

Agenda Item 7.

Application Number	Expiry Date	Parish	Ward
193392	10 July 2020	Wargrave	Remenham, Wargrave and Ruscombe;

Applicant	Mrs Veronique Bensadou, Grundon Waste Management Limited
Site Address	Star Works Landfill, Star Lane, Knowl Hill, Wokingham, Berkshire, RG10 9XY
Proposal	Application to vary condition 7 of planning consent 153172 in order to extend the time for the deposit of engineering/restoration materials (inert waste) from 21 years from the date upon which the deposit operations commenced to 23 years, and to extend the time for the completion of the site's restoration from 22 years from the date upon which the deposit operations commenced to 24 years.
Type	Variation of Condition
PS Category	6
Officer	Graham Vaughan
Reason for determination by committee	Listed by Councillor Halsall

FOR CONSIDERATION BY	Planning Committee on Wednesday, 8 July 2020
REPORT PREPARED BY	Assistant Director – Place

SUMMARY
<p>The site is located at the eastern edge of the Borough and is a well-established landfill site with operations commencing in 1999. There are residential properties nearby the site, particularly on Star Lane and this comprises of properties located in both the Wokingham and Windsor & Maidenhead Boroughs. In policy terms, the site is located in countryside and the Green Belt. It is however recognised in the Development Plan as a major existing site in the Green Belt.</p> <p>The proposal seeks to extend the time in which landfill operations can take place on the site. For clarity, this involves the landfill area and ancillary works as indicated by the red line of the application submission. It does not include the rest of the site which is owned and operated by the applicant. The extension of time would allow for the completion of the import of inert waste onto the site which would allow for the full restoration of the site to take place. Once this is complete the site would be available to the public including the removal of the diversion of the public right of way through the site.</p> <p>The proposal follows a similar application made in 2015 for the extension of time of landfill operations. This allowed an additional three years to what was previously envisaged and, with this current application therefore, the site would be worked for an additional five years. In allowing the application, it is noted that the impacts upon residential amenity, including the noise and activity of lorries associated with the site would continue for longer. However, curtailing the landfill operations on the site now would mean the site could not be restored in accordance with the agreed restoration plan. This would mean the site would be unlikely to establish as a woodland, would not have appropriate drainage in place and would not have the correct leachate and landfill gas collection systems.</p>

Whilst there would be further impact on residential amenity, when weighing the different factors in the planning balance it is considered that the benefits of completing the scheme outweigh this harm. Furthermore, the conditions restricting other aspects of the site in terms of lorry movements and working hours would remain in place. As such, the variation of the condition to allow an additional two years of operation is recommended for approval.

PLANNING STATUS

Badger Sett Consultation Zones
Ancient Woodlands
Contaminated Land Consultation Zone
Local Authorities
Heathrow Aerodrome Consultation Zone
Archaeological Sites
Affordable Housing Thresholds
Bat Roost Habitat Suitability
Berkshire Waste Local Plan
Borough Parishes
Scale and Location of Development Proposals
Green Belt
Ground Water Zones
Local Wildlife Site
Green Belt Land Major Developments
Replacement Mineral Local Plan
Tree Preservation Orders
Borough Wards
Radon Affected Area
Landfill Gas Consultation Zone
Landscape Character Assessment Area
Complete PRoW
SSSI Impact Risk Zones

RECOMMENDATION

That the committee authorise the GRANT OF PLANNING PERMISSION subject to the following:

A. Conditions and informatives:

Conditions:

1. Condition 7 now reads: The deposit of non-inert waste shall cease not later than 20 years from the date upon which the deposit operations commenced and the deposit of inert waste shall cease not later than 23 years from the date upon which the deposit operations commenced. All restoration operations, excluding aftercare, shall be completed within 24 years of the date of the start of waste disposal operations."

Reason: To ensure the timely completion of landfill operations and subsequent restoration in order to protect the Green Belt, countryside and residential amenities. Relevant policy: Core Strategy Policies CP1, CP3, CP11 and CP12 and Managing Development Delivery Local Plan Policies TB01, TB02 and TB21.

2. All other conditions of planning permission 153172 apply to this permission.
Please see appendix one for list of conditions attached to 153172.

