

BY EMAIL: berks.consult@hants.gov.uk

29634/A3/CP/dw

15th October, 2020

Dear Sir/Madam,

**CENTRAL AND EASTERN BERKSHIRE - JOINT MINERALS AND WASTE PLAN
REGULATION 19 PROPOSED SUBMISSION CONSULTATION
REPRESENTATIONS ON BEHALF OF KNOWL HILL RESIDENTS**

Barton Willmore LLP has been instructed to submit representations to the Central and Eastern Berkshire - Joint Minerals and Waste Plan, Regulation 19 consultation, on behalf of our clients' Knowl Hill residents. We note that the Central and Eastern Berkshire Joint Minerals and Waste Plan is being prepared by Bracknell Forest Council, Reading Borough Council, Royal Borough of Windsor and Maidenhead and Wokingham Borough Council. Currently the combined authorities are seeking comments via the associated Regulation 19 (proposed submission) consultation. We understand that the lead authority in this instance is Hampshire County Council, who is conducting the Regulation 19 consultation on behalf of the aforementioned local authorities.

This covering letter, providing a summary of our clients' position and concerns, should be read alongside more detailed commentary provided in the attached report (29634-P1b-A5). The Council will note that this report is a resubmission of our Clients' previous Regulation 18 representations, which it is considered provides a comprehensive consideration of the Site in question, its history and why it should not be safeguarded. It is therefore considered that the Inspector should have sight of this report.

By way of background and summary, the Residents of Knowl Hill concerns relate to the existing Minerals and Waste Site at Knowl Hill in Berkshire, operated by Grundon and known as 'Star Works'. On review of the draft policies contained within the Regulation 19 consultation document it is noted that draft Policy W2 proposes to safeguard existing Waste Management Facilities and at Appendix E Star Works is noted as a safeguarded site. Our clients' object to the inclusion of Star Works within this policy and considers it to be unsound, as detailed further below.

Our clients' key concerns and observations in relation to the Star Works Site, are as follows:



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1. The current site was granted Permission in 1994 for "the 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"
2. The site was Registered at the Land Registry under Title BK231159. It was subject to a Deed with regards Enabling Works.
3. This Deed states in The Second Schedule that the reason for Grundon's occupation was one of Remedial Filling and Restoration to Amenity Grassland and Woodland. A Deed dated 14 September 1995 made between (1) S. Grundon (Waste) Limited (2) Ibstock International Limited (3) Norwich Union Fire Insurance Society Limited and (4) The County Council of The Royal County of Berkshire relates to development and improvements works affecting the land in this title and other land. This Deed shows the entire site as one Planning Unit and relates to the Enabling Works in terms of an S106 agreement.
4. It is our view and observation that Grundon have not met their obligations of Restoration and the site remains closed to Public Amenity. Operations have also increased in scale.
5. Fundamentally, the existing Operator is obliged to complete the Restoration to Amenity Grassland and Woodland and vacate the Green Belt site. It is clearly stated that on the cessation of waste disposal operations, the haul roads, foundations, hardstandings, all buildings, plant and fences which relate to waste disposal operations, excluding protective fencing for planted areas, shall be removed.

Following discussions regarding their concerns our clients' received a response from Wokingham Borough Council (WBC), advising that comments should be submitted formally in order to be considered as part of the current Regulation 19 consultation, hence the submission contained within this letter and attached report.

Within their response WBC made some observations and commentary, which is numbered below along with our clients' considered thoughts:

1. The landfill operation has planning permission until 2020 with restoration completed in 2021. The operator submitted an application to extend the operational time period to January 2022 with restoration to January 2023. This application has been approved and all parties agree that the landfill operation will cease in the near future.

Our clients' offer no specific commentary in relation to the above, however it should be considered in the context of the responses to the points below.

2. A separate part of the site (to the south) has a B2 use classification and this part of the site has been in use for the treatment of clinical waste by steam since 2004. This part of the site is a permanent waste management facility and can continue its current operations.

