefully minuted.

### **Planning Reports**

- 9.4 Where a planning application is subject to a full report, the report will refer to whether the proposal is in conformity (or not) with the relevant national and local policy (development plan) and guidance, together with all other relevant material planning considerations. Where appropriate this will include a full description of the site and any related regulatory background. The report will also summarise the consultations and representations made in respect of the application
- 9.5 All planning reports will have a written recommendation for action/decision. All reasons for approval or refusal must be justified, related to policy considerations, clear and unambiguous. All proposed conditions must meet the tests set out in [Government guidance](#).
- 9.6 Update planning reports will be prepared if there are supplementary matters which need to be reported to the Committee following the publication of the Committee reports.
- 9.7 Copies of the update reports will be available to all at the meeting and will be distributed to Members prior to the meeting. All Substitutes will be informed of their publication by the relevant Democratic and Members Services Officer if they are due to sit on the Committee.

### **Rights of Way, Town or Village Green and Commons Registration Reports**

- 9.8 All reports for rights of way applications, town or village green applications or commons registration must:
  - 9.8.1 accurately present all relevant information, setting out the relevant law and including any necessary legal tests;
  - 9.8.2 provide a summary of the application and its supporting evidence, the results of the investigation into the evidence and analysis of that evidence;
  - 9.8.3 have a written statement of whether the application meets all

the required legal tests, and a written recommendation, whether the evidence supports the making of an Order (in the case of rights of way) or whether it should be rejected or rights should be registered, in the case of town or village green applications.

## **10. Development, modification or registration proposals submitted by Members, Officers and County Council**

### **Member or Officer applications**

- 10.1 Serving Members and Officers should never act as agents for individuals (including a company, group or body) pursuing a planning, rights of way, town or village green or commons registration matter.
- 10.2 If Members or Officers submit their own proposal to the County Council, they should take no part in its processing. The County Council's Monitoring Officer should be informed of all such proposals as soon as they are submitted.
- 10.3 Proposals submitted by Members or Officers should be reported to the Committee in accordance with the Scheme of Delegation (see Annex C) as main items and not dealt with by Officers under delegated powers. As part of the report the case Officer (or such other person as may be appointed to take on this role) should confirm that the application has been processed normally.

### **County Council Applications (including Reg. 3<sup>4</sup> applications)**

- 10.4 Proposals for the County Council's own development (or a development involving the County Council and another party) should be treated in the same way as those by private developers and in accordance with national planning policy and associated guidance.
- 10.5 The same administrative planning process, including consultation, should be undertaken in relation to the County Council's own planning applications, and they should be determined against the same policy context (i.e. the development plan and any other material planning considerations).
- 10.6 Decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the County Council if the development is permitted. It is important that the Committee is seen to be treating such applications on an equal footing with all other applications, as well as actually doing so.

## **11. The Committee Process**

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<sup>4</sup> Regulation 3 of The Town and Country Planning General Regulations 1992(SI.1992/1492) (as amended)

## **Determining Planning Matters**

- 11.1 The Committee has given delegated authority to the Director of Economy, Transport and Environment to determine planning applications in certain circumstances and in accordance with the [Scheme of Authorisation and Delegation](#).
- 11.2 In determining any application submitted pursuant to the [Town and Country Planning Act 1990](#) the County Council will follow the Guidelines adopted and attached in Annex B. This will be subject to change from time to time to reflect Government guidance, and changes in statutory law and case law.
- 11.3 Members of the Committee are at liberty to disagree with the recommendation made by the Officers, but upon voting not to adopt the recommendation the reasons for their disagreement must be clearly stated to the Chair. The reasons will be compiled in writing by the officers and will be displayed to the Committee or read out by the Chair before the alternative recommendation is put to the Committee. The reasons must be justified with reference to any relevant planning policy and/or any relevant material considerations, be based on evidence, and be clear and unambiguous. Members may seek advice from the Officers on the appropriate wording of the reasons for disagreeing with the recommendation.
- 11.4 The Committee shall have the right to defer consideration of any planning matter at its discretion. The reason for deferral must relate to relevant planning considerations and shall be recorded in the minutes of the Committee meeting. Members may seek advice from the Officers on the appropriate wording of the reasons for deferral of the recommendation

## **Determining Rights of Way, Town or Village Greens and Common Registration Matters**

- 11.5 The Committee has given delegated authority to the Director of Culture, Communities and Business Services for the determination of Orders made under Section 53 Wildlife and Countryside Act 1981 and various Orders under the Highways Act 1980 (Annex D). However, items will still be brought to Committee if it is considered appropriate by Officers (i.e. if it is controversial).
- 11.6 The Committee shall have the right to defer any consideration of any regulatory matter at its discretion. The reason for deferral must relate to the relevant legal tests that are required to be satisfied and shall be recorded in the minutes of the meeting.

## **Meeting Structure and Order**

- 11.7 To enable the Chair and Vice-Chair to give an effective lead on agenda management in the Committee meeting they should attend a briefing with Officers prior to meeting.

- 11.8 The Chair will call the Committee to order and will then introduce the Committee business. Each item of business will be considered by the Committee as follows:
- 11.8.1 Chair introduces item;
  - 11.8.2 Members make any necessary declaration in accordance with 11.9 below and if necessary, leave the meeting;
  - 11.8.3 Officer updates/summarises the Report on the item as appropriate;
  - 11.8.4 Chair invites deputations to address the Committee. Members of the public speak first, then the applicant, followed by any local Member not on the Committee who wishes to be heard;
  - 11.8.5 Members of the Committee may ask questions of the deputees for purposes of clarification of fact of the deputation;
  - 11.8.6 Members of the Committee may ask the Officer questions;
  - 11.8.7 Officer clarifies matters raised as appropriate;
  - 11.8.8 Committee debates the item;
  - 11.8.9 Officer responds to issues outstanding from the debate and clarifies any matter in the Committee Report in the light of the debate;
  - 11.8.10 The Chair may, for the benefit of the Members of the Committee, clarify any issues that have arisen during consideration of the matter;
  - 11.8.11 The vote is taken, including any amendments that may have been moved and seconded by the Committee Members; and
  - 11.8.12 If the Committee fails to approve a recommendation in the Officer's report, immediately afterwards the Chair shall establish the reasons for failing to approve the recommendation (see 11.3 above). The Chair shall then move an alternative recommendation with the reasons and a vote is taken.
- 11.9 Members on the Committee who have had previous involvement in an application, or a link with the applicant (such as contact with the applicant/objectors, participation in a campaign group, or speaking at a public meeting on the application) will need to consider the requirements of [Code of Conduct for Members](#):-
- whether they have a Disclosable Pecuniary Interest;
  - whether they have a Personal Interest;
  - whether they are biased or have predetermined the application in the light of the guidance in Section 2 and;
- 11.9.1 If they have a Disclosable Pecuniary Interest, they must leave the meeting for the duration of the item.
  - 11.9.2 If they have a personal interest, they will need to make the appropriate declarations but may participate, depending on the nature and extent of the interest.
- 11.10 Conscious of the public arena in which regulatory decisions are made,

Members will conduct the business of the Committee in a fair and sensitive manner. The debate on all applications will be confined to the merits of the item under debate.