PLANNING HISTORY	
Application No.	Description and Decision
184/47	Interim development order (IDO) for mineral extraction granted in July 1947
340429 & 426466	Remedial filling and restoration of former landfill site, extension of landfill and restoration of quarry, site roads, weighbridge and office on land west of Star Works allowed at appeal on 5 th September 1994
MIN/2004/2560	Mineral extraction at star works - Appeal against conditions imposed on previous consent 342286 part allowed and part dismissed at appeal on 12 th September 2006
VAR/2008/0333	Proposed variation to conditions 1 & 2 of consent 97/65283 to allow revised cell boundaries and delay the construction of engineered batter conditionally approved 17 th October 2008
VAR/2008/0334	Application for variation of Condition 11 to allow an increase in the number of Heavy Goods vehicle movements and Non-Compliance with Condition 4 relating to provision of batters adjacent to Area "C" of permission 340429 conditionally approved on 11 th September 2008
VAR/2010/1795	Variation of condition 11 of Permission 34029: From The maximum number of heavy goods vehicle movements importing waste and soils and exporting minerals from the site shall not exceed 90 movements in any one day of which not more than 48 movements shall relate to the import of waste and soils, To: The maximum number of heavy goods vehicle movements importing waste and soils shall not exceed an average of 70 per day on a monthly basis calculated on the basis of 5.5 working days per week. The number of HGV movements shall not exceed 90 movements in any one day conditionally approved on 16 th December 2011
VAR/2015/0670	Application to vary conditions 14 & 15 of appeal planning consent 340429 (Remedial filling and restoration of former landfill site, extension of landfill and restoration of quarry, site roads, weighbridge and office on land west of Star Works, Star Lane, Knowl Hill) to allow the permitted hours of operation to be extended to 1600 on Saturdays and 0900 - 1600 on Sundays withdrawn on 4 th June 2015
153171	Variation application to condition 3 of planning consent 344446 (dated 29th May 1997) to retain the security compound, store and landfill weighbridge for the duration of the landfill operation conditionally approved on 3 rd February 2016.
153172	Variation application to condition 7 of planning consent 340429 (Wokingham Borough Council) and 426466 (The Royal Borough of Windsor and Maidenhead)(granted on appeal on 05/09/1994) in order to extend the time for the deposit of non-inert waste from 17 years from the date upon which the deposit operations commenced to 20 years, to extend the time for the deposit of engineering/restoration materials (inert waste) from 17 years from the date upon which the deposit operations commenced to 21 years, and to extend the time for the completion of the site's restoration from

	19 years from the date upon which the deposit operations commenced to 22 years conditionally approved on 3 rd February 2016.
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CONSULTATION RESPONSES	
Internal	
WBC Environmental Health – No objection subject to existing environmental health related conditions to remain in effect	
WBC Drainage – No objection subject to existing restoration related conditions to remain in effect	
WBC Highways – No objection subject to existing highway related conditions to remain in effect	
WBC Growth & Delivery (Planning Policy) – No comments received	
WBC Ecology – No objection	
WBC Green Infrastructure – No comments received	
WBC Landscape and Trees – No objection	
WBC Public Rights Of Way – No objection	
External	
RB of Windsor and Maidenhead Council – Advised they had consulted about the development for 21 days and Hurley Parish Council had stated “An adequate time has been already provided to complete the project” and An appropriate monitoring of the progress should be in place and relevant evidence published for any interested party”. Also advised three comments from residents had been received regarding noise pollution, air pollution and litter. A letter from Councillor Hunt, objecting to the scheme was received (Officer note: this is the same letter as was received by Wokingham Borough Council which was considered as per the below).	
Environment Agency – Issued standing advice and advised the applicant may be required to alter their permit for the site	

REPRESENTATIONS		
Parish/Town Council (Wargrave Council)	Wargrave Parish Council	Objection due to detrimental impact upon residential amenity and consider the operations should cease in accordance with the extant permission.
Adjoining Council (Hurley Council)	Hurley Parish Council	Objection due to the applicant having sufficient time to complete operations. Note that Wokingham Borough Council should enforce the work to be carried out and communicate progress of this.
Ward Member (Councillor Halsall)	John Halsall	Objection and listing request if recommended for approval due to impact upon residential amenity as highlighted by the appeal Inspector. Officer note: the summary of the site’s planning history is noted.
Member of Parliament (Maidenhead Constituency – The Rt Hon Theresa May)		Letter of objection received with regard to the following: <ul style="list-style-type: none"> - The site has caused many difficulties for residents prompting a number of complaints - Great concern that following indication by the applicant they would meet timescales that an extension is now being applied for - Residents have suffered from high levels of noise, too many vehicles, unpleasant smells and other disturbances

	- The Borough Council should have done more to monitor the progress of the restoration programme
Neighbours	70 letters of objection received with regard to the following:
Comment:	Officer Response:
The application was submitted over the Christmas period to restrict consultation.	Consultation was carried out in accordance with planning legislation and the adopted Statement of Community Involvement 2019. Above this, any comments submitted after the consultation period were taken into account.
The applicant indicated that operations were on schedule and therefore a request now indicates poor management.	Since the start of landfill operations on the site changes in how waste is managed across the country has resulted in less demand than originally expected for landfill.
The site is close to a school and there is a risk of contagion.	The principle of development and its proximity to other users has already been assessed and accepted.
The applicant has misinformed residents and the same problems still exist.	It is not for the planning system to regulate the management of individual businesses.
The reasons given by the applicant are spurious.	This is considered further below but ultimately the LPA are satisfied that sufficient reasons in planning terms have been provided.
The applicant does not wish to carry out a non-profitable phase of the operation.	The applicant is bound by the existing planning conditions and the requirement of the EA permit in order to complete the landfill site.
Wokingham Borough Council promised that no further extensions would take place.	This would not have been offered by the Council given that the site is privately managed by the applicant. In any case, the application must be determined on its own merits and against adopted national and local planning policy.
The first extension that was granted gives sufficient time to complete operations.	There is nothing in planning terms to prevent the submission of a further application to vary a condition.
Numerous complaints have been made regarding noise generated by plant, vehicle noise and littering from the site.	This would have been investigated by the relevant authority and, if required, acted upon.
The applicant has repeatedly failed to meet the deadlines imposed by the original permission.	The applicant is seeking a second extension to the original permission and it is not considered unreasonable given that the

