

Laybrook Brickworks Quarry  
Planning application by Cory Environmental for landfill operations

Review of the planning and environmental submission  
to inform an objection by Knepp Castle Estate

FINAL u 28 January 2010

## One u Introduction

These objections are submitted by the Knepp Castle Estate (KCE) to Cory Environmental's proposals for a landfill site at the Laybrook Brickworks Quarry, West Sussex.

This report adopts the following format. This introductory chapter provides a description of KCE, with specific reference to those attributes at risk of a detrimental impact from the proposed development. Chapters 2 and 3 provide a review of the planning application submission, with the former commenting on the environmental statement and the latter commenting on the planning policy statement.

KCE has been the home of the Burrell family for over 220 years and covers an area of approximately 1,400 ha. It is located to the south of Horsham, centred close to the village of Shipley and bordered by the A24 to the east. The south western boundary of the Estate is approximately 250 metres from the proposed landfill site at the closest point (see location plan at **appendix 1**) and Lay Brook, which passes around Laybrook Quarry, flows directly across the Estate.

Important elements of this historic estate include:

- Knepp Castle - the mound and ruins of a motte castle dating from soon after the Norman conquest, designated as a Scheduled Ancient Monument;
- Knepp Castle - a castellated mansion dating from 1806 by the architect John Nash;
- Knepp Park - a 144 ha area of parkland associated with the mansion house, listed grade II on the Register of Parks and Gardens of Special Historic Interest and incorporating earlier features such as a Hammer Pond associated with the post-medieval iron industry;
- a wider Estate landholding totalling 1,400 ha and including a portfolio of over 235 properties and extensive grazing land producing high grade beef, pork and venison from free-ranging livestock; and,
- 13km of wetland areas, made up of a 3.75 km length of the River Adur and tributaries such as Lay Brook and Lancing Brook, part of which is allocated as a Site of Nature Conservation Interest (SNCI) due to the valued bankside and aquatic flora and fauna.

The Estate is now well known for promoting nature conservation, changing in 2001 from traditional arable and dairy farming to a less intensive form of meat production through a series of regeneration and restoration projects. The estate is accredited by the Soil Association as having 'organic' status. The most notable of these projects include:

- 1,500 acres (607 ha) managed under an *Environmental Stewardship* scheme, including the grounds and parkland to Knepp Castle and wider areas of grazing land across the Estate.
- *The Wildland Project* – this nationally acclaimed project involves the phased restoration of a 2,471 acre (1,000 ha) 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. Aims include increasing biodiversity,

implementing a near natural grazing regime and allowing the agricultural landscape and habitats to revert to a more natural form. The project is supported by Natural England, the Environment Agency, the British Trust for Ornithology, Sussex Wildlife Trust, National Trust and the RSPB amongst others.

- *River Adur Floodplain Restoration* – this state-of-the-art project integrates biodiversity enhancement, landscape improvements and flood risk management within the concept of returning catchments to a more self-sustainable natural environment. The overall objective is to return a 2.5km length of the river to a more appropriately dimensioned channel, dominated by woody debris, within an active floodplain, allowing increased floodplain capacity and supporting greater biodiversity potential. The scheme is supported by the Environment Agency and Natural England.

Ecological surveys completed in association with the above projects have so far identified 23 UK Biodiversity Action Plan (BAP) species on the Estate, including bats, birds, water vole, reptiles, amphibians and insects. The River Adur, including the extent within the Estate, is also known to support carp, bream, roach, tench, elvers, lamprey, bullhead and sea trout, of which lampreys and sea trout are also UK BAP species. Sea trout redds have been identified on Lancing Brook and could be present within Lay Brook itself.

In general terms, KCE is thus most concerned to observe that the Laybrook landfill planning and environmental submission omit to acknowledge the presence of the estate, even though the estate boundary comes to within 250 metres of the north-east corner of the landfill application site. The various environmental sensitivities of the estate, including the passage of the Lay Brook through the estate just down stream from the application site were made clear in the estate's response to the EIA scoping report for the Brickworks landfill proposal in 2008. The applicant has chosen to ignore this, which indicates amongst other things that the environmental statement is a partial report and cannot form a reliable foundation for a robust planning decision.

A key concern of KCE is that the proposed landfill site could result in unacceptable odour impacts upon the Estate's various property holdings. This would reduce the property values and income upon which the Estate is reliant for both maintaining the historic Knepp Park and Knepp Castle, but also for setting up and supporting the various nature conservation projects outlined above.

The specific environmental concerns that the landfill proposal raises for KCE are explained in further detail later in this review.

## Two U Review of Cory Environmental's environmental statement

### INTRODUCTION

This chapter reviews the environmental statement (ES) submitted with Cory Environmental's planning application. It offers some general observations about the structure of the ES, compares the ES against West Sussex County Council's EIA scoping opinion, and then reviews the ES on a chapter-by-chapter basis. KCE's objections are set out in bold text at the end of relevant sections of the chapter.

### GENERAL OBSERVATIONS

#### The structure of the environmental statement

Whilst the EIA regulations do not specify the precise format and style of an environmental statement, schedule 4 of the regulations prescribes information for inclusion in environmental statements. Part 1 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'.*

KCE is concerned that the submitted ES places too much reliance on the appended reports of specialist consultants, resulting in the main chapters providing only a limited summary of impacts rather than the full assessment required by the Regulations. This is expanded upon within the sections below, which offer detailed comments on a chapter by chapter basis.

#### Compliance with WSCC's EIA scoping opinion

The EIA scoping opinion provided by West Sussex County Council on 26 September 2008 required the environmental impact assessment to cover a range of issues. KCE is concerned that the detailed requirements have not been adequately addressed within the ES.

An assessment of the visual effects of lighting is a requirement of paragraph 5.1 (iv) of the scoping opinion. Although ES paragraph 9.28 provides basic lighting details, the potential visual and ecological impacts of lighting are not currently assessed within the ES.

Details of the measures to be taken in order to avoid any negative ecological impact during all phases of development is a requirement of paragraph 5.1 (vi) of the scoping opinion. The ecology chapter does not adequately consider cumulative on-site ecological effects arising

during the operational phase of the landfill, or ecological impacts arising outside the site boundary.

Paragraph 5.1(viii) of the scoping opinion required an up-to-date assessment of clay reserves at Laybrook Quarry, together with other details including '*paying specific attention to how these reserves will be protected from sterilisation and/or deterioration*'. The ES does not provide details of the overall volume of clay reserves. With respect to providing details of how stockpiled material will be protected from deterioration, KCE questions the level of detail provided within the ES and related appendix G, as highlighted in the sections below.

Paragraph 5.1(x) of the scoping opinion requires '*consideration of whether the landfill operations can be undertaken in separate phases to ensure that if there were no longer a need for landfill capacity in the medium/long term, waste from outside West Sussex would not be required to enable the site to be filled and restored.*' It continues by stating '*the use of such an approach would have implications for the final restoration of the site i.e. the proposed approach to the restoration of each phase would depend upon the final extent of landfilling required to meet identified need in West Sussex*'. The ES does not consider this approach, nor provide details of the alternative restoration measures to be implemented should landfilling operations cease at an early phase.

In addition, West Sussex County Council's letter of 27 November 2009 requires Cory Environmental to submit further information under Regulation 19 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 in relation to highways, the water environment, clay extraction, landfill gas management, leachate treatment, noise, air quality, odour, soils and restoration and residual waste. This significant list of omissions underlines the deficiencies of the original application and KCE await an opportunity to review any further submissions in order to determine whether these are adequate. KCE would also recommend that further submissions are coherent, clearly related and referenced in relation to the original submission in order to avoid a 'paper chase'.

#### **OBJECTION KCE-1**

**Contrary to the requirements of West Sussex CC's EIA scoping opinion dated 26 September 2008:**

- i). an assessment of the impacts of lighting has not been undertaken by the applicant;**
- ii). the potential for cumulative ecological impacts have not been considered or assessed;**
- iii). an assessment of ecological impacts arising outside the site boundary has not been expressly considered;**
- iv). an up to date assessment of clay reserves has not been provided;**
- v). details of alternative restoration methods should landfilling operations cease at an early stage have not been provided.**

**On this basis, the environmental statement does not provide all of the relevant environmental information to enable West Sussex County Council to determine the planning application. Furthermore, such environmental information as has been**

provided by the applicant has not been presented in such a manner that enables the residual and cumulative effects of the development to be clearly understood.

