

Objection from Thakeham Village Action

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Objection to the granting of planning application WSCC/087/09/T for a non-inert landfill at Laybrook Quarry, Goose Green Lane, Thakeham, West Sussex

Summary

Thakeham Village Action (TVA) objects to the application WSCC/087/09/T for a non-inert landfill at Laybrook Quarry, Thakeham.

TVA objects on the following grounds:

- prematurity
- lack of proven need
- mineral safeguarding
- highways and traffic issues
- ecological damage
- insufficient evidence provided to prove that the following will not be caused:
 - pollution to groundwater and surface water
 - harm to local businesses and economy
 - harm to human and animal health
 - loss of amenity to local residents
 - landfilling of other than residual materials
 - structural damage to listed buildings
- loss of countryside character
- lack of proximity to population.

Full details on these grounds are given in Sections 1-17 below.

Many of these grounds for objection relate to insufficient evidence being provided in the Environmental Statement. There is thus a general objection that the requirements of the Environmental Impact Assessment regulations are not met.

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1. Introduction

1.1 Thakeham Village Action is the amenity society for Thakeham and the surrounding areas. This objection has been written by members of Thakeham Village Action's Laybrook evidence team, members of which are given in Appendix A. Thakeham Village Action's address is PO Box 2114, Thakeham, Storrington, West Sussex RH20 3WF, contact e-mail thakehamva@yahoo.co.uk and contact telephone 01903 744382. Thakeham Village Action has a written constitution (available on request). Thakeham Village Action's aims are the preservation, protection and enhancement of the Parish of Thakeham in the County of West Sussex and its surrounding area and it was founded in 1999. Thakeham Village Action is recognised by West Sussex County Council as the representative resident's campaign action group regarding proposals for Laybrook Quarry in its local minerals and waste framework development process.

2. Site Description

2.1 Laybrook Quarry is situated at grid reference TQ120190 off Goose Green Lane, Thakeham, West Sussex. TVA accepts the planning application map, Figure PA1, as being an accurate representation of the site's location. The quarry currently has permission for the extraction of clay until 2042. The existing restoration condition is to a lake.

3. The Planning Context

3.1 European, National, Regional and Local Guidance

The European planning context for this application is the EU Landfill Directive and the EU Waste Framework Directive.

The national planning context for this application is PPS1 (Delivering sustainable development), PPG4 (Industrial and commercial development and small firms) together with Draft PPS4 (Planning for sustainable communities), PPS7 (Sustainable development in rural areas), PPS9 (Biodiversity and geological conservation), PPS10 (Planning for sustainable waste management), PPS11 (Regional planning), PPG13 (Transport), PPS23 (Planning and pollution control), PPG24 (Planning and noise) and PPS25 (Development and flood risk), together with the Waste Strategy 2007. This latter document formalised the waste hierarchy in England and Wales with landfill firmly at the bottom.

The regional and local guidance planning context for this application is the South East Plan (the Regional Spatial Strategy), the West Sussex County Council (WSCC) Minerals Local Plan, the WSCC County Structure Plan, the Horsham District Core Strategy and the Horsham District General Development Control Policies Document. The Department of the Environment, Farming and Rural Affairs (Defra) published a statement for commercial and industrial waste in October 2009.

3.1.1 The key document is the 2003 EU Landfill Directive which seeks to progressively reduce biodegradable municipal waste sent to landfill from 75% of that produced in 1995 by 2010 to only 35% by 2020. Although the UK has opted to take advantage of a 4 year derogation, this nonetheless represents a very significant reduction over a relatively short period. Other countries, such as Germany, have already met and exceeded these targets. It is achievable but making available large volumes of void space for landfill can only take the pressure off local waste authorities to comply.

3.1.2 The EU Waste Framework Directive defines the waste hierarchy which identifies landfill as the option of last resort and is reflected in the 2007 Waste Strategy referred to earlier.

3.1.3 The whole thrust of PPS1 is clear from its title - "Delivering Sustainable Development". In paragraph 3 it is stated that "*Sustainable development is the core principle underpinning planning. At the heart of sustainable development is the simple idea of ensuring a better quality of life for everyone, now and for future generations*". Clearly the proposal to dump rubbish at Laybrook significantly reduces the quality of life of many people living close to the site without improving the lives of those who it purports to serve. Other sustainable alternatives can and should be quickly brought forward. In the longer term the legacy of landfills sites is well known with large

areas of land severely contaminated for centuries. This cannot be said to provide a better quality of life for future generations. Quite the contrary is the case.

3.1.4 The significance of PPG4 is that it seeks to protect and support small businesses. What the Applicant Company have failed to recognise is the significance of the adjoining Alpaca stud and other rural businesses close to the site including holiday lettings and, of course, the Knepp Estate. In all probability the introduction of landfill onto the application site would eliminate the Alpaca enterprise and this, and the effects on other local rural businesses should have been properly weighed in the balance, but have not been. In this respect we refer to our Appendix E and also to Appendix H which considers animal health. Draft PPS4 also includes the concept of protecting the countryside for its own sake.