	Inspector could not have foreseen issues arising in the future.
The site has been a blight on the village, causes smells and the surrounding woods are littered with plastic.	The impacts of the proposal are a material consideration and have been taken into account during the assessment of the application. However, they should be balanced against the impact of not completing the landfill site fully.
Wildlife in the area should be protected.	The impact on wildlife was considered and accepted through the granting of planning permission. The restoration of the land would also help wildlife in the long term.
The site is close to residents and a school.	The principle of development and its proximity to other users has already been assessed and accepted.
Windsor and Maidenhead Borough Council promised no further extensions would take place. The continued use of the site is not fair on the surrounding residents and would detrimentally impact their house prices.	This is not a material consideration.
The land should be restored now and returned to its natural state so it can be enjoyed.	If operations were to cease without fully restoring the land then it would not return to its natural state and could not be safely enjoyed.
The 'temporary' closure of the footpath that runs through the site has been ongoing for over 15 years.	This was accepted by the granting of planning permission and the diversion will cease once the landfill site has been restored.
The operations on the site have been ongoing for too long and continually impact residents through noise and smells.	The impacts of the proposal are a material consideration and have been taken into account during the assessment of the application. However, they should be balanced against the impact of not completing the landfill site fully.
The applicant has increased vehicle movements recently causing noise at all times.	The applicant is bound by planning conditions in terms of total vehicle movements. It should be noted that not all vehicle movements associated with the applicant are related to the landfill site.
The application should be referred to the Secretary of State.	The original application was determined by an Inspector appointed by the Secretary of State due to an appeal being lodged in line with planning process. The applicant has submitted the current application to the relevant local planning authority also in line with planning process and therefore it is not currently for referral to the Secretary of State.
No enforcement of planning conditions has occurred despite being raised with	Where enforcement is expedient to undertake this has occurred. Nonetheless, the response of the Council through

the Council and there is no management of the site occurring.	enforcement is not a material consideration for this planning application. The Council is also unable to be involved in the day-to-day management of individual businesses.
The restoration should be completed but not by the applicant.	The owner of the land is bound by the planning conditions to complete restoration. Whether this is the applicant or not is not a material consideration.
The applicant could have stockpiled inert waste whilst finishing the infilling of non-inert waste.	This would not have been possible given the restrictions on vehicle numbers and the type of non-inert waste that could be accepted into the landfill site.
The cost of operations is not a material planning consideration and if used as such could cause a precedent.	This is not a material planning consideration.
Planning policy supports the restoration of sites without undue delay.	This is one factor of planning policy that should be considered and balanced against others.
Construction is taking place across the Borough and therefore waste from this should be used on the site.	The restrictions on the type of waste that can be accepted are very stringent to ensure that no contamination occurs.
The applicant is meant to be an expert in their field and should have managed the site more appropriately.	It is not for the planning system to regulate the management of individual businesses.
The Council have powers to stop operations and should use them.	In its function as a Local Planning Authority, the Council do not have the ability to force an applicant to complete work. Whilst a 'Completion Notice' is a possible tool, it would only remove the existing planning permission, it would not result in the landfill site being completed.
<p>On 22nd April 2020, a letter sent by Barton Willmore Planning Consultants on behalf of local residents was received. In summary, this states:</p> <ul style="list-style-type: none"> - Operations should cease in line with the current agreed timescales; - There is no evidence that alternative sources of inert waste have been explored; - It has not been fully explored if the site could be restored without additional material; and, - There is no assurance that the quantity being relied upon to finish the site can be achieved in the proposed timescale. 	<p>The applicant was asked to respond to the points raised in the letter and, in summary, stated the following:</p> <ul style="list-style-type: none"> - Evidence has been provided to the Council regarding yearly import of material onto the site. - The operations relate specifically to activities contained within the red line of the application. - This is the second time an extension of the dates for complete have been sought. It became clear in 2015 that the site would not be completed in time and there have been difficulties since then in completing the inert waste deposits. The non-inert waste was completed ahead of the agreed timescale. - Infill has taken place in accordance with the agreed restoration plan and is nearing completion. Restoring now

	<p>would lead to a landform that would not blend into the surrounding landscape.</p> <ul style="list-style-type: none"> - There is no intention of keeping the site open indefinitely. Other than the cost implications of maintaining the site, it is clear that infilling of the land has taken place and the site is nearing completion.
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APPLICANTS POINTS	
<ul style="list-style-type: none"> • The site is nearing completion with the deposition of non-inert waste complete in April 2018. • Unfortunately, due to unforeseen circumstances, the import of inert waste onto the site has not taken place at a rate previously envisaged. To ensure successful remediation of the site, an extension of time is required. • The application seeks only to extend the time for operations on the site. It does not seek to alter any other restrictions imposed by conditions. 	