## ES CHAPTER 2: APPROACH TO ENVIRONMENTAL IMPACT ASSESSMENT

Para. 2.2 cites the European Union's EIA Directives, in which it is stated that '*...the best environmental policy consists in preventing the creation of pollution or nuisance at source rather than subsequently trying to counteract their effects...*'. The Laybrook Brickworks proposals are inconsistent with this principle, because they are inconsistent with European and national government initiatives to reduce waste arisings at source, rather than land filling waste in large volumes and then attempting to counteract their adverse environmental effects.

Para. 2.13 of the ES claims that '*the design of the proposed development, mitigation measures and the impact assessment have evolved through an iterative design and review process. Where possible negative impacts are reduced by altering the site design or operations*'. As will be seen in the review of chapters 9-15 below, the applicant has provided little evidence of this process. It appears instead that the applicant has sought simply to maximise the volume of waste that could be land filled at Laybrook Brickworks and to arrive at a broad package of mitigation measures to address the environmental consequences. Whereas the sequence of accelerated clay extraction required to allow the proposed rate of landfill might have been subject to an iterative design and review process, this could not be claimed for the proposals as a whole.

## ES CHAPTER 3. SITE LOCATION AND DESCRIPTION

KCE is located in close proximity to the proposed landfill site and could be directly affected by water-borne pollutants emanating from the proposals by way of ground or surface water, particularly as it is downstream of the site. The Estate contains valuable riparian and terrestrial flora and fauna, recognised by both Natural England and the Environment Agency. The Estate is also of substantial cultural heritage interest.

Whilst chapter three of the ES provides a description of the development site, KCE is concerned that there is insufficient consideration for or description of the surrounding area. This omission has resulted in the subsequent chapters being too narrowly focussed on impacts within the application boundary, with only cursory details provided in respect of potential significant effects on the surrounding area.

KCE is particularly concerned that impacts on receptors located adjacent to Lay Brook and the River Adur downstream of the application site have not been considered, notably the Knepp Estate.

ES paragraph 3.7 recognises that the Lay Brook joins the River Adur 3 km to the north-east of the site, whilst paragraph 9.42 states '*to facilitate the development of the landfill including the construction of the clay stockpiles in the east of the site it is proposed that the man made section of the Lay Brook is diverted around the application area as shown on Figure 9.8*'.

On this basis it would be expected that the ES would (a) include a description of the Lay Brook catchment downstream of the proposed development site, including consideration of the nature, value and environmental sensitivities of any receptors on adjoining land; and, (b)

that potential impacts on these receptors would be appropriately assessed, particularly the potential for water pollution impacts arising from the proposed development.

Paragraph 3.16 of the ES acknowledges that '*suspended solids in the water pumped from the quarry sumps settle out in the lagoon. Water is pumped from the lagoon to the former route of the Lay Brook where the water passes through naturally regenerated reeds and tall grasses which further assist in the removal of suspended solids prior to discharge off-site. The discharge off the site is at the north-east corner of the application area where the diverted Lay Brook rejoins its original course*'. Suspected clay contamination has been observed in the Lay Brook as it passes through KCE, particularly after periods of heavy rainfall. This gives KCE little confidence in the applicant's proposals to protect water quality in local rivers.

KCE is particularly concerned that the recognised ecological resource of the Knepp Estate, located to the north east of the development site and which is largely reliant on the water source of the Lay Brook, has not been expressly considered within the ES. This is disappointing given that the ecological importance of the Estate was raised in correspondence forwarded to Cory Environmental on 12 August 2008 in response to the applicant's scoping request, in which KCE drew attention to the following environmental sensitivities.

- Hammer Pond, a lake within KCE on Lay Brook, is a commercial carp fishery and wildlife haven whose status is particularly sensitive to water quality changes.
- A 2 km section of the River Adur within KCE and downstream of the confluence with Lay Brook is undergoing naturalisation and enhancement in collaboration with Natural England and the Environment Agency, and is known to support a number of protected species. Again, this significant ecological resource is vulnerable to water quality changes.
- KCE's wider agricultural landholding is subject to a management agreement with Natural England and is undergoing conversion to a wild land nature reserve. Stock roams freely and drinks from Hammer Pond.

KCE also has concerns with respect to the potential for pollution of well-water supplies downstream of Laybrook.

A further concern is that the description of the application site and its surroundings makes no mention of The Mens, an extensive area of mature beech woodland which contains European protected species including the barbastelle bat. The Laybrook Brickworks is already of known importance to this nursery colony of barbastelles following radio-tagging/tracking work completed by Frank Greenaway under contract from Sussex Wildlife Trust in 2008<sup>1</sup> and further surveys completed in 2009. The potential impact of the proposed development on this site and barbastelle bats following flight lines over the proposals site should be fully assessed within the Environmental Statement.

## **OBJECTION KCE-2**

**The environmental statement fails to acknowledge the presence of the Knepp Castle Estate only 250 metres to the east of the planning application site and downstream on the Lay Brook from the Laybrook Brickworks quarry. The Knepp Castle Estate is an**

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<sup>1</sup> Full report downloadable from [www.westweald.org.uk/publications.htm](http://www.westweald.org.uk/publications.htm)

area of considerable cultural heritage, natural and hydrological sensitivity and is host to an innovative land renaturalisation programme. Accordingly, chapter 3 of the applicant's environmental statement does not provide an adequate description of the surroundings of the application site, on which a reliable assessment of environmental effects can be based.

#### **ES CHAPTER 5: PROPERTIES AND POPULATION**

Para. 5.5 of the ES acknowledges that there are several residential properties in very close proximity to the proposed landfill operation, with Dan Farm Bungalow, Dan Farm Laybrook, The Warren and Homelea Farm all located less than 150 metres from the site boundary. At this range it is suggested that it is to all intents and purposes impossible to protect residential amenity from the various adverse effects of landfill operations such as noise, odour, litter and the attraction of gulls. This reinforces KCE's concern that Laybrook Brickworks is an inappropriate location for landfill operations.

#### **OBJECTION KCE-3**

**The proposed landfill operation would be very close to residential property, such that the measures proposed by the applicant to protect local amenity from adverse odour, air quality, noise, dust and light pollution effects are unlikely to be effective.**

#### **ES CHAPTER 6: PUBLIC RIGHTS OF WAY**

KCE offers no comment on this chapter.

#### **CHAPTER 7: METEOROLOGY**

In para. 7.1 the ES notes that the air quality and odour effects of the landfill proposal have employed wind rose data from the Gatwick weather station. At a range of 47 km from Laybrook, it is suggested that the Gatwick weather station is too remote from Laybrook to provide a reliable basis for the assessment of environmental impacts. The air quality and odour conclusions of the ES are thus unreliable. This is of particular concern to KCE, which lies to the north-east of the application site and downwind under prevailing south-westerly wind conditions.

#### **OBJECTIVE KCE-4**

**The applicant has not provided or employed reliable baseline meteorological data upon which the assessment of the odour, air quality and dust effects of the proposals can be assessed. On this basis the environmental statement does not fulfil the requirements of Schedule 4 of the Town and Country Planning (Environmental Assessment) (England And Wales) Regulations 1999.**

#### **ES CHAPTER 8: CURRENT OPERATIONS AT LAYBROOK BRICKWORKS QUARRY**

Para. 8.11 acknowledges that the existing clay extraction operations can give rise to dust nuisance during adverse weather conditions, causing extraction operations suspended at

times. The artificially enhanced rate of clay extraction proposed to create sufficient landfill voids will exacerbate this problem.

#### **OBJECTION KCE-5**

**The description of the planning application site does not provide a sufficiently detailed baseline account of environmental problems associated with existing clay extraction operations at Laybrook Brickworks Quarry, on which the assessment of the effects of the proposed development can be based.**

### **ES CHAPTER 9. THE PROPOSED DEVELOPMENT**

Whilst providing a general description of the proposed accelerated clay extraction, landfilling and restoration operations, KCE has concerns regarding a number of omissions.

#### **Phasing details are unclear and in conflict with EIA scoping requirements**

Although overall timescales for construction, operation and decommissioning are provided within this ES chapter, there appears limited detail with respect to precise phasing information. This is demonstrated by figures 9.1-9.6 of the ES, which identify six phases of landfilling, without giving any indication or assumptions of the relevant timescales. However, from reviewing appended documents such as the landscape and visual appendix, it is clear that further detailed assumptions have been used e.g. para 4.4.7 of the appended landscape and visual report states *'Progressive infilling of the site is expected to last for some 21 years. This has been split into six phases, with each phase lasting some 3-4 years.'* Clarification on this inconsistency is required.