3.1.5 PPS7 includes as a key Principle the following: "*All development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness*". It goes on in paragraph 15 to state "*Planning policies should provide a positive framework for facilitating sustainable development that supports traditional land-based activities and makes the most of new leisure and recreational activities that require a countryside location*". No landfill site can claim to be in keeping with its location in rural areas or to reflect rural distinctiveness. Nor is landfill a traditional activity in the countryside and the only consolation hitherto - that a recreational facility in the form of a lake would be created once brick making is discontinued - would be lost if the application is permitted. The PPS also seeks to focus most development in or near to existing towns. The provision of recycling facilities in such locations would achieve this whereas landfill in open countryside clearly does not.

3.1.6 PPS9 sets out as one of the Government's Objectives "*to conserve, enhance and restore the diversity of England's wildlife and geology ...*". The existing ecological value of the site itself has hitherto not been fully recognised (see Appendix D of these submissions) although the enormous importance of the Wildland Project on the adjoining Knepp Estate has received international recognition. This and PPS9 seem to have been largely overlooked by the Applicant.

3.1.7 PPS10 is vitally important and should be considered in its entirety. Suffice it to say that the first Principle which it lists is "*(to) help deliver sustainable development through driving waste management up the waste hierarchy, addressing waste as a resource and looking to disposal as the last option ...*" It goes on to set out a further Principle which is "*(to) help secure the recovery or disposal of waste without endangering human health and without harming the environment, and enable waste to be disposed of in one of the nearest appropriate installations*". These submissions will go on to demonstrate that there is no immediate need to provide for a facility at the bottom of the waste hierarchy, that human health and the environment can only be seriously damaged in the long term and that a location in open countryside is inappropriate and unnecessary. See in particular our Appendix G in this regard.

3.1.8 We have included reference to PPS11 for completeness but, as will be seen, the "step change" acknowledged by the Government in the way we dispose of waste in this country was not fully recognised when the RSS for the area was drafted. The Government's Waste Strategy was published later. In this respect see the report from Eunomia Research and Consulting which is Appendix B to these submissions.

3.1.9 PPG13 has informed the reports provided by TMS Consultancy which are included in Appendix C to these submissions. What it seeks to achieve is to promote more sustainable transport choices for both people and for moving freight (paragraph 4). It goes on in paragraph 29 to say "*The Government places great emphasis on people being able to travel safely whatever their chosen mode*" and refers to their document entitled "Tomorrow's Roads - Safer for Everyone" published in 2000. Safety is a major issue in this case and TMS's conclusions should carry a lot of weight.

3.1.10 Although PPG 23 is principally concerned with the relationship between planning and pollution control (it seeks *inter alia* to avoid unnecessary duplication between LPAs and other Statutory Authorities) it is nonetheless important because of the guidance it gives in paragraph 4.4: "*Although contamination is subject to controls*

under pollution control legislation, it or the potential for it, can be a material planning consideration and should be taken into account (Our emphasis). It is hard to escape from the fact that there must be potential for significant contamination over an extended period. See in particular our Appendix F which concerns hydrology.

3.1.11 PPS 25 is relevant as the northern part of the application site is within a Flood Risk Zone 3. Development within this zone should not add to existing flood risks.

3.2 Material and other considerations

Material and other considerations are documents related to WSCC local development framework programme for minerals and waste development (MWDF) and its predecessor, the unadopted Waste Local Plan. The WSCC Waste Local Plan was abandoned in 2005 and the Council accept that it therefore carries little weight, despite the inappropriate weight given to it by the Applicant. Subsequent MWDF documents produced and then abandoned, are not material considerations, but do inform the planning context. At the time of writing, the preferred options document is due in 2010, with draft background papers issued in December 2009. The adopted WSCC Joint Materials Resource Management Strategy for West Sussex 2005-2035 is material consideration for municipal waste.

3.2.1 In the absence of a local statutory plan, it is generally understood that Planning Authorities should look to the Regional Spatial Strategy (the South East Plan), as part of the statutory development plan, in line with PPS 11: *“the determination of planning applications will be made in accordance with the RSS and the relevant DPD or DPDs, unless other material considerations indicate otherwise.”*

3.2.2 However in this case, much of the work on waste forecasting was done in 2006 or earlier and therefore the forecast data included in that should be considered to have less weight than would normally be the case, as explained in Section 5 (landfill need) below.

3.3 The Precautionary Principle

The Precautionary Principle is relevant to this application. This principle states that if an action or policy might cause severe or irreversible harm to the public or to the environment, in the absence of **consensus** that harm would not ensue, the burden of proof falls on those who would advocate taking the action (our emphasis). Clearly there is no such consensus and Cory have not satisfactorily demonstrated that harm will not ensue (see “Protecting Public Health and the Environment: Implementing the Precautionary Principle” by Raffensberger and Tickner 1999). The principle originated before the 1992 Rio Conference, or “Earth Summit” but gained global recognition there. In a European Commission Communication issued on 2 February 2000 the importance of the principle is reinforced. It stated that: *“When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically.”* Our comment is that refusing planning permission for an activity which has not been proved to give rise to no risks to human health or the environment is an appropriate precautionary measure. It is accepted by Government that the methods of dealing with waste are changing, with a move towards increased recycling, treatment and processing of waste and a consequent reduction in non-inert, inert and hazardous waste sent to landfill. Therefore, existing regional and local plans relating to waste, particularly those developed before 2007 must be given less weight than those being developed at present.