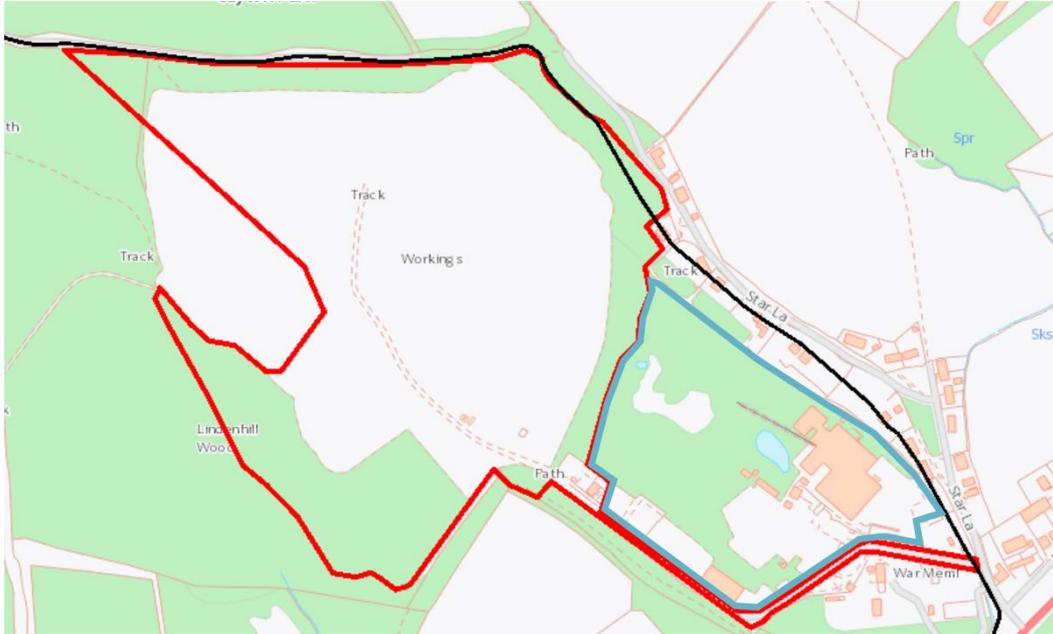
PLANNING POLICY	
National Policy	National Planning Policy Framework (NPPF) National Planning Policy Guidance (NPPG) National Planning Policy for Waste (NPPW)
Core Strategy (CS)	CP1 – Sustainable Development CP3 – General Principles for Development CP6 – Managing Travel Demand CP7 – Biodiversity CP9 – Scale and Location of Development Proposals CP11 – Proposals Outside Development Limits CP12 – Green Belt
MDD Local Plan (MDD)	CC01 – Presumption in Favour of Sustainable Development CC02 – Development Limits CC06 – Noise CC07 – Parking TB01 – Development within the Green Belt TB03 – Major Existing Developed Site in the Green Belt (Star Brick and Tile Works) TB21 – Landscape Character TB23 – Biodiversity and Development
Waste Local Plan for Berkshire (WLPB)	Policy 11
Replacement Minerals Local Plan for Berkshire (RMLP)	Policies 18 and 19

PLANNING ISSUES	
<u>Description of Development:</u>	
<ol style="list-style-type: none"> 1. The proposal is for the extension of time for landfill operations at the Grundon Waste Management landfill facility at Star Works, Star Lane, Knowl Hill. Whilst originally implemented by 340429 & 426466, the landfill aspect operates under planning permission 153172. Specifically, the application requests that condition 7 of 153172 is changed to read “The deposit of non-inert waste shall cease not later 	

than 20 years from the date upon which deposit operations commenced and the deposit of inert waste shall cease not later than 23 years from the date upon which deposit operations commenced. All restoration operations, excluding aftercare, shall be completed within 24 years of the date of the start of waste disposal operations". This would enable operations to continue for a further two years above the current limit i.e. five years beyond what was envisaged by the Inspector in allowing landfill operations to occur. It should be noted that the infilling of non-inert waste was completed in 2018 and therefore the extension of operations relates to the infilling of inert waste and final site restoration only.

2. The landfill site is within the Green Belt and designated countryside but is recognised in the Local Plan as a major existing development site in the Green Belt. The use of the site is well established since being mined for mineral extraction from 1947 as part of the approval of an interim development order. In 1994, an application for the site to be used as landfill was allowed at an appeal stage subject to a significant number of conditions and commenced in 1999. Some of these conditions were contested in 2004 and this was part allowed and part dismissed at an appeal stage. Two further applications were made in 2008 to change further conditions and these were both approved. Other applications have been made on the site but relate to working practices or the installation of new equipment and are therefore not directly relevant to this application.
3. Application VAR/2015/0670 was submitted in 2015 to allow for additional operations to take place in terms of Saturday and Sunday working. However during the course of the application the applicant was advised that it was premature to be considering an extension of time at this point and therefore withdrew the application. Later in 2015, an application to extend the time limit of operations was made through applications 153171 (relating to retention of security compound, store and landfill weighbridge) and 153172 (relating to the specific condition stating when operations should cease) and these were both approved. This allowed for an additional 3 years of operations.
4. As with the 2015 submissions, the current application does not propose any changes to the existing conditions applied to the landfill site other than the length of time in which landfill operations can be carried out. All the conditions that protect the amenity of local residents would remain in place in accordance with the appeal decision and planning history.
5. For clarity, there are two distinct areas operated by the applicant as part of the Star Works site. As indicated below, the area in red is the application site (incorporating part of the access) and relates to the landfill area and restoration activities, weighbridge and office. The area in blue is also used by the applicant for a hydroclave waste management operation, which takes place in and around the main building at the front of the site. Whilst the site as a whole is known as Star Works, the two operations are significantly different. The impacts of the hydroclave waste management, whilst being similar to those created by the landfill operation, should not be confused with the other. Indeed given that the landfill area is now capped, it will not be causing smells or releasing any litter. Additionally, traffic movement associated with the hydroclave cannot be controlled by this application.
6. A further point of clarification is required with regard to the hydroclave operation. Due to the Coronavirus pandemic, there has been a heightened requirement to