- 11.11 Committee Members should not vote or take part in the Committee's discussion on an item unless they have been present to hear the entire debate including the Officer's introduction and the deputations.
- 11.12 Senior Legal, Rights of Way and Planning Officers should always attend meetings of the Committee to ensure that relevant procedures have been properly followed and relevant issues properly addressed.
- 11.13 When the Committee meeting has ended, the Chair will announce that the business of the meeting has concluded.

## **12. Deputations to the Committee**

### **Applicants, agents, interested parties other than County Council Members**

- 12.1 Deputations to the Committee will be permitted in accordance with the County Council's general deputation rules [Part 3 - Chapter 1 - County Council Standing Orders - May 2018 \(hants.gov.uk\)](http://hants.gov.uk) and without prejudice to the generality of the deputation rules in accordance with the following procedure:
  - 12.1.1 The total time permitted for all deputations in any one Committee meeting is one hour;
  - 12.1.2 Deputations may be made by the applicant; their agent; and other interested parties, including elected Members of other authorities. Deputations will be permitted to address the Committee for up to a maximum of 10 minutes.
  - 12.1.3 In the event that there are more than six deputations at any one meeting of the Committee, the time allowed for each deputation shall be reduced equally so as to ensure that the total time permitted for all deputations does not exceed one hour.
  - 12.1.4 If there are a number of interested parties in respect of a particular matter before the Committee, the Chair may request that contributions be restricted to nominated spokespersons.
- 12.2 Officers shall not be permitted to make a deputation to the Committee unless:
  - 12.2.1 It is being made by the Officer in their personal capacity, and not as an Officer of the County Council; or
  - 12.2.2 it is being made by the Officer on behalf of the County Council in its capacity as the applicant or landowner to any matter being considered by the Committee.
- 12.3 Officers of other authorities shall not be permitted to make a deputation to the Committee unless in a personal capacity, and not as an Officer of that

other authority.

- 12.4 Members from adjacent authorities or other authorities within the administrative area of the County Council are able to make a deputation to the Committee.
- 12.5 The Chair may in their absolute discretion extend the time permitted for deputations.
- 12.6 Where pursuant to 11.4 and 11.6 the Committee has deferred an item that item will be brought back to Committee any deputation in respect of that item will be permitted to address the Committee again in accordance with the above provisions<sup>5</sup>.

### **County Council Members wishing to address the Committee**

- 12.7 A County Council Member who is not a Member of the Committee may, following notice to the Chief Executive via [members.services@hants.gov.uk](mailto:members.services@hants.gov.uk), request to speak.<sup>6</sup> Such notice should be received no later than noon on the working day immediately preceding the Committee Meeting, address the Committee in their capacity as a County Council elected member for a maximum of 10 minutes. This time may be extended at the discretion of the Chair. Without prejudice to the above the Chair may permit a non-Committee Member speak where, in exceptional circumstances in the opinion of the Chair, it has not been possible for the non- Committee Member to give the required notice.
- 12.8 A County Council Member who wishes to exercise their right to address the Committee should not sit with Members of the Committee, nor should they have private conversations with or pass notes to the Committee Members, as this might give the perception of undue influence.
- 12.9 Any time spent by a County Council Member in addressing the Committee shall not be counted towards the total time permitted for deputations.

## **13. Decision Making by the Committee**

### **General**

- 13.1 In discussing, and then determining an item on the meeting agenda, the Committee will confine itself to the merits of the case.
- 13.2 Members should not vote or take part in the Committee's discussion on an application unless they have been present to hear the entire debate, including the Officer's introduction and the deputations,
- 13.3 In all cases, the reasons for making a final decision should be clear and

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<sup>5</sup> As set out in the County Council's [Standing Orders](#) in the Constitution

<sup>6</sup> Members of the County Council who are not members of the Committee may address the Committee pursuant to Standing Order 40 of the County Council's [Standing Orders](#)

supported by relevant evidence. Where Committee Members wish to refuse or grant an application against Officer advice, or impose additional conditions to a permission, the reasons for refusal or the additional conditions must be clearly stated at the time the proposals are moved at the meeting and minuted accordingly.

- 13.4 Where an appeal is made against a decision that was taken contrary to the Officer recommendation, it may be necessary for external consultants to represent the County Council at the appeal hearing, if the Officer's position has been professionally compromised by a decision against their recommendation.

### **Amendments to Recommendations**

- 13.5 Any amendment to a recommendation shall be proposed during the debate, and the proposed amendment including the reasons for the amendment shall be put in writing and delivered to the Chair.
- 13.6 No amendment shall be discussed until delivered to the Chair and the Chair has accepted and read out the proposed amendment and the amendment has been seconded.
- 13.7 The proposer of an amendment may, with the consent of the seconder, alter or withdraw an amendment they have proposed.
- 13.8 During the course of determination of a planning application a Member shall not propose or second more than one amendment to the same condition, or propose or second a new condition in substantively the same terms and effect as any amended condition proposed or seconded by them or any other Member, unless and until the earlier amendment to that condition is withdrawn.
- 13.9 When necessary the Chair will rule on the appropriateness of any proposed amendments to the recommendation, having taken into account any advice from the Officer and/or Legal Adviser. Any ruling for not proceeding with an amendment will be recorded in the minutes of the meeting.
- 13.10 If more than one amendment to a recommendation is proposed and seconded the amendments shall be discussed in the order in which they were proposed and shall be voted upon in the reverse order they were proposed.
- 13.11 Proposed amendments accepted by the Chair shall be voted on immediately before the vote on the recommendation. If an amendment is voted on and carried, then the proposed recommendation shall be treated as so amended.
- 13.12 Where an amendment is voted upon and either carried or lost the Chair shall refuse to put any other amendment that would substantially

contradict, override, repeat or re-introduce the subject matter of a previous amendment.