3.4 The Environmental Statement

The Environmental Statement does not provide all of the environmental information needed to meet the requirements of Schedule 4 of the Environmental Impact Assessment (EIA) regulations, which describes information to be included in environmental statements. Part 1 of the EIA includes a requirement for: *‘a description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long term, permanent and temporary, positive and negative effects of the development resulting from a) the existence of the development; b) the use of natural resources; c) the emission of pollutants, the creation of nuisances and the elimination of waste, and the description by the applicant of the forecasting methods used to assess the effects on the environment’.*

The Environmental Statement does not provide an adequate outline of the main alternatives studied by the

applicant and an indication of the main reasons for choice, taking into account the environmental effects. The regulations require that best practicable environmental option for waste disposal is adopted, in the light of the available locational and technological alternatives.

4. Prematurity

4.1 This application should be refused on the grounds of prematurity, both in the strict planning definition given in PPS 1 and in the usual sense of the word meaning “*occurring or done before the usual or proper time, too early, hasty*” (Concise Oxford Dictionary, 7th Ed.).

4.2 Prematurity is defined in PPS 1 Paragraph 46: “*Where a plan is under preparation or review it may be justifiable, in some circumstances, to refuse planning permission on the grounds of prematurity. This may be appropriate in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant permission would prejudice the outcome of the plan process by predetermining the decision about the scale, location or phasing of new development which ought properly to be taken in the development plan process*”.

4.2.1 This is clearly such a case. The County Council’s Minerals And Waste Development Framework (MWDF) moved to its next stage in December 2009, with the Preferred Options document expected in 2010. It has already been announced that any landfill site identified will be deemed to be strategic and therefore any would, by definition, be individually so substantial.

4.2.2 In a subsequent Joint Ministerial Statement (Regional Development and Environment), issued on 31 January 2005, one of the reasons why applications should be refused on prematurity grounds was spelt out: “*(when it) would prejudice the outcome of the plan process by predetermining decisions that ought properly to be taken following full consideration of the relevant issues in the context of a public inquiry*” including decisions which “*would result in an adverse impact on an environmental asset which the emerging plan is seeking to protect*”.

4.2.3 Therefore this application should be refused as being premature.

4.3 An objection on prematurity, meant in the normal sense of the word as being done before the proper time, too early, arises out of the discussion on need.(see below, Section 5) and the fact that once an application is granted, the permission cannot easily be revoked, if at all.

4.3.1 As shown in Section 5 below, a new non-inert landfill site is not required before at least 2014/15 and there is a significant possibility, we argue a probability, that due to the increasing adoption of new processing technologies and Government statements announcing initiatives to phase out landfilling, a new landfill site will not be needed for at least ten years, if ever.

4.3.2 Cory Environmental claims that a landfill site could be operational in 2011 (paragraph 1.6 of the Planning Application Statement). This indicates that it only takes some 12 to 24 months from planning application for an operational landfill site to start.

4.3.3 Therefore planning permission should not be granted as there is no need at this time, Winter 2009/10. To grant permission now is too early, especially when there is so much acknowledged uncertainty in the waste forecasts, it would be premature.

4.3.4 The importance of a thorough investigation of all options in the context of a Waste Development Framework was recently emphasised by Mr Justice Collins in a case at Capel in Surrey where waste facilities were proposed (Case No CO/5684/2008 and 0510/2009 dated 05 March 2009). Essentially he held that a Waste DF which did not demonstrate that ALL possible sites had been thoroughly examined and appraised was unsound and that it should therefore be quashed. The principle which this judgment established would be seriously compromised

if WSCC went ahead and unnecessarily and prematurely commits a site for landfill without a thorough and comprehensive examination of every alternative. There is no evidence that this exercise has been carried out.

5. Need for non-inert landfill

5.1 Forecasting the need for landfill is acknowledged as being difficult. Past forecasts made have proved in reality to be wildly wrong, but all have trended the same way, with less non-inert landfill actually occurring than forecast. TVA understands that much of this is due to the rapid change from a waste industry dependent on non-inert landfill to one increasingly using recycling, waste treatment and waste processing. Therefore forecasts should only be seen as a best estimate at the time the forecast is made.

5.1.1 For instance, forecasts prepared for WSCC by AEA Technology have been regularly updated. In the November 2006 AEA Technology report to WSCC, Table 15 states that 11.6m tonnes of non-inert landfill would be landfilled between 2006 and 2021 (assuming there was no change to current procedures). In the equivalent table in the July 2009 report, Table 17, the total requirement for landfill capacity required from 2008/09 to 2025/26 would be 10.8m tonnes. However the 2006 report is for a 15 year period and the 2009 report is for 18 years. Therefore, on a simple arithmetic average calculation, the average for the 2006 forecast is 0.773m tonnes per year, whereas the average for the 2009 forecast is 0.600m tonnes per year. This represents a percentage drop of 22%, or a decline of an average 173,000 tonnes per year, between forecasts only 32 months apart.