deal with medical waste; of which the Star Works site is equipped for this purpose. As such, in the past few months, activity relating to the hydroclave has increased. The impacts of this, such as smells and noise from lorries manoeuvring around the site, should not be confused with the impacts of the landfill site.



7. Although not part of the application submission, for the purposes of transparency, it should be noted that an offer was made by Royal Borough of Windsor and Maidenhead Council for soils to be made available to help complete the site in March 2020. Whilst the soils were acceptable for import onto the site and the applicant offered a reduced 'gate fee', the applicant made the Council aware that they did not operate the vehicles necessary to transport the material and therefore this would need to be covered by the Council. Additionally, at the point of asking, restrictions were in place limiting the amount of material being imported due to the site conditions (i.e. to protect the integrity of the haul road). What could be imported was covered by regular suppliers and the applicant was not able to disrupt this due to the risk of losing the supply completely. As such, it was advised that delivery could not occur until the end of April 2020. On the basis of the above, it is understood that the Council did not wish to proceed with the matter.

Principle of Development:

8. The principle of development was established through the granting of planning permission for landfill operations and in essence, this cannot be revisited. However, it should be acknowledged that planning policies have changed since the original application and in particular national policies such as the National Planning Policy Framework (NPPF) and the National Planning Policy for Waste (NPPW) have come into existence. Furthermore, although not planning policy, clearly issues around waste and landfill in terms of recycling and the waste hierarchy have grown in significance since the original permission. This is reflected in Government incentives and agreements and some weight should be attached to this.
9. In terms of national policy, the NPPW states that local plans should encourage suitable sites for waste management and in determining applications, waste planning authorities should, *inter alia*:

- a. Concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced;
 - b. Ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary.
 - c. Consider the extent to which the capacity of existing operational facilities would satisfy any identified need.
10. Further to this, the National Planning Policy Guidance (NPPG) gives information on determining waste applications. Specifically related to this proposal the NPPG states:
 - a. Waste planning authorities should be aware that the continued provision and availability of waste disposal sites, such as landfill, remain an important part of the network of facilities needed to manage England's waste.
 - b. The continued movement of waste up the Waste Hierarchy may mean that landfill sites take longer to reach their full capacity, meaning an extension of time limits to exercise the planning permission may be needed in some circumstances, provided this is in accordance with the Local Plan and having taken into account all material considerations.
11. At the local level, saved policies from Waste Local Plan for Berkshire and Replacement Minerals Local Plan are applicable:
 - a. Policy 18 of the Minerals Local Plan 1995 (which remains a relevant consideration) seeks to ensure that all restoration is carried out within a reasonable timescale to an appropriate standard and an acceptable landform, landscape and ecological character that is appropriate to its location. In addition Policy 18 seeks to ensure that Mineral Planning Authorities (MPA's) are guided by the overarching aim of restoration of sites without undue delay and will impose conditions to ensure this.
 - b. Policy 19 Minerals Local Plan 1995 seeks to secure environmental and public benefits, and where possible, recreational benefits through the restoration, after-care and after-use of mineral sites. However, as the applicant has stated in their accompanying information, there have been contributing factors which have impacted upon the amount of inert waste material and soils that are available for the progressive restoration of the site.
 - c. Policy 11 of the Waste Local Plan for Berkshire does not include the proposal site as a preferred area for waste however this was not adopted until 1998 (i.e. after the permission had been granted).
12. Through policies CP1 and CP3, the Core Strategy aims to provide sustainable development that is appropriate for the area. Although not specifically aimed at minerals and local waste, both policies seek environmental improvements and that impacts on local residents' amenity are minimised and mitigated against.
13. For applications within the Green Belt, policies CP12 of the Core Strategy and TB01 of the Managing Development Delivery Local Plan aim to limit development

and maintain openness in the Green Belt. Specifically relating to the proposal site, policy TB03 of the MDD Local Plan states:

- a. The Star Brick and Tile Works, Knowl Hill is identified as a major existing developed site in the Green Belt and is defined on the Policies Map.
 - b. Within the defined development envelope of the Star Brick & Tile works, the principle of limited infilling or the partial or complete redevelopment of the site will only be acceptable where it would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
14. In policy terms, through the NPPW and saved local policies, it can be seen that existing facilities are acceptable to meet an operational need. Indeed the volume of waste to be deposited in the site would not change, only the time taken to reach this volume. This is recognised particularly in the NPPG which acknowledges that the changes to waste disposal may result in additional time required for landfill sites.
15. In terms of Green Belt 'appropriateness' it should be noted that the principle of this has already been established by the approval of landfill operations at the site and therefore cannot be re-considered. Furthermore, the appeal inspector states in the decision letter at paragraph 14 that "*restoration by landfill offers, in principle, the most satisfactory way of restoring the appeal site to a condition compatible with its special landscape designation*". Therefore, given the visually sensitive nature of the application site, the principle of allowing the applicant additional time to ensure that there is a suitable and acceptable standard of restoration is acceptable.