On behalf of our clients' we do not accept that a B2 use class can allow the 'treatment of clinical waste', given the description of the B2 Use Class clearly states 'Use for industrial process other than one falling within class E(g) (previously class B1) (**excluding incineration purposes, chemical treatment or landfill or hazardous waste**)' (our emphasis). Moreover, it is considered that the uses described by WBC in their response to our clients' clearly fall under Sui Generis Use Class, wherein it states under the list of included uses: 'waste disposal installations for the incineration, chemical treatment of landfill of hazardous waste'.

Furthermore, we understand that the above position (notwithstanding the recent changes to the Use Class Order) has been noted and agreed previously with WBC; the outcome of which was a requirement for Grundon to submit a Change of Use application, given they are operating unlawfully beyond the current permitted Use Class. To date our clients' are not aware that an application has been forthcoming.

Current Position and Soundness of Star Works' inclusion within Policy W2

As above, it is evidenced that Star Works is not currently operating under the correct Use Class. Moreover, it is also evidenced that the Site at Star Works was not considered to operate as a waste facility in perpetuity, following the original consent, as detailed. This consent and associated commentary is considered current and valid as it has not more recently been superseded by an alternative application.

With the above noted, on behalf of our clients' we do not accept that the Site at Star Works has the necessary planning consents to be considered an existing, planned or allocated waste management facility. Indeed, we note Policy W2 specifically states:

'...facilities shall be safeguarded against development that would prejudice or jeopardise their operation by creating incompatible land uses.'

It should be noted that residential uses are very close to this site, which would be a material consideration in the context of any future waste management facility as no permission for this exists, specifically beyond 2022. Therefore, when discussing 'incompatible land uses', it is considered that in order for Star Works to be considered 'safeguarded' by policy W2, it must first be demonstrated that a waste management facility is possible and compatible with surrounding land uses.

In relation to the above, within the Environmental Report SA/SEA Report (August 2020), Star Works is included on page 243 (site code: CEB9). Within the 'reason for decision' column it is noted:

*Existing Safeguarded Site.
Proposal can proceed to full assessment via Sustainability Appraisal.
Removed 2019 (existing so not being allocated)*

As discussed above in relation to existing lawful uses and as covered in more detail within the accompanying report, it is not considered that the site can be considered as an existing site, for the purposes that draft Policy W2 requires. In order to have been considered within the emerging Plan, it should have been considered as an allocation and tested as such through the plan making process. It is our considered opinion that given the nearby residential and incompatible uses, along with a long history of the Site operators failing to adhere to required conditions, the uses proposed within draft policy W2 and therefore proposed on the Site at Star Works, would fail the development management policies of Wokingham Borough Council. Accordingly, it is considered highly unlikely that Star Works will be able to achieve the correct consent in order to enable it to operate in accordance with draft policy W2. Section 6 of the accompanying report provides more detail in this regard.

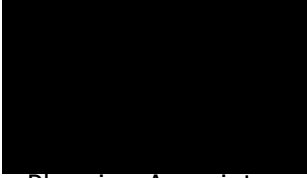
The tests of soundness are covered under paragraph 35 of the National Planning Policy Framework (NPPF), wherein it states Plans are 'sound' if they are:

- a) Positively prepared;
- b) Justified;
- c) Effective; and
- d) Consistent with national policy.

With regard to draft policy W2 and specifically the safeguarding of the Site at Star Works, we do not consider this is sound and submit that it fails in being justified as it is not based on proportionate evidence, effective as it is not considered deliverable over the plan period or consistent with national policy, specifically the Planning Practice guidance (please see paragraph 6.7 of the accompanying report).

On behalf of our clients' we would like to ensure that we remain involved in the process moving forwards and would also request to have a seat at the table during the forthcoming Examination in Public.

Yours faithfully,



Planning Associate