5.1.2 It therefore follows that forecasts of landfill waste requirements need to be considered carefully in this time of rapid industry change.

5.2 TVA has commissioned Eunomia to study this subject and the resultant report is attached as Appendix B. It includes a January 2010 Addendum to respond to changes in Cory's application between WSCC/087/09/T and WSCC/048/09/T concerning Chapter 14 (Need for the development) of the Environmental Statement.

5.2.1 The conclusions of this report are that there are apparent inaccuracies and significant gaps in the evidence base provided in the planning application. Primarily these are regarding:

- The absence of an evidence base of the existing landfill capacity in West Sussex. Despite Eunomia's repeated attempts, at the time of writing neither West Sussex County Council nor the Environment Agency have been able to provide Eunomia with an evidence base to substantiate the claims of existing capacity given in the planning application. Therefore Eunomia say that the capacity figures cannot be relied upon and further fact-based investigation is required.
- The quantity of waste arisings forecasted by Cory Environmental, particularly, for commercial and industrial (C&I) waste, is almost twice as much waste predicted in the planning application compared to Eunomia's estimate. This difference in arisings of C&I waste is due essentially to the inclusion by Cory of wastes which would not be able to be treated in the proposed development at Laybrook, such as hazardous wastes and clinical wastes.
- Inaccuracies and uncertainties as to the incorporation of the MBT facility at Brookhurst Wood into the Application's modelling.

As a consequence the report states that Eunomia would recommend that before a decision can be made on the application, a thorough investigation is conducted by the planning authority on all of these issues they have outlined in their report.

5.2.2 Remembering the caveat in Section 5.1 (above) that forecasting is difficult and should only be seen as a best estimate, Eunomia's evidence based modelling (which includes only those facilities where there is planning permission or those with planning applications submitted), results in any need for additional landfill being delayed until 2014/15 (including London waste). This contrasts with the Planning Application which claims that a new non-inert landfill site will be required in 2010/2011.

5.3 At TVA's request, Eunomia has undertaken modelling to take the following situations into account. In TVA's opinion, either of these scenarios have a high probability of occurring.

5.3.1 The opening of an additional residual processing plant of one large facility or a number of smaller facilities with a total capacity of 250,000 tonnes per annum (including London waste), would mean that the existing landfill capacity would not run out until around 2019/20.

5.3.2 If London Waste were excluded from the calculations, as TVA understands that there has not been any confirmation that West Sussex is committed to this, that no such waste is currently being received and that contracts to take this waste have not been signed, then the current landfill capacity will not run out until 2017/18 (assuming no further residual processing plants are built).

5.4 We note that WSCC Waste Management Services Department has commented (27 November 2009) that "The County Council has no current proposal or need to direct municipal waste to the Laybrook site, including residual waste from the above proposed [Brookhurst Wood waste treatment] facility".

5.5 The conclusion is therefore that if the application was granted there would be a potential danger of significant over-provision of landfill capacity if the substantial anticipated increase in the recycling, treatment and processing of waste was achieved. This would have the effect of discouraging efforts to develop alternative technologies, contrary to the objectives laid down in the 2007 Waste Strategy. Therefore the application must be refused.

6. Safeguarding the clay resource

6.1 West Sussex County Council minerals policy is to safeguard valuable minerals resources (WSCC Minerals Local Plan Policy 2) and not to sterilise them (WSCC Structure Plan Policy ERA6).

6.2 The Laybrook area has clay minerals resources suited to making quality bricks, as evidenced by the continuing brick making business operated by Ibstock Brick Limited under the current planning application number DC/953/06(T) dated 18 July 2006.

6.2.1 The landfill planning application fails to provide any evidence of the volume of brick clay existing, or that the brick quality clay will have been exhausted before landfilling commences. The fact that Ibstock may or may not be able to extract existing brick quality clay because of engineering restrictions (such as restrictions regarding slope angles) due to restrictions imposed by its ownership of land is not relevant, as safeguarding minerals resources is related to the resource itself, not due to land ownership per se. This is supported by the fact that Ibstock purchased approximately 25 acres of farmland for clay extraction purposes from an adjacent landowner in 1990 as a way of justifying the investment made at or about this time in the brick making facilities on the site.

6.2.2 A detailed geological investigation determining the extent (both vertical and horizontal) of the brick quality clay in this location is required. In its absence, this application must be refused, otherwise there is a likelihood that the minerals resource will be lost for future generations.

6.3 The planning application states that some of the Laybrook Quarry clay will be used for engineering landfill purposes (see paragraph 9.37 in Environmental Statement). This will be clay from the brick clay resource. Consequently, the clay resource will not be husbanded for brickmaking purposes, conflicting with the West Sussex Minerals Plan Policy 2.

6.3.1 Paragraph 9.36 of the Environmental Statement submitted as part of the application states that "The quarry void will be prepared to receive a clay sealing layer... a basal and side slope... a minimum of 1m thick". Representatives from Ibstock stated at a public meeting held in Thakeham Village Hall on the 20 August 2009 that the remaining clay in the pit will be extracted over a period of 13 years and this will be stockpiled so that landfill operations can take place in parallel with the clay extraction. The volume of usable clay that will be lost or sterilised as a result of this method of working is not identified in the submission, but without evidence supplied from a detailed geological survey, it must be assumed it will be considerable and therefore contrary to the West Sussex Minerals Plan Policy.