As highlighted above, the requirements in WSCC's EIA scoping opinion requirement for the *'consideration of whether the landfill operations can be undertaken in separate phases to ensure that if there were no longer a need for landfill capacity in the medium/long term, waste from outside West Sussex would not be required to enable the site to be filled and restored.'* and that *'the use of such an approach would have implications for the final restoration of the site i.e. the proposed approach to the restoration of each phase would depend upon the final extent of landfilling required to meet identified need in West Sussex'* have not been addressed. The ES does not provide details of the staged approach required by the scoping opinion, particularly in terms of providing details of alternative restoration measures should landfilling operations cease at an earlier phase than proposed.

#### **Impacts of accelerated clay extraction not clearly assessed**

A key facet of the proposals is the requirement to accelerate clay extraction beyond the current rates required by the Brickworks in order to create the landfill void. ES paragraphs 3.13 – 3.14 confirm that in terms of the existing brickwork operations, clay is currently extracted on a campaign basis, and is stockpiled in mounds typically seven metres high, prior to blending for use in the brick making process. Paragraph 8.5 adds that *'each clay extraction campaign lasts for four to five weeks with approximately 20,000m<sup>3</sup> to 50,000m<sup>3</sup> of clay recovered into stockpiles during each campaign'*.

Paragraph 9.31 adds that, in terms of extraction to create the landfill void, *'The phasing calculations demonstrate that the clay stockpile will grow to a volume of 440,000m<sup>3</sup> by year 2 and remain at that volume until year 8. The volume is then increased to a maximum of 830,000m<sup>3</sup> at year 11. From year 11 onwards the stockpile reduces year on year until it is*

*completely removed in year 25. On completion of landfilling in year 21 approximately 200,000m<sup>3</sup> will remain in the stockpile. The clay stockpile will be a maximum of approximately 13m high. The external lower slope of the clay stockpile will be at approximately 1:2.5, with the upper slopes to a much gentler gradient of between 1:12 and 1:20'. The volume of clay to be stockpiled as a result of the landfill operations would therefore exceed the likely demand of ongoing brick making operations by a significant degree, and stockpiles could exceed 13 metres in height.*

Paragraph 9.33 of the ES refers to the potential impacts of long term stockpiling on the ceramic properties of the brick clay and states '*A review has been carried out to assess the effect of long term stockpiling on the ceramic properties of the clay. The review is presented at Appendix G. In the review it is concluded that water infiltration could occur only to a depth of approximately 150 mm to 300 mm from the surface and that the quality of the clay will not be affected adversely by long term stockpiling*'. The information provided by this report is limited, citing examples of stockpiling rather than providing detailed quantitative evidence. Further detail on this key issue is required, including any uncertainties arising from the prediction methodology.

#### **Uncertainties of rates of brick manufacture not acknowledged or assessed**

Elsewhere in the ES, paragraph 16.19 of the transport chapter refers to '*the current economic climate resulting in substantially reduced traffic movements at the Brickworks*', presumably reflecting the reduced demand for bricks resulting from a delay in new construction starts across the country. It is unclear how economic conditions and reduced brick demand have been taken into account in the ES, which should explain the assumptions used in any assessment and explain any unknowns or uncertainties, with best practice being to assume a worst case scenario. This is a concern as the clay stockpile results in key landscape and visual impacts, potential for degradation of mineral resources, and hydrological implications resulting from run-off which must be fully assessed.

A further issue is the acknowledgement at paragraph 11.5 of the ES which states that '*The restoration of the clay stockpile area is not part of this planning application*'. Whilst it is appreciated that the clay stockpile would arise from the existing consented brickwork operations, it is clear that the landfill application will have significant impacts on the volume and duration of the clay stockpile. This issue requires further explanation in the ES and planning application to enable the informed consideration of environmental effects and to ensure that adequate mitigating measures can be identified.

#### **OBJECTION KCE-6**

**The applicant has not provided a sufficiently detailed description of the main characteristics of the proposed enhanced clay extractions and landfill operations. In particular:**

- i). phasing details are unclear and in conflict with scoping requirements;**
- ii). impacts of accelerated clay extraction not clearly assessed;**
- iii). uncertainties of rates of brick manufacture not acknowledged or assessed;**
- iv). responsibility for restoration of additional clay reserve unclear.**

**On this basis the environmental statement does not fulfil the requirements of Schedule 4 of the Town and Country Planning (Environmental Assessment) (England And Wales) Regulations 1999.**

## ES CHAPTER 10: PROPOSED SITE OPERATIONS

Para. 10.7 summaries the general methods that will be employed during the land filling operation to compact the imported waste and reduce the potential for long-term settlement. However it is normal for restored landfill sites to experience continued settlement over decades, not least as organic materials continue to breakdown, with the landfill gas bi-product extracted under negative pressure from the landfill material. The ES does not provide a coherent assessment of the long-term effects of settlement post-restoration. This can have significant implications for drainage and the after-uses of the site.

KCE is concerned at the apparent lack of commitment and certainty shown in para. 10.9 with respect to the use of additional waste discharge points for the landfill operation in windy conditions. This is another example of the general vagueness that permeates the ES.

As noted above, the ES provides no detail about the proposed arrangements for the electricity transmission connections for the landfill gas engines proposed on the site. In their own right, these could have significant environmental effects for the locality. Paragraph 10.16 proposes that electricity '*will be fed into the National Grid or used at the adjacent brickwork*'. This further illustrates the lack of consideration that has been given to this aspect of the proposals, not least because it is normal practice to connect landfill gas generation plants into the local electricity distribution network as opposed to the high-level National Grid.

Whilst appreciating that measures to prevent litter from the landfill operation will need to be mobile, KCE is concerned that the lack of clear commitment in para. 10.19 to employ fixed litter nets around the perimeter of the landfill to provide additional litter control. Whereas the benefit of these litter nets is acknowledged, they can comprise significant features in the local landscape and their visual effects should have been assessed in the ES. As the owner of land only 250 metres from the planning application site, KCE is also concerned at the lack of firm commitment to litter inspection and collection in the surrounding area.

Para. 10.20 appears to set out a series of platitudes about the odour arising from landfill operations. Whereas the paragraph suggests that odour nuisance can be minimised by good operational practice, the reality is that landfill sites are inherently odorous and cannot form an acceptable use of land at locations as little as 150 metres from residential property.

Para. 10.21 also appears to play down the potential for odour, employing the term '*potentially malodorous waste*' whereas, in practice, the non-inert wastes proposed for disposal at this site will be inherently malodorous. The use of politically expedient terminology such as this is inappropriate in an environmental statement.

In para. 10.28 it is stated that '*the landfill site manager will be authorised to suspend site operations giving rise to a dust nuisance during adverse weather conditions until such time as conditions improve or controls are in place to minimise the potential for the generation of dust*'. Whereas it may be the case that the landfill site manager will be '*authorised*' to suspend site operations, the reality will be that waste will be delivered to the site on a continuous basis during normal working hours and that there would be no capacity within the waste management system to withhold deliveries to Laybrook Brickworks in the event that, for example, adverse weather conditions extended over several days, as can happen often in winter. Adequate safeguards for the local environment and amenity will not be in place.

Landfill sites containing municipal solid waste and commercial/industrial waste, which will have food content, are inherently attractive to seagulls and corvids regardless of whether there are local water bodies present. Gulls will travel a considerable distance inland from the

coast where they know that a reliable source of food can be found. As such, it is not credible for paragraph 10.29 to suggest that a landfill site at Laybrook Brickworks would not be attractive to birds, and it is incorrect to suggest that *'the site is remote from large areas of standing water'* given that the operation itself will require lagoons and settlement ponds to cope with run-off (see for example, ES paragraphs 10.35-10.36) and there are also areas of standing water within the nearby Knepp Castle Estate. Paragraph 10.29 also suggests that *'there are no roosts for corvids in the vicinity of the site'*. This suggests that no serious attempt has been made to identify corvid roosts in the locality. The Knepp Castle Estate contains several blocks of mature woodland that provide corvid roosts within a few minutes' flying distance from Laybrook Brickworks. There are numerous other woodland blocks providing corvid roosts in the locality. Collectively the ES appears to be attempting to down play an issue that can have significant effects on the amenity of local residents.

In this context, paragraph 10.32 lists a range of bird control measures that might be used on the site. There is no commitment to using any specific measure and no assessment in the ES of the effectiveness of such measures in mitigating a familiar adverse effect of landfill operations. It is not enough to state that bird control measures will be the subject of measures to be agreed subsequently with the Environment Agency. Furthermore, some of the bird control measures identified in paragraph 10.32 themselves have adverse effects for local amenity, including the broadcasting of distress calls specific to target species and the displaying of bird corpses around the site. Whereas these measures might be appropriate at airports remote from residential property, the presence of residential property within 150 metres of the site boundary will limit their use at Laybrook Brickworks. Furthermore, given that the site will only employ an estimated seven staff, it is questionable whether the site operator will have the manpower to use some of the more occasional measures of bird control described in paragraph 10.32, such as the use of bird kites mimicking birds of prey and the flying of birds of prey. In summary, the ES significantly plays down the nuisance likely to be caused by birds attracted to the landfill operation and offers no coherent strategy for mitigating the problem.