Environmental Impact Assessment (EIA) Development:

16. Due to the scale and type of activity, the proposal could be considered EIA development. Waste management facilities fall under paragraph 11 (b), Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) with one of the thresholds being a site area exceeding 0.5 hectares. Paragraph 13 (b) of Schedule 2 also relates to the change or extension of development listed in Schedule 1 or 2 with the threshold being the development has changed to the extent it has a significant impact, or it exceeds the thresholds listed in earlier relevant paragraphs.
17. The applicant has considered the proposal against Schedule 3 of the EIA regulations being the selection criteria for screening Schedule 2 development and concluded that the impact of the proposal would not lead to an EIA being required. The Local Planning Authority have considered this and screened the proposal and also conclude the impacts are not substantial to the extent they would require an EIA.

Need for Landfill Operation:

18. In the previous application, considered at Planning Committee on 3 February 2016, it was set out that there are a number of restrictions on the amount of waste that can be imported into the landfill site. Specifically, this included the amount of waste that could be sent to the landfill site (70,000 tonnes per year) and the number of vehicle movements (90 per day of which up to 48 for the landfill). This restriction however impacted on the amount of landfill that was actually completed and therefore a relaxation of this, and then a permanent change, was agreed by

applications made in 2008 and 2010 respectively to an average of 70 per day on a monthly basis (however this still maintained the overall cap of 90 per day).

19. It was also noted that following an up-to-date review of the land levels, additional time would be required to complete infilling of the landfill area. Furthermore, that prior to the applicant's ownership of the site, the original top and sub soils for the ground had been removed by the previous owner resulting in it being necessary to import inert waste to ensure restoration would be viable. It is acknowledged that the previous report to the committee considered the three year extension required at the time would be sufficient to complete all operations. Notwithstanding this, the application was presented based on the information available at the time. Different considerations are now present and, as established by case law, planning applications must be determined on their own merits.
20. Currently, the infill of the landfill site in terms of non-inert waste has been completed as of April 2018. However, the applicant has stated that the infilling of the landfill site with inert waste (needed to facilitate the restoration process) has not been able to occur at the rate envisaged in 2015. Notably, the haul road has not been infilled and current estimates consider an additional 30,000m³ (approximately 48,000 tonnes) of inert material is required. The reasons stated by the applicant for this is due to compounding factors including the quality of the material to be imported; the cost of importing material; the reduction in waste generation nationally and associated incentives to push waste up the hierarchy; and, a reduction in waste produced through a downturn in the construction industry.
21. In the application submissions, the applicant notes that the curtailed restoration of the landfill site prior to approved levels being reached would result in a landform which potentially would not blend into the surrounding landscape. Indeed the restoration scheme has already been agreed based on achieving a complete site. The statement also emphasises that no other aspect would be altered through the application. For example, the number of vehicle movements would not be changed, the time the landfill operates each day would remain the same and the area which requires waste would not be increased. As well as these restrictions remaining in place, the landfill site would also still be bound by the Environmental Permit from the Environment Agency (EA).
22. The main issue arising from this application stems from the fact the applicant has had a certain amount of time to complete works but has been unable to do so. Whilst the specific management of the site and indeed of a company are not material planning considerations, there are certain aspects that should be understood to ensure an informed decision. The landfill site is regulated by a permit granted from the EA. As well as complying with this and being subject to checks from the EA, the applicant is required to pay annually for this permit. There are other financial burdens including machinery, maintenance and staff costs associated with the landfill site and therefore it is in the applicant's interest to complete restoration in order to reduce all these costs from a business perspective. Following this, the land would remain in the ownership of the applicant after restoration but the public would be allowed access. This is to ensure the proper management of the land and is typical of such sites. The restoration scheme comprises mainly of turning the land to woodland however there are other aspects involved. It has been designed on the basis the land is fully restored and this

includes ecological enhancements, surface water drainage, and the management of leachate and landfill gas collection systems.