6.3.2 The application fails to give any details as to how the continuing clay extraction will be managed alongside the landfill to ensure no sterilisation of clay reserves. There is likely to be contamination of the existing clay resource as landfilling and clay operations will overlap for several years until the clay is extracted entirely.

6.3.3 In addition, the proposals are for clay to be left between the landfill and the clay extraction area, adding to the quantity of brickmaking clay being lost or sterilised.

6.4 Cory's application states that clay will be extracted for brickmaking purposes before it is needed. Cory claim in their application that the clay will not be harmed by this. However, the application does not give any quantitative evidence nor a conclusive 100% guarantee that the clay will not be damaged and therefore the resource wasted.

6.4.1 Anecdotal examples given in the Application's Appendix G all relate to clay in coal areas, geologically very different from Weald clay. Any comparisons are therefore unreliable. Consequently, without reliable evidence regarding the long term storage of Weald brickmaking clay, it must be assumed that the Sussex Minerals Plan Policy 2 and WSCC Structure Plan Policy ERA6 would be contravened.

6.4.2 In addition, Cory's representative has verbally admitted that he simply did not know whether the clay would retain its brick-making qualities when stockpiled. The application fails to give any substantive evidence that clay will not degrade.

6.4.3 In view of the onus of proof being on the developer, required by the precautionary principle, this point has not been satisfactorily addressed.

6.5 Artificially creating a void in order to fill it with rubbish is wrong in principle. At the same time creating unsightly stockpiles of clay (an alien mountain in the landscape) over an extended period must be, in principle, also wrong (see also Section 14 in this document). In view of the onus of proof being on the developer, required by the precautionary principle, this point has not been satisfactorily addressed.

7. Traffic and highways

7.1 Thakeham Village Action has commissioned a report from TMS Consultancy of Coventry. This report shows that the B2139 is a dangerous narrow road. Doubling the number of large goods vehicles (LGVs) and adding a turn right conflict will increase the number of injury collisions.

7.2 Regarding carriageway width, the TMS report states that the Planning Application's estimates of the width of the road are incorrect. TMS considers that the available width (i.e. inside the white edge lines laid by WSCC to prevent encroachment onto the verges) varies considerably and is rarely more than 6.0m. In the length between the existing Ibstock entrance and Cray's Lane the usable width reduces to between 5.6m and 5.85m. In the section of the B2133 between Spear Hill and the A24 it drops to as low as 5.1m. On this section opposing LGVs already have difficulty in meeting and passing. TMS comments that the majority of LGVs are up to 3.5m wide including their wing mirrors.

7.3 The Planning Application does not address the underlying structural condition of the carriageway, yet the introduction of significantly increased flows of LGVs could lead to a rapid structural collapse if the road is not currently constructed to a high enough standard. In addition there is evidence that sections of the carriageway are subject to localised flooding in conditions of heavy rain. Therefore the applicants should be requested to supply a structural condition survey of the road as a part of the planning process.

7.4 TMS notes that there have been 17 reported personal injury collisions on the section of the B2133 between the B2139 and the first roundabout for the A24 in Ashington between 2003 and 2008. This represents 0.895 collisions/km/year. National figures (2007 data) show that the expected level of collisions on a rural B-class road

is 0.424 collisions/km/year. On this basis the B2133 appears to have twice the expected number of collisions.

7.5 The Planning Application fails to indicate the quantity of vulnerable road users using the B2133. The narrower section of the B2133 between Ashington and Spear Hill is used as an unsigned alternative cycle route avoiding the dual carriageway A24 by local and leisure cyclists. In the built-up area at the southern (Ashington) end of the B2133 there is only a short section of footway. In addition, school buses collect and discharge children at several locations along the B2133 during term times - these children are pedestrians on the B2133. Horseriders also use the road, with some 64 horses currently kept at properties accessed directly from the B2133.

7.6 To upgrade the B2133 to an adequate standard is wholly out of proportion. The loss of rural character in widening and straightening would be detrimental to the character of the area.

7.7 The full TMS report is in Appendix C, together with supporting maps and photos.

8. Ecology and wildlife

8.1 The Laybrook quarry is not barren and devoid of life as implied by the Planning Application, as the variety of different habitats in and around the brickworks and the fact that the quarry itself remains relatively undisturbed for much of the time has resulted in a location which is actually species rich. Many of the UKBAP (UK Biodiversity Action Plan) species are represented.

8.2 The ecological study undertaken as part of the Environmental Statement surveyed only the quarry itself. This is inadequate. Without an ecological study of the whole area, the effect of a landfill site on the local biodiversity is not known. This is grounds for refusal as insufficient evidence is available for the County Council to determine that harm to biodiversity will not occur. For instance, the Sussex Biodiversity Report indicates twelve species listed on Schedule 1 of the Wildlife & Countryside Act within 3 km of Laybrook, nine more than listed in the ESL report. Of particular note are those species protected by Acts of Parliament or nationally or internationally endangered.