### **Planning – Decision Making**

- 13.13 Guidelines for determining planning applications are set out under the [Part III of the Town and Country Planning Act 1990 as amended](#).
- 13.14 In the event that amendments to conditions have been requested and agreed at Committee, Officers may request delegated authority from the Chair to agree the final wording in consultation with the Chair and the Vice Chair.
- 13.15 Officers may request delegated authority from the Chair to prepare the detailed reasons for refusal in consultation with the Chair and the Vice Chair.
- 13.16 If a resolution is passed contrary to a recommendation of the Officer's report (whether for approval or refusal) a detailed Minute of the Committee's reasons will be made and a copy placed on the application or case file.
- 13.17 If the Officer's report recommends approval of a departure from the Development Plan, the justification for this should be included in full in the report.

### **Rights of Way, Town or Village Greens, Commons Registration – Decision Making**

- 13.18 Approval should be given to make an order concerning a right of way or to register town or village green rights, where the majority of Committee Members, having heard all the evidence are satisfied, on the balance of probabilities, that such order should be made, or such rights should be registered, because all the relevant legal tests, as set out in the legislation and/or regulations, have been met.
- 13.19 An application to make an order concerning a right of way or to register town or village green rights, may be refused where the majority of Committee Members, having heard all the evidence are satisfied, on the balance of probabilities, that the application should be refused, because one or more of the relevant legal tests, as set out in the legislation and/or regulations, has not been met.

### **14. Site Visits by the Committee**

- 14.1 The Officers may decide to carry out a site visit for the members at an application site and any adjoining land. Examples of when site visits might be appropriate would include:
- The proposal represents a departure from the development plan; or
  - The proposal is contrary to a specific policy, or raises wider policy

- issues; or
  - The proposal raises particularly unusual factors, for example, it would have a major environmental impact or could lead to loss of jobs and/or financial hardship (e.g. enforcement against an existing use; or
  - Development that has already been carried out; or
  - There is considerable local concern about a proposal, allied to relevant regulatory reasons for carrying out a visit (e.g. the physical relationship of the site to other sites in the neighbourhood).
- 14.2 The relevant Democratic and Members Services Officer will organise all site visits and all Committee Members and Substitute Members will be informed of the arrangements and (unless access issues arising from a Member's disability prevent attendance) will be expected to attend the site visits.
- 14.3 Where a Member notifies Democratic and Members Services (or Officers are otherwise aware) of any disability that the Member has that may challenge them in being able to participate in site visits, Officers will have due regard, among other things, to the need to take account of that Member's disability when making arrangements for site visits
- 14.4 The purpose of a site visit is for Committee Members to gain knowledge of the proposal, the application site, and its relationship to adjacent areas.
- 14.5 Officers will ensure that the purpose of a site visit is set out in the accompanying site visit report. The purpose of the report will be to provide Members with background information on the site and the proposal before the site visit. The report will not constitute a full decision report and will not discuss nor make any recommendations on the merits of the proposal.
- 14.6 Site visits will be carried out by Members of the Committee including Substitute Members.
- 14.7 District, Borough or Parish Councillors and members of the public will not be permitted to attend site visits.
- 14.8 The appropriate local County Councillors will be invited to and may attend the site visit if they wish.
- 14.9 The applicant and/or landowner will only be present to allow entry to the site and to brief Members on the appropriate health and safety guidance and will not be allowed to attend the site visit itself other than where necessary to ensure safe access on the site. The applicant and/or landowner will not discuss the application with any Members.
- 14.10 Officers will record the attendance of Members at each visit, along with any apologies given. Those Members and Substitute Members who consistently fail to attend site visits will be reported by Officers to the Chair and the Monitoring Officer

14.11 The Monitoring Officer in consultation with the Chair of the Committee will consider whether the significance of any failure of a Member (including Substitute Member) to attend site visits warrants referral to the relevant Group Leader regarding exclusion from the Committee and any breach of the [Member's Code of Conduct](#)

## **15. Record of Committee meetings**

15.4 A full record of the Committee meeting will be prepared by the relevant Democratic and Members Services Officer. The draft minutes will be available as soon as practical on [the County Council website](#).

15.5 The draft minutes will be considered at the next available Committee meeting and will be signed by the Chair once agreed by the Committee. Any agreed changes or amendments to the previous Minutes will be summarised under Item 3 within the Minutes of the current meeting. No changes shall be made to the previous Minutes themselves.

15.6 All decisions in relation to planning applications by the Director of Economy, Transport and Environment or the Committee will be published on the County Council's [web](#) pages.

## **16. Complaints about the Committee**

16.4 In order that any complaints about the Committee can be fully investigated, minutes of meetings will be complete and accurate. Minutes of the previous meeting will be signed by the Chair at the next meeting of the Committee

## **17. Freedom of Information/Environmental Information requests related to the Committee**

17.4 Requests will be dealt with in accordance with the [Corporate process](#).

## **ANNEX A**

### **Links to procedural guidance for public path orders, definitive map modification and town and village green applications**

Guidelines for rights of way applications under section 53 of the **Wildlife and Countryside Act 1981** – Definitive Map Modification Orders can be found [here](#)

Guidelines for applications under the **Highways Act 1980** – Public Path Orders – diversions, extinguishments, dedications and creations can be found [here](#)

Guidelines for village green applications under section 15 of the **Commons Act 2006** can be found [here](#)

## **ANNEX B**

### **Guidelines for determining planning applications under the Town and Country Planning Act 1990 (TCPA) (as amended)**

(i) Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts (principally the Town and Country Planning Act 1990) the determination must be made in accordance with the plan unless material considerations indicate otherwise. The development plan includes the South East Plan, Hampshire Minerals and Waste Plan – for relevant proposals – other development plan documents and ‘saved’ policies from earlier adopted plans. When an application is being determined where a District Council’s planning policies are relevant then that Council’s development plan policies will also be considered. The emphasis in determining applications is upon a plan led system.

(ii) Other material considerations include policies and proposals in emerging plans. The weight to be attached to emerging development plan document policies depends upon the stage of preparation or review, increasing as successive stages are reached. Once examined as sound, but prior to adoption, the development plan document has significant material weight. However refusal of planning permission on grounds of prematurity, where a development plan document is being prepared or is under review and not yet adopted, will not usually be justifiable. Other local development documents which are also the subject of consultation and objection will be material to the planning decision which is to be taken.

(iii) Material considerations include also national planning guidance in the form National Policy Statements, planning/Mineral/Waste Policy Statements and case law. A ministerial statement may be a material consideration.

(iv) In exceptional circumstances the personal circumstances of an applicant for planning permission may be a material consideration which may outweigh other planning considerations. Where this is the case specific and valid reasons must be given to justify an exception.

(v) What constitutes a material consideration is a matter of law. The weight to be attached to the consideration is a matter of planning judgment for the decision maker having regard to the planning evidence.

(vi) Members of the Committee must thoroughly consider any advice given

by a statutory consultee or relevant Government Department, including views expressed by Natural England, Environment Agency and highway authorities.