#### **OBJECTION KCE-7**

**The environmental statement does not provide an adequate account of the proposed site operations on which an assessment of the environmental effects can be assessed. In particular:**

- i). The ES does not provide a coherent assessment of the long-term effects of settlement post-restoration. This can have significant implications for drainage and the after-uses of the site.**
- ii). as noted above, the ES provides no detail about the proposed arrangements for the electricity transmission connections for the landfill gas engines proposed on the site. In their own right, these could have significant environmental effects for the locality.**
- iii). it is unclear as to whether the site operator will employ fixed litter nets around the perimeter of the landfill to provide additional litter control. These can also have significant landscape and visual effects;**
- iv). the measures proposed to manage odour and dust nuisance arising from the landfill site are not clearly explained and appear unsatisfactory.**

- v). It is evident that no serious attempt has been made to assess the risk of nuisance from gulls and corvids. In particular, the presence of water bodies on the application site, and substantial corvid roosts in woodlands close to the application site, have been overlooked.
- vi). Measures identified to mitigate bird nuisance have their own environmental effects, including noise, that have not been assessed in the environmental statement.

On this basis the environmental statement does not fulfil the requirements of Schedule 4 of the Town and Country Planning (Environmental Assessment) (England And Wales) Regulations 1999.

## ES CHAPTER 11: RESTORATION AND AFTERCARE

Considerable emphasis is given in the planning submission about the biodiversity benefits of the development, such that the reader could be forgiven for concluding that these benefits were a key development objective of the proposals. In practice, these benefits will not be in evidence for decades to come, and amount to platitudes or 'green-wash' to give an old-fashioned low-technology form of waste disposal a warm environmental glow.

This is illustrated by paragraph 11.8, which waxes lyrical about the enhanced biodiversity that will result from the development. The ES provides no technical basis to substantiate the claim that *'an increased density of water voles will also provide a focus from which the species may be able to spread downstream into other parts of the River Adur catchment'*. The management and care of the Lay Brook downstream from the brickwork site is a key estate management concern at Knepp Castle and KCE is convinced that the best means of protecting and enhancing the bio-diversity of the Lay Brook corridor is to avoid the introduction of landfill operations a short distance up stream. In these terms, paragraph 11.8 is clearly disingenuous.

Not least in view of these concerns, it is not adequate for para. 11.9 to state that *'the restored site will be the subject of an aftercare management scheme which will be agreed with the planning authority'*. The bold claims of enhanced biodiversity set out in paragraph 11.8 cannot be substantiated in the absence of a detailed aftercare management scheme for the site. In practice, paragraph 11.9 confirms that the applicant cannot offer a coherent assessment of the environmental effects of the proposed landfill operation after restoration. This is unacceptable.

### OBJECTION KCE-8

The environmental statement lays false emphasis on the value and benefit of proposed long-term biodiversity enhancement measures and uses these as part of the justification for the development. This conflicts with the general requirement for environmental statements to provide an objective account of the predicted environmental impacts, the effectiveness of proposed mitigation measures and the residual environmental effects after mitigation.

### ES CHAPTER 13: THE PLANNING POLICY FRAMEWORK

KCE is concerned at the partial and selective nature of the planning policy context set out in chapter 13 of the ES. As will be demonstrated, policies have been cited highly selectively to show the current proposals in a favourable light. Policies that are inconsistent with the applicant's interests are simply omitted. This is a wholly unacceptable situation.

Given that Cory's review of the planning policy framework is concentrated in a separate *Policy Statement* prepared by consultant RMPL, KCE's policy objections are substantiated in its assessment of RMPL's *Policy Statement*, provided in the next chapter of this review.

### ES CHAPTER 14: NEED FOR THE DEVELOPMENT

This chapter of Cory's Environmental Statement sets out a case in support of the need for additional landfill capacity in West Sussex, based on two modelling approaches.

The first approach is based on an analysis of RSS policy, which sets waste management capacity requirements for the county together with more general recycling and landfill diversion targets, and comparing the data produced against existing and planned waste management facilities, and estimates of available and remaining capacity at current operational landfill sites within WSCC. However, the relevant RSS policy, W7 recognises the possible inaccuracies within the data used, stating *'The figures... should be used as a benchmark for the production and testing of development plan documents, but Waste Planning Authorities should use more recent data where this is available in order to assess and plan for capacity. Any major changes to the figures may dictate a need to reconsider the apportionment through a review of the RSS.'* One major change not taken into consideration in the RSS data is the impact of the continuation of the landfill tax escalator announced in the Government's April 2009 budget, which is highly likely to suppress demand for existing and new landfill capacity. It is clear, therefore, that the data should be treated with caution, particularly in respect of development control decisions.

The second approach uses data from a more recent report produced by AEA Energy and Environment for WSCC, which considers waste forecasts for 2009-2026, interpreting and analysing these data together with information on existing and planned waste management facilities and estimates of available and remaining capacity at current operational landfill sites within WSCC. However, Cory has itself questioned the soundness of the AEA report (ES para 14.32-14.39), highlighting that it has not been subject to testing through the development plan process. Cory does not provide a source for its data relating to existing/planned waste management facilities and states that the figures used for existing landfill capacity are 'estimates' derived from other reports. This leads KCE to question the validity of the analysis undertaken by Cory, and thus the applicant's conclusion that additional landfill capacity is required.

KCE is also concerned at the absence of adopted waste management or 'saved' waste planning policy documents in West Sussex, and the apparent absence of a reliable evidence base on issues such as remaining landfill void capacity and waste arisings. Given that Cory's assessment of need has been advanced in the absence of reliable data, KCE is concerned that the conclusions are unreliable,

## OBJECTION KCE-9

**Contrary to the requirements of PPS10 *Planning for Sustainable Waste Management*, the need for the proposed landfill site has not been clearly established and there are significant concerns about the data, assumptions, interpretations and conclusions of the need assessment submitted by Cory. In particular:**

- i). given the current status of WSCC's waste management and waste planning policy documents, there is an absence of reliable evidence on which to base a needs assessment.**
- ii). the volume of waste arisings cited in the needs assessment appears too high, particularly with respect to likely commercial and industrial waste arisings.**
- iii). the assumptions used for committed and future residual waste management capacity are unclear and appear too low.**
- iv). there is an absence of reliable data relating to available and remaining landfill void capacity, limiting the validity of any conclusions drawn.**

## ES CHAPTER 15: ALTERNATIVES

Commentary on the extent to which Cory has followed the detailed site selection guidance set out in PPS10 is offered in the next chapter of this review. The Laybrook Brickworks landfill ES does not provide an adequate account of the alternatives considered to the current proposals. In the absence of the designation of Laybrook Brickworks for landfill operations in an up-to-date adopted development plan document, it is significant that there is no systematic assessment of alternative landfill locations in West Sussex. Whereas it is acknowledged that there will always be some requirement for landfill capacity in the foreseeable future, the ES fails to justify the continued large-scale disposal of municipal solid waste and commercial and industrial waste when a range of other proven commercial technologies are available for reducing this waste stream.

The ES chapter on alternatives seeks to limit the range of alternatives that should be considered by introducing artificial and unsubstantiated arguments about the desired long-term restoration strategy for the Laybrook Brickworks site. Paragraphs 15.2-15.3 set the scene by suggesting that a more bio-diverse environment can be created through the restoration of a landfilled site than through the creation of a lake once clay extraction ceases as proposed at present. This is a wholly artificial frame of reference for the consideration of alternatives. The ES does not provide a detailed assessment of the biodiversity of the site after restoration, and it cannot reliably be claimed that a larger lake feature will provide materially less biodiversity than a restored landfill site. Nor does this argument take account of the capacity for environmental damage, including two sensitive habitats downstream from the Laybrook Brickworks that will arise over the main years of landfill operation. In summary, chapter 15 of the ES is based on a false premise.

Para. 15.9 confirms that the applicant is not the holder of the municipal waste contract for West Sussex and *'has no opportunity currently to influence the locations at which the residual material from municipal waste collection and management contracts are deposited'*. This is a clear admission that the need for landfill operations at this location and for the volumes of waste proposed is unproven. The applicant is not in a position to guarantee that the waste will flow to the Brickworks site in the volumes suggested, with the further indication

that landfill operations might continue at Laybrook Brickworks over a period long beyond that identified in the planning submission. These uncertainties are highly material to the planning decision.