8.3 Laybrook and the surrounding area is notable for the number of bat species located in the area, including UKBAP species. In England, Scotland and Wales, all species of bats are fully protected under the Wildlife and Countryside Act 1981 as amended, including by the Countryside and Rights of Way (CRoW) Act 2000. They are also protected by European legislation, being included on Schedule 2 of the Conservation (Natural Habitats, &c.) Regulations 1994.

8.3.1 The applicants propose seagull scaring by the use of cannon and other methods. Whilst seagulls are essentially diurnal and bats nocturnal, they do fly at the same time at dawn or dusk. Techniques to scare seagulls will therefore also scare bats away.

8.3.2 Until thorough survey work proving that these bat habitats will not be harmed is done, this application cannot be permitted.

8.4 Badgers are also fully protected by the Protection of Badger Act 1992. Enforcement powers in connection with the Act were relatively recently extended under the provisions of the Natural Environment and Rural Communities Act 2006. It is considered that insufficient evidence is given in the Planning application to prove that the badger population in the Laybrook area will not be harmed by landfill activities.

8.5 The number of bird species with high conservation status recorded in the Laybrook area has not been assessed in the Planning Application, due to the restricted nature of the ecological survey, but other surveys and anecdotal reports indicate it could be twice as many as ESL have located. The Wildlife and Countryside Act (1981 and as amended) protects all wild birds and their nests and eggs. Under this Act it is an offence to kill, injure or take any wild bird; take, damage or destroy the nest of any wild bird while it is in use or being built; take or destroy the egg of any wild bird. Rare breeding birds, listed on Schedule 1 of the Act (e.g. barn owls), are also

protected against disturbance whilst building a nest or on or near a nest containing eggs or young. Without a thorough survey, it must be assumed that landfill development would infringe this Act.

8.6 Water voles, *Arvicola terrestris*, receive full protection under the Wildlife and Countryside Act (1981, as amended) which makes it an offence to kill, injure or take water voles from the wild or intentionally or recklessly damage, destroy, or obstruct access to any structure or place which water voles use for shelter or protection, or to disturb any water vole while it is occupying a structure or place which it uses for that purpose. Water voles are thought to be particularly rare in West Sussex and without a full area wide survey, the importance of water voles in this area to the West Sussex population as a whole is unknown. Therefore, in the absence of this knowledge, the application must be refused.

8.7 The invertebrate species identified by ESL and the Sussex Biodiversity Centre indicate that the site is of national, if not of international significance, for invertebrates. The mosaic of relatively undisturbed quarry, ponds, woodlands, hedgerows and grassland indicates this is an unusual habitat. Until Natural England has had sufficient time to investigate the location thoroughly as to its national or international significance, planning permission must be refused.

8.8 The quarry is already recognised as a regionally important geomorphological site (RIGS), which would be lost if a landfill was permitted.

8.9 Several hedgerows are classified as important under the Hedgerow Regulations. It is impossible to recreate a new hedgerow to replace one which has taken centuries, if not millennia, to develop. Mitigation is therefore unacceptable and the application should be refused for this reason.

8.10 The Knepp Wildland project to the north of the site is a nationally recognised project, supported by Natural England and others, to improve natural biodiversity. This project involves the phased restoration of a 3,500 acre area to a more natural and wild state through the cessation of modern intensive agricultural practices, allowing grazing animals to roam freely and drive habitat changes with minimal human intervention. Full details of this project are included in the response submitted by the Knepp estate. A landfill at Laybrook would threaten the viability of this project.

8.11 See Appendix D for the full report.

9. Economic and business impact

9.1 Adjoining and close to the Laybrook Quarry site are several businesses including farms (some with rented property), the Alpaca Stud and Knepp Castle.

9.2 Loss of biosecurity will have a significant effect on farmers, with an increased risk of disease, influx of scavengers, increased costs, ill thrift (failure to thrive) of animals and falling profits which all lead to making farming financially unsustainable. In addition, many of the farms are highly reliant upon income from rented farm properties. An adjoining non-inert landfill site will reduce the ability to find tenants and therefore will greatly reduce rental income.

9.3 Tourism in the area will be affected. The area is popular with ramblers, cyclists, riders and visitors. The proposed South Downs National Park is only 4 km distant. The Alpaca Stud and Knepp Estate attract visitors from around the world. Local businesses cater to the tourist trade, including public houses such as The White Lion and The Countryman.

9.4 The Alpaca Stud, next door to the site, is one of the largest in Europe and real concerns relate to the viability of this business, as it is dependent on owners of breeding female alpacas being prepared to bring their animals to the stud.

9.5 The local equestrian industry will suffer from increased traffic and noise

9.6 The local fishing clubs will suffer reduced membership and loss of amenity. Over 500 people use the two adjoining fishing club ponds.

9.7 The local airstrip at Palacelands will be affected by the increased danger to pilots of bird strike. Hot air balloons will also avoid the area.