(vii) Members of the Committee must take into account the views of local residents when determining a planning application, but recognise that opposition to the proposal by local residents cannot be a reason in itself for refusing planning permission unless founded on valid planning reasons, which are supported by substantial evidence.

(viii) Members of the Committee must take into account earlier County Council decisions, appeal decisions in relation to the site, or other related appeal decisions.

(ix) Members of the Committee must not prevent, inhibit or delay development which could reasonably be permitted.

(x) In relation to planning conditions, Members of the Committee must avoid the imposition of conditions which are unnecessary, unreasonable, unenforceable, imprecise or irrelevant to planning or irrelevant to the development to be permitted

## MATERIAL CONSIDERATIONS

**Policy:**  
National  
Regional  
Local

**Views of Statutory Consultees  
and Environment Officers**

### Factors on the Ground:

<b>Material</b>	<b>Non-Material</b>
<ul style="list-style-type: none"> <li>Visual Impact</li> <li>Privacy/Overbearing</li> <li>Daylight/Sunlight</li> <li>Noise, Smell etc</li> <li>Access/Traffic</li> <li>Health and Safety</li> <li>Ecology</li> <li>Crime (and fear of)</li> <li>Economic Impact</li> <li>Planning History</li> <li>Related Decisions</li> <li>Cumulative Impact</li> <li>Personal Factors (rarely)</li> </ul>	<ul style="list-style-type: none"> <li>The Applicant</li> <li>Land Ownership</li> <li>Private Rights (e.g., access)</li> <li>Restrictive Covenants</li> <li>Competition</li> <li>Property Value</li> <li>Loss of View</li> <li>Change from Previous Scheme</li> <li>Financial Viability</li> <li>That it will make something Lawful</li> </ul>

## **ANNEX C**

### **Scheme of Delegation for Planning Decisions**

#### **County Council matters**

In accordance with the provisions of Section 101 of the **Local Government Act 1972** (as amended) the Director of Economy, Transport and Environment is hereby authorised to take decisions under Part III (Control of Development) and Part VII (Enforcement) of the **Town and Country Planning Act 1990** (as amended) except when one of the following apply:

- A member of the County Council requests that the decision be made by the Regulatory Committee;
- The Director of Environment considers that the application should be determined by the Regulatory Committee;
- The applicant is a member or an officer of the County Council acting in a private capacity;
- A representation is received requesting to make a 'deputation'
- A decision may result in a financial compensation claim being made against any local authority.

#### **County Council developments**

In accordance with the provisions of Section 101 of **the Local Government Act 1972** (as amended) the Director of Environment is hereby authorised to take decisions under Part III (Control of Development) of the **Town and Country Planning Act 1990** (as amended) except when one of the following apply:

- A member of the County Council requests that the decision be made by the Regulatory Committee;
- The Director of Environment considers that the application should be determined by the Regulatory Committee;
- The proposal involves the County Council either as land owner or applicant and the scheme is either a major departure from policy not of a minor nature or not of a temporary nature;
- A representation is received requesting to make a 'deputation'
- A decision may result in a financial compensation claim being made against any local authority.

If it is unclear who should make the decision, the Chairman of the Regulatory Committee will be consulted on who should make the decision.

## **Secondary legislation**

In accordance with the provisions of Section 101 of the **Local Government Act 1972** (as amended) the Director of Economy, Transport and Environment is hereby authorised to take all decisions, determinations and assessments (as appropriate) under all planning related secondary legislation, including the **Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999** and the **Conservation (Natural Habitats Etc) Regulations 1994**.

## **Monitoring**

All decisions in relation to planning applications by the Director of Economy, Transport and Environment or the Regulatory Committee will be published on the County Council's web site.

<http://www3.hants.gov.uk/planning/mineralsandwaste.htm>

## ANNEX D

### Scheme of authorisation for Countryside

 [CS - Access - Countryside Scheme of Authorisation \(v2 - Jan 2020 - CURRENT\).pdf](#)

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## Equality Impact Assessment

### What is an Equality Impact Assessment (EIA) and why does the County Council do them?

The [Public Sector Equality Duty](#) (PSED) is an obligation within the [Equality Act 2010](#) (“the Act”), which asks public authorities, like Hampshire County Council, to give ‘due regard’ to equality considerations, in particular to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

This includes assessing the impact of policies and practices on individuals and communities with a protected characteristic, as defined in the Act and some other specific groups. The County Council uses EIAs to ensure it has paid ‘due regard’ to equalities considerations when there are changes to a service or policy, a new project or certain decisions.

EIA Author	Position & Department	Contact
James Hammond	Project Legal Adviser Hampshire Legal Services	<a href="mailto:James.hammond@hants.gov.uk">James.hammond@hants.gov.uk</a> 0370 779 3793

Title:	Updated Planning Code of Conduct
Related EIAs:	None
EIA for Savings Programme:	No
Description of the policy:	<p>Under legislation (the Local Authorities (Functions and Responsibilities)(England) Regulations 2000) specific functions and decisions of the County Council are reserved to the Regulatory Committee.</p> <p>To assist in the discharge of the Regulatory Committee's duty Part 4 Appendix B of the County Council's Constitution includes a Code of Conduct. The aim of the Code of Conduct is to set out procedure and provide guidance to the Regulatory Committee and its Members to help with decision making.</p>
New/changed policy	<p>The current Code of Conduct was last reviewed in February 2014. An updated draft Code of Conduct has been prepared that seeks to update the current Code in respect of changes in the law and guidance and to provide a clearer and more modern format to assist with navigating the Code.</p> <p>The proposed updates to Code of Conduct are summarised in the report to Committee at paragraphs 10 to 38.</p> <p>The draft Code of Conduct includes updated provision in respect of the arrangements for site visits at paragraph 14 of the draft Code of Conduct.</p>
Engagement	<p>The proposal to update the draft Code of Conduct has been brought as a report to the Regulatory Committee, so seek the approval of the Members of the draft Code of Conduct so that it may be recommended for adoption at full Council in due course.</p>

	<p>The draft Code of Conduct and associated report was published and presented to Regulatory Committee on the 18<sup>th</sup> of May 2022 and the comments and feedback of the Members have been incorporated into the draft Code of Conduct and the updated report.</p> <p>The draft Code of Conduct will be presented again to the Regulatory Committee on the 27<sup>th</sup> of July 2022.</p>
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## Equalities Considerations – Impact Assessment

### Age

Impact on public	Neutral
Impact on Members	Neutral
Rationale	None of the proposed changes to the Code of Conduct negatively impact on this protected characteristic