Para. 15.12 tacitly accepts that the Laybrook Brickworks site is not allocated for landfill operations in any adopted development plan document. In the absence of such an allocation and given the extreme sensitivity and capacity for disruption to local amenity, it would be premature and inappropriate to approve the current application in the face of such policy uncertainty.

Para. 15.14 suggests that *'the application site is .... available for immediate development and operation by Cory should planning permission be granted'*. Given the need for an environmental permit and the volume of environmental information not as yet collected or presented in the environmental statement that will be required to support an environmental permit application, it is plainly the case that development cannot proceed immediately following any grant of planning permission.

The consideration given by the ES in paras. 15.19-15.22 to alternative waste management technologies is wholly inadequate and relies on a dubious assessment of the suitability of alternative waste management developments at the Laybrook Brickworks site itself. In reality, many of these alternative technologies would be developed elsewhere in the county on more suitable sites. To suggest that these technologies would only be developed at Laybrook Brickworks, which currently has no waste management function, limits artificially the consideration of the potential of these alternative technologies. Furthermore, whereas this section of the ES seeks to portray these alternatives in a relatively poor light, the proven nature of these alternative technologies is left unstated and the assessment is noticeably biased. Again, sections of text such as this serve to undermine any confidence in the objectivity of this environmental statement.

In the context of alternative waste management technologies, it is irrelevant for para. 15.22 to suggest that *'the proposed landfill development is the most appropriate option for the restoration of this site'*. As noted above, this assertion is unsubstantiated and based on an artificial frame of reference that does not withstand detailed examination.

#### **OBJECTION KCE-10**

**Contrary to the requirements of Schedule 4 part 1(2) of the Town and Country Planning (Environmental Assessment) (England And Wales) Regulations 1999, 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 his/her choice, taking into account the environmental effects. In particular, the environmental statement fails to provide an adequate account of:**

- i). alternative landfill and land-raise locations in West Sussex**
- ii). the capacity for environmental damage, that could arise over the main years of landfill operation**
- iii). the applicant's ability to secure waste flows in the volumes indicated, and to secure an Environmental Permit to enable operations to commence within the timescale indicated;**

- iv). **alternative waste management technologies, whether located at Laybrook Brickworks quarry or at other sites in West Sussex;**
- v). **why landfill represents the best practicable environmental option for waste disposal in West Sussex in the light of the available locational and technological alternatives;**
- vi). **the implications for Laybrook Brickworks Quarry and the surrounding environment of a 'do-nothing' option.**

## **ES CHAPTER 16: THE TRANSPORT NETWORK AND TRAFFIC MOVEMENTS**

This chapter provides details of the predicted transport impacts by reference to an appended Transport Assessment.

The Institute of Environmental Management and Assessment (IEMA) provides independent guidance on the content of environmental statements<sup>2</sup>. This states that the significance of all impacts should be assessed using appropriate national and international quality standards and limits, and that the methods used to establish magnitude should be clearly described and be appropriate and reasonable in relation to the importance of the impact. In the case of this chapter, this guidance has not been followed, with details deferred to an appendix. This makes interpretation of significance difficult.

In terms of mitigation, IEMA recommends a clear commitment to implementing measures and an indication of how and when these measures will be implemented, together with an indication of the effectiveness of stated measure. With respect to the proposed mitigation measure of a traffic routing agreement, these issues have not been adequately addressed.

### **OBJECTION KCE-11**

**In summary KCE is concerned that:**

- i) **the methods used to establish magnitude are not clearly defined within the ES transport chapter;**
- iii) **the effectiveness and enforcement of mitigating measures are not clearly considered or specified.**

## **ES CHAPTER 17: LANDSCAPE AND VISIBILITY**

This chapter provides details of landscape and visual impacts by reference to an appended Landscape and Visual Assessment.

Both paragraphs 3.11.3 and 4.7.2 state that '*potentially very long distance views towards the development can be gained from the South Downs escarpment, some 6.6 kilometres to the south*' but that '*The location of the quarry set within a strong hedgerow and woodland structure immediately to the south of the site and in view of the distances involved and the relevance to the overall view, this viewpoint has not been considered as a visual receptor*'.

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<sup>2</sup> IEMA ES Review Criteria, <http://www.iema.net/technicalservices/eiareviewservice>

Given the landscape importance of the South Downs National Park, it is considered that a viewpoint/photomontage demonstrating that the proposals are not visible from this important resource should be included within the ES.

Other ES chapters state that artificial lighting and litter fencing form part of the proposals for the site. These issues are not addressed within the landscape and visual chapter, or the appended landscape and visual assessment.

#### **OBJECTION KCE-12**

**i) The applicant has not demonstrated that the proposed development, including potentially prominent stockpiles of clay extracted from the site to facilitate projected rates of landfilling, would have an acceptable visual effect in views from the South Downs National Park to the south.**

**ii) the potential landscape and visual impacts arising from artificial lighting and litter fencing have not been assessed.**

#### **ES CHAPTER 18: ECOLOGY**

This chapter provides details of ecological impacts by reference to nine appended reports ranging from baseline surveys to surveys for specific protected species. The chapter takes the format of summarising appended reports, often tackling issues such as protected species in isolation. This format makes it difficult for the reader to obtain and review relevant information without reference to the appended report. It also lacks synthesis.

The ES ecology chapter and associated appended reports focus on the proposed development area with little consideration of any impacts outside site boundary that could arise from landfill leachate affecting groundwater quality or the ecological impacts arising from a loss of water quality in the Lay Brook downstream of the site. More generally, the ecology chapter does not include consideration for the potential adverse environmental effects on the KCE, or those within the locality such as the block of woodland known as The Mens, which enjoys SSSI/SAC status.

Particular points of concern include the following.

- Although paragraphs 18.6-18.34 describe the baseline of the site by reference to the reports and surveys appended to the ES, there is no overall conclusion as to the current ecological value of the site. With a total of 16 UKBAP priority species recorded on site and 60 invertebrate species of conservation importance, this site has considerable ecological importance. KCE is concerned that no overall assessment or conclusion is provided.
- significance criteria are not defined within the chapter and the scale of the various ecological impacts are not clear. In some cases no significance is ascribed to impacts, e.g. paragraphs 18.39-18.41 which describes the destruction of four badger setts.
- Although paragraphs 18.35 -18.54 predict impacts on various protected species and the habitat found within the site, there is no overall conclusion as to the scale of impact.

## OBJECTION KCE-13

Notwithstanding the presence of 16 UKBAP priority species recorded on site and 60 invertebrate species of conservation importance, the applicant has not provided an overall assessment of the current ecological value of the site or the nature and magnitude of the effects on these populations that would result from the proposed development. The loss of wildlife habitat during the operation of the site for landfilling cannot be described as temporary, when the effects are actually prolonged and potentially irreversible. Aside from the fact that the environmental statement does not comply with the requirements of Schedule 4 part 1(3-5) of the Town and Country Planning (Environmental Assessment) (England And Wales) Regulations 1999, the application should be refused on a precautionary basis in view of its likely adverse effects on wildlife and habitats both within the site and in surrounding areas, including bats foraging over KCE from The Mens woodland which enjoys SSSI and SAC status and the River Adur/Lancing Brook SNCI.

## CHAPTER 21. WATER RESOURCES

This chapter provides details of water resource impacts by reference to a hydrogeological and hydrological impact assessment.

As highlighted in the sections above, the Laybrook site is hydrologically connected to KCE through Lay Brook, and KCE has concerns that the proposed development could affect the water quality of Lay Brook downstream of the proposed site, effecting water resources within KCE and the River Adur. KCE is particularly concerned that nature conservation interests within the Estate and the wider area could be detrimentally affected by a deterioration in water quality arising from the landfill proposals.

ES paragraph 21.16 recognises that groundwater pumped from the quarry to the attenuation lagoon in the north east of the site may have an elevated concentration of suspended solids with ES appendix Q, hydrology, stating at paragraph 5.12 that '*The main risk to the quality of the surface water is associated with suspended solids generated from the clay.*' It is relevant that the Estate has already observed high sediment loads within Lay Brook following periods of intensive rainfall.

In terms of mitigation, both the ES appendix and main ES chapter refer to suspended solids 'settling out' within the attenuation lagoon located in the north east of the site and further settlement ponds prior to discharge to the Lay Brook, with the proposed surface water management system shown at ES Figure 9.8.