9.8 Local plant specialists will be affected by increased levels of dust and fungal infections.

9.9 Defra advises that new pig farms should not be established near existing non-inert landfill sites due to the risk of swine fever. This puts the existing pig farms on Harbolets Road, Coolham Road and in West Chiltington at risk of closure by Defra.

9.10. See Appendix E for the full report

10. Hydrology and hydrogeology

10.1 Thakeham Village Action has commissioned a report from Hydrogeo on the hydrological and hydrogeological regime. This report concludes that a quantitative hydrogeological risk assessment is required. The planning application includes only a qualitative hydrological and hydrogeological risk assessment, not a quantitative risk assessment.

10.2 The Laybrook area is complex geologically as it is where the greensand sandstone meets the Weald clay. Without a quantitative survey, it is not possible to know how groundwater moves through the quarry and local area. In the absence of one in the application, this gives grounds for refusal as insufficient evidence is available for the County Council to determine that pollution will not occur or that adequate mitigation measures could be ensured.

10.3 Likewise without a quantitative survey, it is not possible to determine if surface waters, including ponds and streams, will not be polluted and in its absence there is insufficient evidence available for the County Council to determine that pollution will not occur.

10.4 There are a number of inconclusive statements made in the Hydrogeological and Hydrological Impact Assessment submitted by Cory as part of this application (Report ref COR/LA/SPH/1450/11/FIN) as follows:

- Point 2.6 provides a limited summary of the geological makeup of the site and confirms the presence of sandstone strata across the site but states that “It is unlikely that the sandstone and siltstone strata are laterally continuous”.
- Point 4.4 where the report states “It is unlikely that the sandstone and siltstone strata are laterally continuous. The groundwater monitoring data show that the clay strata may be water bearing”.

These points again indicate that a thorough quantitative survey is necessary to ascertain the groundwater regime.

10.5 The disastrous effects leachate would have on Lay Brook, which runs through the site and feeds into the River Adur, are such that WSCC should refuse planning consent on the grounds that there is an unacceptable risk to the surrounding watercourses if this development were allowed to proceed.

10.6 The application indicates that the Lay Brook will be re-routed. Unless the Environment Agency is sure that this can be safely achieved, the application must be refused.

10.7 The northern part of the application site is within a Flood Risk Zone 3. Unless the Environment Agency is sure that this can be adequately mitigated, the application must be refused.

10.8 The full Hydrogeo report is attached at Appendix F.

11. Human health

11.1 Landfill sites release gases, methane, carbon monoxide, carbon dioxide and hydrogen sulphide. Leachate and gas flares at landfill sites release toxic compounds such as dioxins and heavy metals. Known medical effects of these chemicals include cancers, respiratory conditions, damage to hormonal and reproductive systems, immunosuppression disorders, diabetes, endometriosis, heart and thyroid disease, kidney and liver damage.

11.2 Due to the increased numbers of scavengers and other vermin attracted to landfill sites, there will be an increased risk of infectious disease being brought to the surrounding area affecting humans. Amongst these are the transmission of *Salmonella*, *E. coli*, *Cryptosporidium*, *Campylobacter*, *Listeria* and *Yersinia* which can lead to gastroenteritis or more seriously abortion, meningitis and other potentially fatal complications. *Leptospira* is spread mainly through rat's urine and can lead to multi organ failure. The risk of *Clostridium*, *Toxoplasmosis*, *Chlamydophilia*, tick borne diseases and fungal infections which range in severity from skin infections to pneumonia, arthritis, abortion, stillbirths, neurological signs and death is significantly increased. Waste from London will inevitably contain tuberculosis which will then be spread further afield by wildlife reservoirs of infection.

11.3 Several studies have indicated increased incidence of birth defects near landfill sites. We are reminded that the County Council has a duty of care to its citizens.

11.4 The full report on human health issues is attached at Appendix G.

12. Animal health

12.1 Landfills impact domesticated animal health through the loss of biosecurity, influx of scavengers, transfer of waste, introduction of infectious particles and risk of water and air pollution. All species will be affected with diseases causing weight loss, reduced performance, clinical signs, compromised fertility and death, putting the welfare of animals at risk.

12.2 The full report on animal health issues is attached at Appendix H.

13. Amenity nuisances

13.1 Thirty three properties are within 500 metres of the Laybrook site, of which four (Dan Farm Bungalow, Dan Farm, The Warren and Homelea Farm) are all located less than 150 metres from the site boundary.

13.2 Cory assert that local inhabitants will not suffer from nuisances causing harm, such as odour, noise, litter, vermin, dust and the like. However they offer no detailed methodology as to how such nuisances will be controlled or mitigated. In the absence of any explanation, it must be assumed that control will not be exercised and therefore the Planning Application must be refused.

13.3 Surveys done of noise do not meet recognised environmental noise measurement standards. No air quality assessments have been undertaken, including the effects on air quality in nearby places known to have high levels of air pollution such as Storrington. No assessment of the visual effects of lighting has been undertaken.

13.4 Practical experience of landfill operations has shown that such operations are subject to regular odour emissions. The application fails to include a detailed odour impact assessment

13.5 Dust can travel long distances and dust from landfills can harbour many infectious pathogens. Due to the public health risk a full rigorous assessment must be undertaken.