23. The applicant has stated a number of reasons for not being able to complete in the agreed timescale but they effectively point to one aspect: there has not been enough material coming into the landfill site. It is accepted that there is less waste being sent to landfill now than there was at the point the permission was granted and, even since the 2015 application due to the national drive to push waste up the hierarchy. This is part of incentives across numerous political, commercial and societal structures to reduce, reuse and recycle waste.
24. It is also accepted there has been a downturn in the construction industry over the past year as confirmed by the Council's Minerals and Waste Consultant. It is noted that many comments raise the issue that construction projects are happening across the Wokingham Borough in particular and therefore they can provide the additional amount required. However, the issue is not as simple as this as the inert waste needed to restore the landfill site must meet strict requirements set out in the EA permit. This means that new soils from the start of construction projects will be appropriate whereas materials from demolition or waste elements of construction are not going to be suitable. Furthermore, due to the cost of moving such material, many constructors are opting to use the soils for their own restoration/landscaping purposes on site rather than seeking to remove them entirely. As a result, there has been a shortfall generated in the levels going to the application site. The applicant has raised the fact that it is costly to import the material onto the landfill site however this is not a material consideration and therefore no weight is placed on this element.
25. The application has been reviewed independently by the Council's Minerals and Waste Consultant. Specifically relating to the required tonnage of material to be imported, the application submission states that 30,000m³ of material is required to complete the landfill site and this equates to 72% of the restoration being complete. Through discussions regarding the amount left to infill, it has been noted that the applicant is working to a different plan than what was agreed through the appeal decision. However, this relates to the pre-settlement contours of the landfill site which, at the time of the appeal, was not typically agreed through the planning process. As such, contour levels have been agreed with the EA as part of the permit for the landfill site and this is higher in places than what was envisaged (albeit lower in other places). For clarity, in terms of Green Belt policy these are not considered to be such significant changes to the landform that they would be unacceptable. In the context of the landfill site and its wider impact upon the Green Belt, the minor changes to the landform would not alter the perception of the site. Indeed not completing the landfill site would have a far greater impact than the changes to the landform.
26. Additionally, the applicant is requesting more material to ensure parts of the landfill site are more easily navigable on foot and to ensure vegetation has a very good chance of establishing: specifically they are requiring a 2.0 metre level of soil rather than the minimum 1.5 metres. As a result, the total amount of material being sought is arguably higher than it needs to be. Nonetheless, it is not significantly higher; the applicant has clearly shown effective progress and is nearing completion of the landfill site; and, the amount required in terms of tonnage has been imported onto the landfill site in previous years. On this basis, the Consultant

does not consider the request to be unreasonable. Taking all of this into account, and acknowledging the difficulties in importing material onto the landfill site, it is considered that the additional two years requested would be sufficient to complete the import and restoration process.

Character of the Area:

27. The site is an active landfill site and therefore already has a distinct appearance and impact on the area. Whilst the site is within the Green Belt and in designated countryside, it nonetheless was considered acceptable in character terms when determined at appeal. Part of the reason for this was the restoration of the site once landfill operations had ceased and in order to achieve this, the Inspector placed conditions on the original permission relating to the restoration of the land.

28. It is acknowledged that by allowing the current application, landfill operations would take place for longer and therefore the impact on the character of the area, which is acknowledged as not being typical for a rural area like this, would remain. However, by ceasing operations in line with the current time limit, part of the land would not be filled and could not be fully restored. In doing so, the landfill operations would effectively undermine the quality of the restored landscape and have a detrimental impact in perpetuity as full restoration would not take place. As a result, a balance has to be made between extending the time further against ceasing operations in line with the current limits.

29. It should also be noted that the restoration of the landfill site includes the planting of specific types of trees to ensure they can survive in lower levels of soil. Ultimately, if the landfill site was not restored properly, it is very unlikely that vegetation would become established leaving the land bare due to the specific growing conditions. In addition, part of the restoration includes ecological enhancements, drainage and ponds which would contribute positively to the character of the area once complete.

Residential Amenity:

30. There are properties on Star Lane in both Wokingham and Windsor and Maidenhead Boroughs which are impacted by the landfill operations as well as properties on Canhurst Lane which is entirely within Wokingham Borough. It should also be noted the former Seven Stars Pub, to the east along the A4 and in Windsor and Maidenhead Borough, has been converted into a residential use. The actual landfill operations take place to the north and north west of these properties with the other elements of the site (e.g. weighbridge, security compound) being located closer to the properties on Star Lane.

31. As highlighted in the objections, residential amenity has been impacted due to noise from machinery and movement of lorries, smells from the ongoing landfill operation and litter blown across the site during operations. In particular, this has impacted on enjoyment of gardens (and at times properties themselves) and public footpaths around the site. Whilst concerns are acknowledged, it should be noted that the landfill site is now entirely capped and therefore smells and litter cannot arise from this area. It is important to understand however that the applicant carries out other business operations in an area to the south west of the landfill. In particular, this involves the cleaning out of waste storage bins which could well lead to some impact in terms of smells and litter. Moreover, the applicant has stated that the landfill operations account for approximately 35% across the

summer months, dropping to approximately 12% in winter months, of total HGV movements associated with the entire site. The reason for the seasonal variation is the ability of HGVs to traverse the haul road in poorer weather conditions; the amount is lowered to ensure integrity of the road. As such, it should be noted that a significant proportion of HGV movements that cause nuisance are related to other activities on the site operated by the applicant. Therefore, it is not possible to take this impact into account when assessing this current application.

32. Notwithstanding the above, consideration should be given to the weight that should be applied to the impact upon residential amenity. Specifically, in the appeal decision, the Inspector stated *“I have no doubt that, at times during the life of a site of this kind, local residents and other land users be aware of on-site activities and may well suffer a degree on inconvenience from the HGV traffic, dust and gulls but I consider that such effects would be spasmodic and short-lived. Against these disadvantages must be set the considerable long term benefit to be derived from the restored landscape and public access”* (paragraph 46). Furthermore, whilst the Inspector placed a time limit on the operations, this was based on the information available at the time. Ultimately, it would have been impossible for the Inspector to accurately predict the future; including the decrease in the amount of waste going to landfill. As such, whilst there are impacts upon residential amenity, this was considered acceptable when granting permission.