However, ES paragraph 21.24 states that '*The suspended solid concentration in the discharge to the Lay Brook will be the subject of consent regulated by the Environment Agency and will be monitored regularly to confirm that the discharge limits are not exceeded.*' This statement notably conflicts with ES appendix Q, hydrology para 3.10, which states '*the Environment Agency does not monitor the quality of the water in the Lay Brook in the vicinity of the site and no surface water quality designations are available for the surface watercourses or the water bodies at and round the site.*' Given the potential for significant off-site ecological impacts to arise from pollution within Lay Brook, it is considered that this important mitigation measure is fully considered and appraised within the ES and that both implementation and ongoing monitoring measures are enforced and clearly spelt out by reference to planning conditions and a legal agreement.

ES paragraph 21.19 also states there is a potential risk to the quality of groundwater in the base of the quarry during the placement of waste in cells, adding that as part of the application for an Environmental Permit it will be necessary to carry out a quantitative hydrogeological risk assessment to demonstrate that there is no unacceptable residual migration of leachate through the engineered landfill liner to groundwater in the Weald Clay. It is considered that this assessment is relevant to the planning decision, and that such information should be included within the ES rather than being postponed to a later decision making stage.

KCE appointed consultants Haycock to provide an expert review of the water resources chapter of the ES. Haycock's report accompanies this ES review at **appendix 2**. Its principal findings are that:

- *hydrogeology* - a full investigation of groundwater dynamics has not been undertaken and the risks of increased liner seepage and potential breaching have not been adequately addressed or planned for in the application, leading to a risk of contamination;
- *surface water management and water quality* - the rainwater attenuation, settlement duration and pond area calculations are unreliable and the settlement lagoons are not adequate, resulting in a risk of increased suspended settlement loads in Lay Brook. This would adversely affect sensitive downstream environments within KCE and protected species such as the lamprey, and would be contrary to the EU Water Framework Directive.
- a rigorous assessment of the potential downstream impacts of the proposed landfill development is required, founded on detailed baseline measurements
- a robust monitoring strategy is necessary along the River Adur and Lay Brook to ensure that the water quality meets the standards set for Salmonid freshwater fish, focussing on the key parameters of nitrogenous compounds, phosphates, heavy metals, biological oxygen demand and chemical oxygen demand

#### **OBJECTION KCE-14**

**The applicant has not demonstrated that there will not be significant adverse water quality effects arising from the proposed development, with negative long term consequences for local amenity and protected species.**

**In particular:**

- i). the environmental statement fails to acknowledge the presence of the Knepp Castle Estate only 250 metres to the east of the planning application site and downstream on the Lay Brook from the Laybrook Brickworks quarry. The Knepp Castle Estate is an area of considerable cultural heritage, natural and hydrological sensitivity and is host to an innovative land renaturalisation programme. Chapter 21 of Cory's revised ES is deficient by not considering the potential for impact on these significant resource;**
- ii). detailed consideration of the groundwater pollution issue is deferred to the Environmental Permitting Stage. In practice, groundwater pollution is also a significant planning consideration and must be addressed to meet the**

requirements of Schedule 4 part 1(3-5) of the Town and Country Planning (Environmental Assessment) (England and Wales) Regulations 1999;

- ii). the applicant's proposed surface water management strategy and proposed mitigation and monitoring measures are not sufficient to meet the requirements of the Water Framework Directive.

## ES CHAPTER 24. AIR QUALITY AND ATMOSPHERIC EMISSIONS

This chapter provides details of air quality and atmospheric emissions, recognising that the closest property is approximately 30 metres to the west of the site boundary, and there are a number of other properties within 500 metres of the site.

ES paragraphs 24.12 states '*The potential for odour nuisance from exposed wastes will be minimised by good operational practice and the implementation of an odour management plan. The odour management plan will be agreed with the Environment Agency prior to the commencement of site operations and will form part of a condition of the Environmental Permit for the site*'. It also states that '*Further action will be taken to address potential odour emissions if they are recorded at the site boundary in order to further minimise the risk to sensitive receptors*'.

ES paragraph 24.14 states '*Landfill gas will be controlled, managed and maintained based on a detailed site specific quantitative risk assessment the subject of conditions which form the EP. It is considered therefore that there will be no significant risk of adverse effects associated with landfill gas generation at the site.*'

These assessments should be provided within the environmental statement and considered at the planning application stage to ensure that West Sussex County Council is fully informed as to the potential impacts, rather than defer such matters to a later stage.

Further deficiencies in the ES have been identified by Horsham DC's Head of Public Health and Licensing, in a report considered by the council's Development management Committee (south) on 15 September 2009. In particular:

- i). The traffic assessment does not identify any need for an air quality assessment on the grounds that HGV movements do not meet the qualifying criteria as recommended in the Design Manual for Roads and Bridges. However the applicant states that HGV movements will be 200 per day therefore meeting the requirement for a further assessment under the procedure for assessing impacts in Volume 11 of the Design Manual for Roads and Bridges.
- ii). There is no assessment of air quality impacts of traffic flows associated with the proposed development away from the site at the junction of Billingshurst Road and the A24 in Ashington or on the A283 in Storrington. Reliance on routing restrictions to reduce traffic impacts may not be enforceable in practice unless these are accompanied by physical restrictions to the local and sub- regional highway network.
- iii). The proposal will introduce significant sources of air pollution from the three gas engines, gas flares and mobile plant adjacent to the existing brickworks. No assessments of the cumulative air quality impacts of these sources with that of the existing brickworks have been provided.

- iv). With respect to odour, the application relies on the odour management plan to prevent any adverse odours from migrating off-site. Practical experience of landfill operations shows that this is unrealistic. Residents living in the vicinity of the site and those living to the North East of the site are likely to experience regular episodes of odour from the landfill activities. Accordingly the applicant should be required to submit a detailed odour impact assessment.

#### **OBJECTION KCE-15**

**The applicant has not demonstrated that there will not be significant adverse air quality and odour effects arising from the proposed development, with negative long term consequences for local amenity, including properties within KCE. In particular:**

- i). **detailed consideration of the odour issue is deferred to the Environmental Permitting Stage. In practice, odour is also a significant planning consideration and must be addressed to meet the requirements of Schedule 4 part 1(3-5) of the Town and Country Planning (Environmental Assessment) (England and Wales) Regulations 1999.**
- ii). **the applicant's environmental statement does not identify the potential adverse effects on air quality , including contributions from landfilled waste, road traffic, landfill gas engines, flares and mobile plant to enable the likely effects of the development on the environment, and the effectiveness of measures designed to prevent, reduce and where possible offset and significant adverse effects, to be identified.**

#### **ES CHAPTER 26: CONCLUSIONS**

The Laybrook Brickworks landfill ES omits to offer a coherent assessment of the cumulative effects of the landfill proposals. In general, the ES submission comprises a series of specialist technical reports prepared largely in isolation, without the iterative process of design refinement and overview that would be associated with normal good EIA practice.

The conclusions of the ES are thus considered to be in several places sweeping and unsubstantiated. For reasons given in the following chapter of this review, it simply cannot be claimed that *'the proposed development is consistent with the development plan and with national and regional policies'*. In practice there are significant policy objections to the current proposals. As demonstrated, the need for the proposals has not been convincingly demonstrated and the analysis of alternatives has notable shortcomings, not least in the way it relies on alternatives to landfill at the Brickworks site itself rather than alternative ways of managing the West Sussex waste stream.

Given all of the concerns raised in this review, it is astonishing that the Laybrook Brickworks landfill ES can conclude with the bold claim that *'it is concluded that the proposed development can be undertaken without any significant adverse impact on the environment'*. This is plainly not the case.

**OBJECTION KCE-16**

Contrary to the requirements of Schedule 4 part 1(4) of the Town and Country Planning (Environmental Assessment) (England and Wales) Regulations 1999, the environmental statement does not provide a meaningful cumulative assessment of the environmental effects of the development. The applicant's claim that that the proposed development can be undertaken without any significant adverse impact on the environment is without substantiation and open to considerable doubt. As such, the planning application should be refused in accordance with sound planning practice and the precautionary principle.

## Three u Review of the Policy Statement prepared for Cory Environmental by RMPL

### INTRODUCTION

Cory Environmental's planning application is accompanied by a *Policy Statement* that is provided as appendix J to the Environmental Statement. This document '*describes the main planning policies that are relevant to a consideration of a major new waste management facility and the specific manner in which they apply to the determination of the application proposals*' (para. 1.1.1).

It is accepted that the range of planning policies potentially of relevance to a complex proposal of this nature is wide, and that it is thus necessary to summarise the key policies in a statement of this nature. However, in any such summary it is essential to offer a balanced view of what the policies state. In this respect, Cory's *Policy Statement* is a disappointingly partial document. It systematically plays down the general thrust of European, national, regional and county policies to reduce reliance on landfill whilst emphasising policies that acknowledge the continuing need for some landfill capacity. As such, the *Policy Statement* is not a reliable guide to the policy context for the determination of the currently planning application and should be laid aside by West Sussex County Council.