13.6 The Landfill Directive requires that the location of a landfill must take into consideration the distances

from the boundary not only of residential areas, but also recreation areas, waterways, water bodies and *other agricultural or urban sites*. Within 500 m are the Laybrook Ponds alongside the brickworks used by the Worthing & District Piscatorial Society and the fishing lakes in Peacock Lane used by the Pulborough Angling Club.

13.7 Appendix I includes a list of properties within 500m and the dust study.

14. Landscape and countryside character - see also Addendum regarding trees

14.1 Horsham DC is categorised as a rural district. Natural England landscape character assessment places the Laybrook site in the Low Weald, defined as “essentially, rural in character and has a pleasant wet woody character. The Low Weald area gives rise to a broad vale that is typically low lying and undulating”. Furthermore, “the Low Weald is typically low lying and undulating, rarely exceeding more than 30 m - 40 m AOD, with many areas as low as 15 metres”. (Natural England National Character Area 121).

14.2 Paragraph 9.32 of the Environmental Statement submitted as part of the application states “the clay stockpile will be a maximum of approximately 13m high”. This far exceeds the permissible stockpile height by 8 metres. We note that Paragraph 12.10 of the Environmental Statement submitted as part of the application states “Condition 18 (of the current minerals extraction planning consent DC/953/06) states that stored clay shall not be stockpiled above a height of 8 metres”. This extract that has been quoted by Cory is inaccurate as Condition 18 actually states “No excavated clay temporarily stored for use in the brick production process in the western part of the mineral extraction area shall be placed in a stockpile of a height exceeding eight metres above that of the ground level around the brick production factory”. The relevant condition in Application DC/953/06(T) is Condition 17 which states “No stockpile or bund shall exceed a height of five metres above the natural ground level at the base of the stockpile or bund”.

14.3 In a landscape varying by only a few metres, artificially creating unsightly angular stockpiles of clay in this landscape thirteen metres high, creating alien mountains over an extended period must be, in principle, wrong.

14.4 The effects on the character of the area of the cumulative impact of a brickworks and landfill operating at the same time has not been adequately considered in the application.

14.5 The proposed development calls for the provision of a new access to the site from Goose Green Lane. This access requires the creation of adequate sight lines, together with an additional carriageway on the B2133. This means the removal of a large number of mature trees from the Laybrook Copse. The B2133 is a valued pleasant rural road and the existing brickworks are fully screened from the road with a high hedgerow consisting of mature trees. This tree screen would be completely removed and with the new equipment being proposed on this access road would create an industrial presentation of the site. This would make an unacceptable change to the visual environment in this remote rural area. The site and the screening trees are also visible from the South Downs, this visibility will increase with the loss of the trees and the increasing profile of the proposed large landfill. It is understood that the Planning Officer of the South Downs Joint Committee has called for the retention of the boundary trees as one of their conditions regarding this application.

14.6 We note that the existing restoration condition is to a lake and therefore it is a greenfield site.

14.7 Five public rights of way (one bridle path and four footpaths) give views of the site. These routes are regularly used by walkers and horseriders.

14.6 Appendix J gives photographs of trees along the highway that would be felled and details of the rights of way. The Addendum gives a report on the impact on tree cover.

15. Landfilling of other than residual materials

15.1 The Planning Application Statement states (paragraph 1.3) that the waste to be landfilled “will comprise

residual waste, that is waste that remains after recycling and composting materials have been removed from the waste stream". The Environmental Statement Chapter 9 asserts that the waste will have the recyclable components removed before arriving at the site, but then details no mechanism as to how this is to be achieved.

15.2 To ensure that only residual waste is landfilled, detailed statements as to how recycling and composting materials will be prevented from being landfilled should be provided. In their absence the Application should be refused.

16. Archaeology and cultural heritage

16.1 There are 15 listed buildings adjacent to the B2133 or close to the landfill site. All but two of these are adjacent to the B2133.

16.2 With a doubling of the number of LGVs travelling along the B2133, there is a significant probability of structural damage being caused by vibration and the like.

16.3 See Appendix K for details of the listed buildings.

17. Proximity to Population

17.1 In the judgement *Capel PC versus Surrey CC*, the report states "*Mr Village submitted that what he labelled the proximity principle had not been properly taken into account. There was much argument about whether it still exists and, if so, its extent. It is, however, common ground that it applies only to disposal and not to recovery.*" As landfilling is a form of waste disposal, the proximity principle is relevant,

17.2 Laybrook is in the centre of West Sussex with only approx. 3.1% of the West Sussex population within a radius of 5 miles.

17.3 The list of properties within 1 km provided by Cory in the Fact Sheet to the Environmental Statement and the properties indicated on Plan NTS 2 are incomplete and significantly out of date and should be corrected.

17.4 Appendix L gives an outline map of the county's population.

Addendum

Thakeham Village Action (TVA) objects to the application WSCC/087/09/T for a non-inert landfill at Laybrook Quarry, Thakeham on the additional ground of loss of trees.

As explained in the report from Keith Rushforth Arboricultural Consultant, there is a lack of detailed consideration of the access and impact of the proposal on the trees. As such, this application should be refused.