### Disability

Impact on public	Neutral
Impact on Members	Neutral
Rationale	<p>The draft Code of Conduct provides examples of where a site visit to an application site may be required and would be of assistance to the discharge of the Members decision making responsibility.</p> <p>Where Officers consider a site visit to be appropriate paragraph 14.2 of the draft Code of</p>

	<p>Conduct states that Members will be expected to attend the site visit <i>'unless access issues arising from a Member's disability prevent attendance.'</i></p> <p>Paragraphs 14.10 of the draft Code of Conduct provide for a process of referral to the Chair and Monitoring Officer in the event of consistent failure by a Member (or Substitute Member) to attend site visits. Paragraph 14.11 allows for further referral by the Monitoring Officer and the Chair to the relevant Group Leader.</p> <p>The intention of the updated Code of Conduct in respect of site visits is to reflect the importance of site visits to some applications before Regulatory Committee and the importance of Members role in attending site visits to appreciate the impact of a decision.</p> <p>Members have raised concerns that the expectation to attend site visits will negatively impact Members who maybe prohibited from attending a site because of a disability.</p>
Mitigation	<p>The updated Code of Conduct addresses the potential negative impact on Members with a disability by;</p> <ul style="list-style-type: none"> <li>- expressly referring (at paragraph 14.3) to the need for Officers to have regard due regard to a Members disability when making arrangements for a site visit with a view to enabling the Member to attend the site visit where possible.</li> <li>- expressly excluding (at paragraph 14.2) the expectation that a Member will be expected to attend a site visit where <i>'access issues arising from a Member's disability prevent attendance.'</i></li> </ul>

## Gender Reassignment

Impact on public	Neutral
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Impact on staff/Members	Neutral
Rationale	None of the proposed changes to the Code of Conduct negatively impact on this protected characteristic

### Pregnancy and Maternity

Impact on public	Neutral
Impact on staff/Members	Neutral
Rationale	None of the proposed changes to the Code of Conduct negatively impact on this protected characteristic

### Race

Impact on public	Neutral
Impact on staff/Members	Neutral
Rationale	None of the proposed changes to the Code of Conduct negatively impact on this protected characteristic

### Religion or Belief

Impact on public	Neutral
Impact on staff/Members	Neutral
Rationale	

	None of the proposed changes to the Code of Conduct negatively impact on this protected characteristic
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## Sex

Impact on public	Neutral
Impact on staff/Members	Neutral
Rationale	None of the proposed changes to the Code of Conduct negatively impact on this protected characteristic

## Sexual Orientation

Impact on public	Neutral
Impact on staff/Members	Neutral
Rationale	None of the proposed changes to the Code of Conduct negatively impact on this protected characteristic

## Marriage and Civil Partnership

Impact on public	Neutral
Impact on staff/Members	Neutral
Rationale	None of the proposed changes to the Code of Conduct negatively impact on this protected characteristic

## Poverty

Impact on public	Neutral
Impact on staff/Members	Neutral
Rationale	None of the proposed changes to the Code of Conduct negatively impact on this characteristic

## Rurality

Impact on public	Neutral
Impact on staff/Members	Neutral
Rationale	None of the proposed changes to the Code of Conduct negatively impact on this characteristic

## Additional information

The proposal to update the Code of Conduct is expected to have a neutral impact on protected characteristics of;

- age
- disability
- gender reassignment
- marriage or civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Following engagement with Members, measures to mitigate and address any negative impact on Members who are unable to attend at site visits has been introduced. The impact of the change to policy is considered to be neutral in view of the both the express requirement on Officers to take into account a Member's disability when organising a site visit, so that they may attend where possible, and the removal of any reference to expectation on a Member to attend a site visit where their disability prevents attendance.

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## HAMPSHIRE COUNTY COUNCIL

### Information Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	27 July 2022
<b>Title:</b>	Monitoring and Enforcement Update
<b>Report From:</b>	Director of Economy, Transport and Environment

**Contact name:** David Smith

**Tel:** 01962 845891

**Email:** [david.smith@hants.gov.uk](mailto:david.smith@hants.gov.uk)

#### **Purpose of this Report**

1. The purpose of this report is to provide information to the Regulatory Committee on the Monitoring and Enforcement work undertaken by Strategic Planning during the period April 2022 – July 2022.

#### **Recommendation**

2. That the contents of this report be noted.

#### **Executive Summary**

3. The restrictions imposed under the Covid-19 pandemic have been removed, allowing site visits to be undertaken on a normal basis and liaison with other agencies has returned to normal. However, issues with self-isolation and cases of illness are still having an impact on the joint visits being undertaken consistently. However, Officers have been able to undertake the highest priority visits and actively investigate any complaints received.
4. The report details the number of complaints on authorised and unauthorised sites, and the outcome of negotiations, including, when necessary, enforcement action undertaken.
5. The report also details development control work dealing with Planning Condition (Article 27) applications and Non-Material Amendments.

#### **Complaints**

6. The majority of the complaints received during the period April 2022 – July 2022 relate to unauthorised development (6 sites) and breaches of operational planning conditions on existing mineral and waste sites (7 sites). Investigation and negotiation have followed with planning applications being submitted for consideration for 3 of the sites, with 3 more planning applications pending. Investigations are still ongoing at 1 site. The remainder have been resolved or were enquiries made about general site operations, fly-tipping, odour and waste related development that were dealt with in-house or referred to either the Environment Agency (EA) or Local Planning Authorities as non-County matters.

7. **Bunny Lane** – following refusal of the first planning application for the installation of the washing plant (planning application [20/01753/CMAS](#)) in December 2020, the applicant decided to re-submit their application to try and address the reasons for the original refusal. This was submitted on 16 February 2021 (planning application [21/00588/CMAS](#)) and it was reported to the Council’s Regulatory Committee in July 2021 and permission was granted for a temporary period.

Although the original commissioning work had been completed, the applicant has continued to experience technical issues with specific parts of the plant such that the wash plant was only been in operation for short periods since temporary permission was issued. This meant that there was a delay in undertaking a the Noise Assessment as required as part of the noise monitoring and mitigation scheme required under planning permission 21/00588/CMAS. The first such Assessment was undertaken at the beginning of March 2022 and the results have been fed into the current planning application.

Officers continue to visit the site to monitor activities and the implementation of the wash plant planning permission. An application to make the permission for the wash plant permanent has been submitted and is currently under consideration (planning application [22/01323/CMAS](#)).