As noted, a detailed policy review is a major exercise, but the policy context will in any case be familiar to the County Council. Employing the same structure as Cory's *Policy Statement*, KCE would simply like to highlight further policy considerations that cannot credibly be overlooked in the determination of the Laybrook landfill application.

### PPS10: PLANNING FOR SUSTAINABLE WASTE MANAGEMENT – JULY 2005

Cory's *Policy Statement* does not draw judgements about the Laybrook proposals in the light of PPS10. Instead, it seeks only to highlight the need for positive planning for waste and confirm that the Environmental Statement addresses the locational criteria set out in PPS10 annex E.

The guidance that PPS10 provides on the identification of sites for waste management facilities is highly relevant in the current context. Paragraphs 16-18 of PPS10 highlight the importance of waste management sites being identified in local development documents, having regard to requirements identified in the Regional Spatial Strategy (RSS) and any relevant municipal waste management strategy. Para. 20 encourages waste planning authorities to consider opportunities for the on-site management of waste where it arises, and to consider a broad range of locations including industrial sites, looking for opportunities to co-locate waste facilities together, all with complementary activities in keeping with the concept of resource recovery parks.

This advice has not been followed with respect to Laybrook Brickworks, which is more of an opportunity site than a facility identified following a coherent assessment of future waste management requirements in West Sussex. The selection of Laybrook Brickworks as a proposed landfill site is not based upon any review of alternative opportunities for on-site management of waste, and would represent the obverse of the resource recovery park

concept that represents the ultimate embodiment of the waste hierarchy.

Paragraph 21 of PPS10 provides further criteria that planning authorities should apply in the identification of sites and areas for waste management facilities. Waste planning authorities are advised to assess the suitability of sites for development against a list of specified criteria, which will be considered in turn.

**a). The extent to which they support the policies in PPS10**

KCE would suggest that the Laybrook landfill proposals are hostile to the sustainable waste management policies advocated in PPS10, including commitments to:

- promote sustainable development and the waste hierarchy, encouraging communities to take more responsibility for their own waste and helping to implement the national waste strategy in keeping with obligations required under European legislation (PPS10 para. 3);
- securing the recovery for disposal of waste without harming the environment (para. 3);
- the integration of waste management with other spatial planning concerns (para. 4);
- the planned provision of new capacity based upon clear policy objectives, robust analysis of available data and an appraisal of options (para 4);
- the locational principles described in paragraphs 17–21.

Whereas paragraph 3 of PPS10 recognises the need to cater for waste disposal ‘as the last option, but one which must be adequately catered for’, this does not detract from the fact that an old-fashioned conventional landfill site such as that proposed at Laybrook Brickworks would run counter to the policies set out in PPS10.

**b). The physical and environmental constraints on development including existing and proposed neighbouring land uses**

These considerations are explained in further detail in Annex E of PPS10 under the heading locational criteria. The criteria are;

- a protection of water resources
- b land instability
- c visual intrusion
- d nature conservation
- e historic environment and built heritage
- f traffic and access
- g air emissions including dust
- h odours
- i vermin and birds
- j noise and vibration
- k litter
- l potential land use conflict

PPS10 Annex E makes clear that these factors should be considered ‘in testing the suitability of sites are areas against the criteria set out in para. 20’ of the PPS. These factors are not

merely a list of issues to be considered at the EIA stage, after a development site has been selected. In other words, Cory has not followed the location guidance in PPS10 correctly.

In any event, the assessment of the Laybrook Brickworks ES provided in this review serves to highlight significant concerns both in the effects on these environmental sensitivities and the assessment of them in the ES. The cumulative implication of this review is that there are substantial physical and environmental constraints to the proposed development, and that the landfill site would be hostile to neighbouring land uses and the local landscape.

**c). The cumulative effect of previous waste disposal facilities on the wellbeing of the local community, including any significant adverse effects on environmental quality social cohesion and inclusion or economic potential**

West Sussex County Council will know from its experience as a waste planning authority the type of adverse effects on environmental quality, social cohesion and inclusion and economic potential that can arise as a result of landfill operations. In considering the Laybrook Brickworks proposal, KCE urges West Sussex County Council to compare the scope for environmental and community disruption in extending existing landfill capacity at established sites, as opposed to allowing a wholly-new landfill site to be established at Laybrook.

**d). The capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use loads other than road transport**

The proposed Laybrook landfill would be entirely dependent upon road transport and does not afford access by any other mode of transport. Further comments on the transport implications of the proposals are contained in the review of the transport chapter of the ES elsewhere in this review.

Paragraph 21 of PPS10 proceeds to recommend that waste planning authorities should '*give priority to the re-use of previously-developed land, and redundant agricultural and forestry buildings and their curtilages*' although subject to planning permission for minerals extraction, much of the brickwork site currently comprises greenfield land, the exploitation of which would be accelerated well beyond the natural demand for clay and the attendant scope for a phased restoration of the Brickworks site. Furthermore, the established strategy for site restoration proposes that the Brickworks would be restored to a landscape with water features that would be rural in character. It cannot therefore be claimed that the Brickworks site comprises previously-developed land.

On this basis, it is concluded that the current proposals are inconsistent with the methodology and approach for identifying waste management sites set out in PPS10. The proposals are inconsistent with PPS10 in other respects, including:

- the concern to protect the local environment and amenity (PPS10 para. 29);
- the concern to protect public health by ensuring that waste is processed in 'modern, appropriately located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards' (para. 30).
- the promotion of good design and layout which would avoid adverse impacts on the local landscape (para. 35).

Paragraph 5 of PPS10 advises that waste planning authorities should, when considering

planning applications for waste management facilities in the absence of development plans that reflect PPS10, the authorities should have regard to the policies in PPS10 as material considerations. On this basis, it is respectfully suggested that West Sussex County Council has little alternative but to refuse the current planning application on this basis.

#### **OBJECTION KCE-17**

**The proposals do not adhere to significant provisions of Planning Policy Statement 10: Planning for Sustainable Waste Management. In particular:**

- i). the current proposals are inconsistent with the government's waste management objectives and European legislation on the sustainable management of waste, as summarised in paras. 3 and 4 of PPS10;
- ii). Laybrook Brickworks Quarry is not identified as a waste management site in any adopted local development document (PPS10, paras. 16-18);
- iii). there has been no consideration of opportunities for the on-site management of waste where it arises, or of a broad range of locations for waste management including industrial sites, looking for opportunities to co-locate waste facilities together, all with complementary activities in keeping with the concept of resource recovery parks (PPS10, para. 20);
- iv). there has been no systematic assessment of the Laybrook landfill proposal and other waste management options in the light of the criteria set out in para. 20 and Annex E of PPS10;
- v). the current proposals are inconsistent with the concern to protect the local environment and amenity (PPS10 para. 29);
- vi). the current proposals are inconsistent with the objective of protecting public health by ensuring that waste is processed in 'modern, appropriately located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards' (para. 30);
- vii). the current proposals do not promote good design and layout which would avoid adverse impacts on the local landscape (para. 35).

In view of guidance of PPS10 para. 5 which states that waste planning authorities should, when considering planning applications for waste management facilities in the absence of development plans that reflect PPS10, have regard to the policies in PPS10 as material considerations, it is respectfully suggested that West Sussex County Council has little alternative but to refuse the current planning application on this basis.

#### **WASTE STRATEGY FOR ENGLAND 2007**

If the Laybrook Brickworks landfill proposals pay little heed to the principles set out in PPS10, this is all the more the case with respect to the policies set out in *Waste Strategy for England 2007*. Both in table 13.1 of the Planning Policy Framework (chapter 13) of the Laybrook Landfill ES and in the summary of *Waste Strategy 2007* contained in the accompanying *Policy Statement* submitted by Cory Environmental, it is evident that the national waste

strategy has been largely – and, one might argue, conveniently - overlooked. Cory's *Policy Statement* summarises the provisions of *Waste Strategy 2007* in just over a half of one page (paragraphs 1.2.8-1.2.11). It omits to explain how a large new landfill at Laybrook Brickworks would be compliant with *Waste Strategy 2007* or the clear waste management and development principles that it promotes.