33. A further point of clarification is required in relation to the impact of the landfill site upon residential amenity. Conditions are in place from the original permission which aim to protect residential amenity and these would not be altered as a result of the proposal. If the landfill site has been, or indeed would be, operated outside of the limits imposed by these conditions, then that is a matter for planning enforcement and not this application to resolve. Similarly, the landfill site has to be in compliance with an EA permit (although it is acknowledged some residents have stated this is not the case). However, given this permit is under separate legislation from the Planning Act, it is not the requirement of this application, or Wokingham Borough Council, to enforce it.

Access and Movement:

34. Elements such as traffic movements, access and parking provision have all been considered and approved by the original permission including appropriate conditions. Although some changes have occurred over time through subsequent variation applications, these conditions remain in effect. The proposal would result in these movements continuing for longer than originally planned but would not change the number or how vehicles access the site. As noted above, a distinction also needs to be made between the landfill site which the application relates to and the rest of the site operated by the applicant. The level of HGV movements as a result of the landfill area is approximately 35% of the overall movements of the site operated by the applicant. In this respect, the impact of HGV movements as a result of allowing the proposal would not be significant given the site as a whole. Indeed no objection from the Highways Officer is raised with regards to this.

Landscape and Trees:

35. Given the established impact of the landfill site, it is considered no significant additional harm would arise as a result of extending the time limit for operations. Allowing the extension of time would mean the landfill site could be fully restored in accordance with the approved scheme. Conversely, not allowing the extension

of time and ceasing operations without full restoration, would result in a contrived landscape form. It is also likely that vegetation would struggle to establish if the appropriate soils were not provided on the landfill site. Given this and the fact the landfill site is meant to be restored to woodland, harm to the landscape character would arise if the land was not restored.

Ecology

36. Given the established impact of the landfill site, it is considered no significant additional harm would arise as a result of extending the time limit for operations. Allowing the extension of time would mean the landfill site could be fully restored in accordance with the approved scheme which would, over time, lead to a betterment in terms of ecology. Conversely, not allowing the extension of time and ceasing operations without full restoration, would result in a contrived landscape form. This would make it more difficult for biodiversity to thrive and therefore have a harmful impact in ecological terms.

Planning Balance

37. Through national planning policy, it is noted that landfill sites have a role to play in managing waste across the country; notwithstanding incentives to reduce waste. It is also noted that it may be required to extend the life of such sites in order to achieve completion and ultimately restoration. However, it is also stated that completion of such sites should occur without undue delay. It is this element that the application essentially must be considered on: is a further two year extension an undue delay to the process? The applicant has stated that there has been different factors contributing to a decrease in the amount of material entering the landfill site. Whilst not all of this is considered material to the application, it is accepted that there are difficulties in completing the landfill. Nonetheless, it is also apparent that the landfill site is not far from being completed and the applicant has made a reasonable attempt to achieve this.

38. The main negative impact of the landfill site however are the detrimental impacts upon residential amenity in terms of noise, smells and litter. As stated through letters of objection these are clearly aggrieving local residents. However, some of this is not actually related to the landfill site and therefore cannot be applied to this application. Nonetheless, the effect of allowing this application would be for continued periodic disruption to occur for a further two years than currently allowed and, in total, five years above what was originally envisaged. Clearly however, in allowing the appeal, the Inspector acknowledged the impact upon residential amenity but considered the benefits of the scheme outweighed this.

39. Against the impact on residential amenity are detrimental impacts to the landscape character by not allowing the application. This would have the effect of not allowing restoration to take place and therefore the land could not be appropriately restored. Firstly, this would create an awkward landform without the ability to create a woodland and, secondly, this would prevent enjoyment of the landfill site by local residents. It would also mean that ecological benefits would not be as great given that habitats for species would be less likely to thrive and drainage of the landfill site may not occur correctly. Consideration should also be given to the fact the site is within the Green Belt which, by virtue of greater protection through planning policies in terms of development, tends to be more rural in appearance. Furthermore, the impact of not restoring the land now would last into perpetuity as it would require a further planning permission for land works to take place.

40. As a result of the above, the benefits of continuing operations and restoring the land fully are considered to outweigh the harm caused to residential amenity due to the relatively short time period that would occur beyond the original timescale by allowing the proposal. Despite the landfill site operations taking place five years beyond what was originally envisaged, in planning terms and in the context of landfill operations as an industry, five years is not considered to be an undue delay. Consideration is given to the fact that clearly the landfill site is nearing completion with the infill of non-inert waste fully complete and inert waste nearly complete.

The Public Sector Equality Duty (Equality Act 2010)

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. The impact upon a protected characteristic (age) has been considered with regard to the impact of the proposal and the distance from Knowl Hill Primary School. However, no specific harm has been identified given the distance is approximately 370 metres to the entrance of the main site owned by the applicant. Other than this, there is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

CONCLUSION

Taking all material considerations into account and weighing these in the planning balance, it is considered that allowing an extension to the time that operations can occur at the site is acceptable in this instance. This is subject to the inclusion of all material conditions as applied in the previous permission.