A Liaison Panel has been established and has met 3 times since the grant of planning permission 21/00588/CMAS. Progress has been made in improving the lines of communication between the operator, Parish Council and the County Councillor. Councillor Adams-King is chairing this panel

8. **Calf Lane** - The planning application ([20/02979/CMAS](#)) for changes to the permitted picking station and fines machinery was approved by Regulatory Committee on 20 October 2021. This was subject to conditions on the agreement of a Noise Management Plan and a commitment by the operator to set up a Liaison Panel meeting to improve the communication between operator and local residents. The Liaison Panel has now sat three times and much progress has been made in improving the lines of communication and addressing the issues of concern to the local residents. Councillor Glen is chairing this panel. The latest meeting was positive, and all previous issues appear to have been satisfactorily resolved.

### Enforcement Actions

9. In the period up to July 2022, there were no Notices served, as all matters either addressed through the planning system or remedied through negotiation.
10. The following provides an update on the latest Notice and enforcement activities since they were previously reported to the committee.

*Table 1: Update on enforcement activities*

Site	Update
Yokesford Hill Estate, Yokesford Hill, Romsey	Site monitoring determined that stockpile heights had increased substantially over the Covid lockdown period, and although the operator had contacted Officers discussed the submission of an application for

	<p>a washing plant to address the issue, by improving the product and increasing available markets. An application has subsequently been approved (<a href="#">21/02392/CMAS</a> (under delegation) and work undertaken to address the height of the stockpile although further work is still required as detailed under the Planning Contravention Notice served in November 2021. The operator has cleared the waste soil stockpile in the area for the new wash plant and terraced the stockpile in the installation vicinity. Other parts of the stockpile remain over height and the operator intends to submit an application for a temporary planning permission to regularise the situation until the wash plant is operational and able to process the material. The sub-base for the wash plant slab has been prepared with contractors currently on site preparing the slab. In advance of the wash plant installation the operator has been informed the Minerals and Waste Planning Authority expect the Liaison Panel to recommence meetings - the Liaison Panel has not met since the beginning of the COVID pandemic.</p>
<p>Waterbrook Industrial Estate, Alton</p>	<p>The site was subject to a planning application to allow for restricted night-time activities including importation of road planings with a resolution to approve subject to a Legal Agreement on lorry routing (<a href="#">51471/007</a>). The Legal Agreement was signed and the planning permission issued. A Liaison Panel has also been set up for the site to encourage greater interaction between the operator and local residents. However, the site then closed. A new owner subsequently acquired the site and recommenced operations. They indicated that they were keen to engage with the Liaison Panel and the first virtual meeting was held November 2021. Councillor Joy is chair of the panel. A site meeting and visit with Councillor Joy took place in June 2022 and a further meeting with local residents is being arranged for end of July 2022.</p> <p>Due to the new owners taking over at a late stage, the commencement of the night time deliveries was not fully implemented. Consequently, an application was submitted for a further trial period until 31 March 2023 (<a href="#">51471/008</a>) This application was approved at June 2022 Regulatory Committee.</p> <p>Complaints continue to be received by the Council and the Environment Agency predominantly about noise, and investigations are underway by a Noise Consultant to try and determine the extent and source of the problem.</p>
<p>Carousel Dairy (Basingstoke AD</p>	<p>An application to make the vehicle increases permanent, with other negotiated changes to</p>

<p>Plant), Manor Farm, Farleigh Wallop, Basingstoke</p>	<p>conditions, was approved at the February 2019 Committee meeting (<a href="#">18/03001/CMA</a>).</p> <p>The ANPR cameras have been retained and access to the database for monitoring HGV movements secured so that any issues in the future can be investigated. There have been no subsequent complaints about HGVs to and from the site and amendments to the Traffic Management Plan, including some changes to road signage, have been agreed by the company and members of the Liaison Panel.</p> <p>There had been issues of odour nuisance to the nearest properties, which were reported to the Environment Agency with increasing frequency since Summer 2019. A new biofilter was installed, but, as there had been no discernible improvement in the situation, the Environment Agency (EA) issued an Enforcement Notice requiring measures to be undertaken to improve the odour control process. This led to a number of changes to processes and installation of new equipment, including an application to amend the location and configuration of a previously approved building to contain the screening equipment. The EA were satisfied that their Notice had been complied with and the works undertaken. Works have continued to improve the cooling systems, and the latest results appear to indicate that the problem has largely been addressed, although there are occasional flare-ups and proposals are being drawn up to further improve the odour control system. Monitoring is still ongoing with regular Liaison Panels, the last of which was newly constituted under the updated protocol.</p>
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11. Further information on the full suite of enforcement powers available to the County Council as Minerals and Waste Planning Authority (including powers to service PCNs, BCNs and ENs) are included in the County's [Enforcement and Site Monitoring Plan](#).
12. The following table provides information on the joint enforcement activities which have been undertaken with the Environment Agency, the Police and District Planning Authorities.

*Table 2: Update on joint enforcement activities with the Environment Agency, the Police and District Planning Authorities*

<b>Site</b>	<b>Joint working with</b>	<b>Update</b>
Whitehouse Field, Goodworth Clatford	Test Valley Borough Council, Environment Agency, Hampshire	In late 1990s, planning permission was granted by Test Valley Borough Council (TVBC) for construction of an extension to the existing golf course. This involved the importation and tipping of inert