*Waste Strategy 2007* will be familiar to West Sussex County Council and will not be cited in detail here. KCE would only add that:

- a rapid reduction in reliance upon landfill for waste disposal is the overriding theme of the waste strategy;
- *Waste Strategy 2007* identifies a series of measures being implemented by the government to accelerate the diversion of waste from landfill;
- as explained on page 48 (paragraph 38) of *Waste Strategy 2007*, the government is promoting requirements for the pre-treatment of waste destined for landfill sites that could result in a significant reduction in the amount of waste being landfilled;
- *Waste Strategy 2007* responds to the mandatory targets for the reduction of biodegradable municipal waste (BMW) sent to landfill, and explains (annexe C1 pages 8–9) how the government has responded to these targets through the introduction of the landfill allowance trading scheme (LATS). The LATS scheme is delivering progressive reductions in the total amount of BMW – such as paper, food and garden waste – that waste disposal authorities can landfill. The extraction of the biodegradable material from the waste stream will, amongst other things, reduce not just the overall volume of waste but the quantity of landfill gas recovered from the landfill site.

It was noted in KCE's review of the Laybrook landfill ES that little detail has been provided about the landfill gas energy recovery element of the development. It might be speculated that this is because the potential to recover energy from the waste stream by this means is open to question in view of the reduced organic content of the waste stream that will result from the progressive implementation of LATS.

#### **OBJECTION KCE-18**

**In the absence of a coherent strategy for the management of West Sussex's waste, reflecting the waste hierarchy and other principles set out in *Waste Strategy for England 2007*, the current proposals are inconsistent with the government's waste management objectives and European legislation on the sustainable management of waste and the diversion of waste from landfill, as set out in *Waste Strategy for England 2007*.**

#### **SOUTH EAST PLAN**

The South East Plan was published on 6 May 2009 and is relevant to both the *Policy Statement* and ES chapter 14: *Need for development* of the Laybrook submission. KCE's concerns regarding the justification of need for the development have been set out above. This part of KCE's representation responds to Cory's revised *Policy Statement*.

### **Policy W7: waste management capacity requirements**

Whereas Cory recites the waste volumes set out in this policy, it does not respond to the requirement that:

*‘ . . . In areas of major new developments consideration should be given to identifying sites for integrated resource recovery facilities and new resource parks accommodating a mix of activities where they meet environmental, technical and operational objectives . . . ’.*

Government initiatives such as the landfill tax escalator will ensure that these complementary processes will become increasingly attractive to waste contractors. However, as things stand, Cory proposes to operate a conventional landfill facility without consideration for the wider range of other built facilities that might be required in due course to promote resource recovery. The landscape and visual effects assessment in the ES offers no analysis of the ability of this rural site to accommodate complementary built facilities of the type alluded to in policy W7 of the South East Plan, and the landfill phasing plan does not take into account the implications of the reduced residues for landfill that would result from enhanced resource recovery.

In summary, the current proposals are fixed in time and outlook. They overlook known changes in waste policy and waste industry practice. The County Council is left in no position to judge whether the Laybrook site is capable of meeting the full requirements of SEP policy W7 because the current proposals are not supported by a clear definition of future operational and built requirements, or by a review of alternative sites that takes a properly defined operational and built requirement into account. Too much uncertainty thus exists to enable a positive determination of current proposals, even aside from the important unanswered questions that also exist about the environmental effects of the proposals, as detailed elsewhere in this review.

### **Policy W8: waste separation, policy W9: new markets, policy W11: biomass, policy W12: other recovery and diversion technologies, and policy W13 landfill requirements**

All of these adopted RSS policies highlight the paths by which waste will be diverted from disposal to landfill. They exemplify the future direction of waste management in West Sussex. From the perspective of the landfill targets identified in policy W13 of the South East Plan, it is relevant that many of the developments anticipated in policies W8, W9, W11 and W12 are likely to come forward as ‘merchant’ schemes built by the new generation of specialist waste operators, such as Biogen Greenfinch, New Earth Solutions and Enviroparks, incentivised by measures such as the landfill tax escalator. The longer term projections of landfill requirements in policy W13 might thus be over-estimates, prepared before the latest fiscal incentives for landfill diversion and overlooking the evolving structure of the waste industry.

### **Policy W17: location of waste management facilities**

Cory's *Policy Statement* cites this policy but, interestingly, offers no analysis of the Laybrook landfill proposals in the light of the policy. Supporting paragraph 10.54 of the South East Plan highlights the need for waste and local development documents to make site-specific allocations and specify locational criteria. In the absence of such policies in West Sussex, PPS10 and the South East Plan provide the policy context for the determination of the current proposals. Site-specific references in older documents such as the unadopted West Sussex Waste Local Plan do not provide a reliable frame of reference. Supporting para. 10.55 anticipates that:

*'Many facilities will need to be developed close to the source of waste and will therefore generally be close to urban areas. Development in the countryside, particularly the urban fringe and where there are rural waste management needs, will also be required and may represent the most appropriate location for certain activities, such as composting'.*

KCE would agree with Cory's contention that a landfill site cannot sensibly be operated in an urban area, where proximity to residential and other odour, dust and noise-sensitive properties would be at issue (see para. 1.2.27 of the *Policy Statement*). However, these considerations apply equally at Laybrook Brickworks, where there are several residential properties within 150 metres of the application site. In other respects, the Laybrook site is remote from the main urban sources of waste in the county, and there are no 'rural waste management needs' that justify the imposition of a 4.1 million tonnes capacity landfill site on a small rural community.

Finally, supporting paragraph 10.58 of the South East Plan once more emphasises the benefits of co-locating waste management facilities. The current proposals do not offer this prospect, and the Laybrook Brickworks site is unlikely to be a favoured site for integrated resource recovery given the industrial nature of the buildings that such processes require. (For comparison, the South East Wales Regional Waste Strategy, which is notable for its promotion of the 'ecopark' concept of integrated resource recovery, identifies industrial estates as suitable locations for such facilities).

It is concluded that the Laybrook landfill proposal, whilst offering an option for providing some of the additional landfill capacity identified in the South East Plan, does not take adequate account of the overall thrust of regional waste policy to drive waste processing up the waste hierarchy and optimise the recover of the valuable materials and energy that the waste contains.

#### **OBJECTION KCE-19**

**The proposals do not adhere to significant provisions of the South East Plan. In particular:**

- i). The Laybrook landfill proposal, whilst offering an option for providing some of the additional landfill capacity identified in the South East Plan, does not take adequate account of the overall thrust of regional waste policy to drive waste processing up the waste hierarchy and optimise the recovery of the valuable materials and energy that the waste contains.**
- ii). neither the Policy Statement nor the need assessment at ES chapter 14 provide an assessment of the Laybrook landfill proposals in the light of the requirement of SEP policy W7 that consideration should be given to identifying sites for integrated resource recovery facilities and new resource parks accommodating a mix of activities where they meet environmental, technical and operational objectives. The applicant proposes to operate a conventional landfill facility without consideration for the wider range of other built facilities that might be required in due course to promote resource recovery;**
- iii). the proposals are inconsistent with SEP policy W8: waste separation, policy W9: new markets, policy W11: biomass, policy W12: other recovery and diversion technologies, and policy W13 landfill requirements, all of which promote alternative means of waste management to landfill;**

- iv). **No explanation has been provided of how the proposals comply with SEP Policy W17, concerning location of waste management facilities.**

#### **WEST SUSSEX WASTE LOCAL PLAN - REVISED DEPOSIT DRAFT – 2004**

Paras. 1.2.21-22 of the *Policy Statement* note that the discontinued West Sussex Waste Local Plan ‘remains a material consideration for development control purposes’. This interpretation, which appears also on the County Council’s website, is respectfully queried given that the drafting of the document pre-dated, and could not reflect, government policy as expressed in PPS10 and the more recent Waste Strategy for England 2007.

Furthermore, the draft waste local plan policies were never tested at a public inquiry, with the implication that concerns over the adequacy of site selection for waste management facilities – including the landfill site applications in policy A4 – were never reviewed. Whereas the deposited waste local plan strategy is based around BPEO principles, there is no substantiation of how the waste planning authority could arrive at the conclusion that a major new landfill site at Laybrook Brickworks represents a BPEO solution, whether in a locational sense or in terms of the waste disposal technology employed.

#### **OBJECTION KCE-20**

**For reasons offered earlier in this review of the Laybrook landfill scheme, the proposed development would conflict with the following general policies of the deposited waste local plan:**

- **Policy G1 – Best Practicable Environmental Option;**
- **Policy G2 – Character**
- **Policy G3 – Environment**
- **Policy G4 – Air, soil and water**
- **Policy G5 – Managing waste close to source**
- **Policy G7 – Public amenity**
- **Policy G8 – High quality development**

**A large conventional landfill would be antithetical to the claimed waste management and environmental protection objectives of these policies.**

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