	<p>County Council Highways</p>	<p>materials as an engineering operation. This work continued for approximately 10 years until the then operator left the site in 2010 and TVBC considered the development completed. Several years later the operator of Homestead Farm bought the land. He claimed that surveys of the site had shown that the development had not been fully completed and stated his intention to restart work.</p> <p>The authorities did not accept that this was authorised and have liaised closely to ensure that if and when work does start the appropriate enforcement action can be taken. Following legal advice from Counsel, TVBC decided to enforce against any work as a breach of the original permission, with the EA looking to prosecute for tipping without a Permit. Hampshire County Council Highways were also involved as part of the site access is highway land historically used by locals as a small car park, and the landowner had been fencing and blocking it off. Hampshire County Council Highways have therefore taken legal action to secure clearance of the fences and blockades and maintain access.</p> <p>TVBC served Enforcement Notices against preparatory works on site and the variation of the restoration plans showing increased levels, which was the subject of an Appeal Inquiry on 26 – 28 November. A Decision was issued on 13 January 2020. The Decision dismissed the Appeal against the change in levels, although it did allow the Appeal against the preparatory works, and costs were awarded to TVBC. The landowner is now seeking a Permit from the EA to allow the completion of the golf course as originally approved and has Appealed to the Planning Inspectorate over the non-determination of the application.</p> <p>This case is still ongoing.</p>
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<p>Shedfield Equestrian Centre</p>	<p>Winchester City Council, Environment Agency</p>	<p>Shedfield Equestrian Centre has been the subject of numerous complaints and concern from local councillors over the past few months. This site has multiple uses and, as such, involves both the City Council and the County Council, as well as the Environment Agency. The main source of complaints are associated with the number of HGVs, car transporters, etc visiting the site, burning, importation of waste materials, working hours and unauthorised mobile homes/residential uses. Unfortunately, the situation is complicated by the fact that many of the uses on site are permitted.</p> <p>The County Council are involved as part of the site has a Certificate of Lawful Use (CLU) for inert waste recycling, which was won on Appeal against an Enforcement Notice served by Hampshire County Council in 2013. Unfortunately, the nature of CLUs is that they do not impose any enforceable conditions on the operation, so we have no control over number of HGVs visiting, the hours of operation or height of stockpiles. The only control is that there is a red lined plan limiting where the activity can take place. However, it turns out that the operator/landowner has been screening material on a piece of land to the rear of the Equestrian Centre (which happens to be the former Raglington Farm landfill site; filled in the early 2000s and bought by the family a few years ago). They have also tipped material along the treeline forming a bank approx. 1 - 2 m. high. In addition, they have allowed another company to start a small waste transfer activity in another (unauthorised) unit at the back of the business park. All of these activities are unauthorised. Some remedial work was undertaken to address the tipping up to the treeline, however an application to regularise the recapping of the former landfill site (<a href="#">21/02707/HCS</a>) was withdrawn, and the landowner is considering altering this activity to include only clean soils as an engineering operation which will be</p>
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		<p>addressed by WCC. The operation of the waste transfer station has been granted by a Permit by the Environment Agency and a planning application was submitted ( <a href="#">21/03074/HCS</a>). This application was subsequently withdrawn and a new planning application is due to be submitted in July 2022. Another planning application is also due by the end of July 2022 for an extension to the CLU permission for offices, increased stocking area and some materials bays.</p> <p>Following a full-scale review of all of the activities on the SEC complex, WCC have served 6 ENs on different residential uses and construction of industrial units.</p>
<p>Redlands, Sheffield-on-Loddon</p>	<p>Environment Agency</p>	<p>Following complaints of continuous stream of lorries using a narrow track to access a field adjacent to Redlands, Sheffield-on-Loddon contact was made with the Environment Agency's (EA) Environmental Crime Team. Information from initial investigations was passed on with agreement that further contact would be made once site visit undertaken. However, on arriving at site, was met by the Police who had attended the site on totally separate investigation and removed the occupants. Accompanied access was allowed and it became apparent that 100+ loads of inert waste and trommel fines (predominantly plastic and wood) had been tipped in the field. Upon discussion with the EA it appears that the names and details provided tie in with a larger case the EA are investigating of systematic illegal tipping by hauliers out of London on numerous sites to the west of London. This wider investigation is ongoing, and the County Council will assist as necessary.</p> <p>The EA have provided an update: <i>'We have obtained statements from available witnesses and have tried to identify all hauliers. Those hauliers that have responded have provided waste transfer notes that they claim allows the tipping of material under the exemption registered on the site. 2 hauliers have</i></p>

		<i>failed to engage with us to date. One business has folded and the other has attempted to do so, but we have managed to stall that at present. We are still planning to interview them, and the persons controlling the site at the time, although this is proving difficult'.</i>
Westwood, Botley Road, West End	Eastleigh Borough Council	The County Council were contacted in November 2021 by Eastleigh Borough Council about at site at Westwood, Botley Road where they had refused planning permission for the use of the yard for the recycling of upvc windows. They wanted the County Council to take on the enforcement of the site as the operation was a waste activity. On inspection of the site it was apparent that the landowner wanted to make changes to their original application to make it more acceptable. Consequently, they were given time to submit an amended application, this time to the County Council, so that we could consider against the policies of the Hampshire Minerals and Waste Plan. Should enforcement subsequently become necessary we would then be enforcing our own policies. However, negotiations are now underway over the sale of the site, so any submission is on hold whilst the owner considers their options. Discussions are planned with EBC about using the land for housing.
Ropley Quarry	Natural England, Hampshire Police	<p>Permission for chalk extraction at Ropley Quarry was initially granted in 1948 under an old Interim Development Order. In the early 1990s landowners and operators of such IDOs were required to register them with the local Mineral Planning Authority. This process also allowed the MPA to impose a new set of up-to-date conditions on the permission. This resulted in a Reviewed permission being approved in 1994. However, the operator decided not to operate under these new conditions and the quarry was closed.</p> <p>In late 2016, an application was submitted to vary the dates by which a number of schemes and details had to</p>

		<p>be submitted and approved (<a href="#">20209/009</a>). This was approved in April 2017.</p> <p>In November 2020 the various schemes and details were submitted and subsequently agreed in June 2021.</p> <p>In February 2022, work commenced on site to prepare it for the re-opening of the quarry. However, in the intervening years the site had been populated by dormice and a pair of peregrine falcons. Concern was raised about the impact of the site preparatory works on these protected species and the County Ecologist was consulted. The contractor was subsequently told to cease work until all the necessary approvals from Natural England had been received. The Police have also been involved as a possible case under the Wildlife Act. The landowner has been working with NE to gain the necessary approvals, which will necessitate the re-submission of some of the schemes covering tree removal and protection. A Non-Material Amendment has also been submitted to replace one of the derelict storage hangers.</p>
Land off Brook Lane, Botley	Environment Agency	<p>Following complaints from residents that waste was being imported on to the land and then burned investigations started. Although a Land Registry search provided details of a possible landowner, there was no response from attempts to contact them. Also, there was no names or details of those importing the material aside from some vehicle registration numbers and site visits provided no further information as there was never anyone present on the land, all activity taking place at night. The EA were contacted to see if they were aware of the site and whether they could do some searches into the registration numbers. They were not aware of the activity but have ascertained some further contact details and given the continued nature of the problem have started a formal investigation into criminal activity. The County are assisting.</p>

## Site Monitoring

### Chargeable sites

13. Under the [Town and Country Planning \(Fees for Applications and deemed applications\) \(Amendment\) \(England\) Regulations 2006](#), as amended, the County Council is able to charge fees for the monitoring of quarries and landfill sites in the County. Fees are charged for a set number of monitoring visits, the number of visits being dependent on the stage of operations at each site; whether operational, in aftercare or inactive. The number of visits is agreed with each operator and is in line with an assessment of each site made by the County Council. The latest charges were set out in [The Town and Country Planning \(Fees for Applications, Deemed Applications, Requests and Site Visits\) \(England\) \(Amendment\) Regulations 2017](#). Active sites are charged at £397 per visit for between four and eight visits per year. Sites in aftercare are charged at £397 for one visit per year. Inactive sites are charged £132 for one annual visit.
14. There are now 22 active sites, 10 in aftercare and 7 dormant sites liable for chargeable visits.
15. This work has been prioritised despite Covid-19 restrictions, with inspections for the 3rd and 4th quarters, bringing in approximately £8,500 in fees.

### *Non-chargeable sites*

16. Non-chargeable sites include waste processing sites, wastewater and treatment works and metal recyclers. These vary from the large Energy Recovery Facilities (ERF) and Materials Recovery Facilities (MRF) to the smaller scale recycling and transfer facilities and updating existing wastewater treatment works. The larger developments attract much attention in their locality and require regular monitoring to ensure that the local amenity is not impacted, whereas the smaller, built developments require monitoring during construction and implementation, but once up and running need less regular attention and these sites only get further visits should complaints be received. Matrix working arrangements have been made with Waste & Resource Management that their officers undertaking visits to waste sites operating under the County's waste contract also look at planning issues to provide greater coverage. Under the Covid restrictions, routine monitoring was limited, concentrating on sites with issues or causing complaints. Monitoring of waste sites covered by the County's waste contract has also resumed, these sites having remained open during the pandemic as one of the essential sectors listed by Government.

### Liaison Panels

17. Since the last update, Liaison Panel meetings have been held for:
  - Calf Lane, Odiham;
  - Forest Lodge Home Farm, Hythe;
  - Waterbrook Industrial Estate, Alton (meeting and site visit with Local Member);

- Bushywarren AD Plant and Composting Facility, Herriard; and
18. Bunny Lane, Timsbury. The majority of panels now take place virtually, although some panels still have in person meetings.

## Development Management

### Relaxation of Planning Conditions due to Covid-19:

19. As report in previous enforcement updated, the worldwide coronavirus pandemic has led to a number of recommendations from Government including the need for Local Planning Authorities to use their discretion on the enforcement of planning conditions which hinder the effective response to COVID-19. The Strategic Planning have had numerous enquiries as to our view to relaxing planning conditions during this period for both minerals, waste and Regulation 3 developments. A report was produced in response to each request made and was signed off by the Head of Strategic Planning under delegated powers. Local Members are informed on the relaxation. The periods for the relaxation of conditions have ended. The relaxation of conditions did not impact the authority's ability to use its enforcement powers. They were also subject to review should any significant complaints be received.

20. The below table provides an update on sites where an update is required.

*Table 3: Update on sites where covid relaxations were agreed*

Site	Update
A303 IBA Facility	Temporary emergency use of adjacent land (formerly subject of the 'Wheelabrator EfW' proposal) for storage of excess IBA. Due to the existing site being almost filled to the increased levels as agreed above, the operator discussed the use of the adjacent site for a temporary period with both ourselves and the Environment Agency. Following submission of detailed information, the EA agreed that the land could be used, subject to 12 conditions (relating to operations) and the use ceasing on the 30 September 2020. Subsequent to this approval, the County agreed the temporary use of this land subject to a further 6 conditions, including setting a maximum stockpile height of 5m and a meeting to review the situation by the end of July. The operator was also required to inform the local Liaison Panel. Although only about a half of the capacity for storage was utilised, the market for IBAA in construction projects has still not recovered and the need for the emergency storage remains. A further temporary extension was therefore agreed until 31 March 2021 by both the County Council and the EA. This agreement was subject to the previous conditions and also on the recognition that there would be no future temporary extension of time. Should any further extension be necessary then a full planning application would be required so that the issue can be

	<p>formally considered. An application (<a href="#">21/00812/CMAN</a>) was submitted for permission to construct the needed concrete surfacing and drainage systems to allow the longer-term use of the land for storage of IBAA. However, this was withdrawn following consultation as it was then considered to be larger than actually needed. A further application (<a href="#">21/02681/CMAN</a>) for a smaller area has now been submitted and is currently being considered.</p>
<p><i>Warren Heath Secondary Aggregate Recycling Facility, Eversley</i></p>	<p>Relaxation of conditions 15 (Restriction of number of lorry movements) of planning permission (13/00755/CMA) which restricts the number of lorry movements to the site to 42 per day until the public bridleway (Eversley 11) has been permanently diverted. After this, the number of movements can increase to 136 per day. The bridleway diversion Appeal has been heard and the Inspector approved the diversion. The relaxation is now no longer necessary as the planning condition comes into effect.</p>

#### **Planning Condition (Article 27) applications:**

25. Where conditions of new permissions require details to be submitted and approved for the proper implementation and control of the development, Article 27 applications are required. Under the [Town and Country Planning \(Fees for Applications and Deemed Applications, Requests and Site Visits\) \(England\) Regulations 2012](#), a fee per submission is required for the discharge of any details submitted. This is now £116 per submission.
26. During the period, Article 27 applications were received and approved or are being determined for 7 submissions (5 for Regulation 3 developments and 2 County Matter), totalling £1812.
27. As detailed previously, following adoption of the Protocol for Dealing with Breaches in Planning Control relating to Development Undertaken by the County Council under Regulation 3 of the [Town and Country Planning General Regulations 1992](#), enforcement updates now also include information on Article 27 applications for County Council developments and any breaches of planning control.

#### **Non-Material Amendments (NMAs):**

28. Non-Material Amendments (NMAs) are minor changes to the operation of authorised sites that can be agreed by an application for non-material amendment if the change has no substantial impact on the local amenity. Such an application requires a fee but does not involve general consultation and determination by Committee.
29. Since the last update, Over the period 3 NMA applications were received:
  - South Farnborough Junior School, Cunnington Road, Farnborough Hampshire GU14 6PL – Non material amendment for:

- Window and door on west elevation: The location of the new window and external door on the west elevation of the proposed hall extension is swapped; and
- Wall finish: The external wall finish (vertically between internal ground level and window/ door head level and horizontally between the new window on the proposed north elevation of the extension and west wall of the extension) is changed to insulated brick slips.;
- The Castle, Castle Avenue, Winchester Hampshire SO23 8UJ - Non material amendment for window and panelling replacement using non-timber system to replicate as close as possible the existing design with glazing and panelling elements ration being maintained; and
- Ropley Lime Quarry, Soames Lane, Ropley, Alresford, Hampshire SO24 0ER - Non Material Amendment to replace the blister hanger with a new structure of similar dimensions and scale.

**REQUIRED CORPORATE AND LEGAL INFORMATION:**

**Links to the Strategic Plan**

<b>Hampshire maintains strong and sustainable economic growth and prosperity:</b>	yes
<b>People in Hampshire live safe, healthy and independent lives:</b>	yes
<b>People in Hampshire enjoy a rich and diverse environment:</b>	yes
<b>People in Hampshire enjoy being part of strong, inclusive communities:</b>	yes

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

Document

Location

None