Response to Matter 9: Crowborough Area Strategy

a) Have reasonable alternatives to the strategy been considered?

1. As a precursor to the issue of whether reasonable alternatives have been considered it is useful to seek to assess the council's position on the aims that the strategy for Crowborough should seek to achieve and the constraints and opportunities that exist that have an impact on that strategy. That in turn enables an assessment of potential alternatives that might have been taken appropriately into account and thus whether those alternatives are 'reasonable'.

2. There appear to be three main themes to the council's position on the level of residential development appropriate to the strategy for Crowborough: -
   a) The level of housing requirements needed to be met to address acknowledged levels of housing need;
   b) Limitations to levels of residential development imposed by the need to recognise restricted existing provision of employment land and the difficulty in providing additional land to maintain a balance; and
   c) Environmental constraints, in particular the proximity of Crowborough to the Ashdown Forest Special Protection Area (AFSPA)

Housing requirements

3. On the basis of the evidence of housing need set out in BP2 there should be a very clear line of reasoning in the strategy why there is a limit on housing numbers in Crowborough to 300 units, through a thorough assessment of alternatives. There is, in fact, no such assessment at all in the Core Strategy.

Employment limits

4. The council has not adequately considered whether fresh employment land could be allocated as part of a specific strategy for balanced growth in the town as an alternative to the highly restrictive approach proposed.

Environmental constraints

5. The environmental constraints resulting from the proximity of Crowborough to the Ashdown Forest SPA and SAC and its location within the zone of influence must clearly be recognised but there is no coherent evidence that suggests the council considered any alternative strategy to assimilate these constraints into its overall approach to development locations or scale.

How does the strategy address these issues in respect of Crowborough?

a) It produces housing numbers significantly less than the minimum need identified.
b) It reduces employment – SD8 and SD9 are locations that will result in the loss of existing employment sites, meaning the strategy will reduce employment provision, thus simply exacerbating the employment position about which the council has expressed concern, and clearly failing to make any positive impact on a matter that should be of central concern.
c) It fails to provide any testing of proposed sites in relation to the AFSPA. In particular there is no assessment of available land for SANGS or any attempt to establish a sound relationship between SANGS and appropriate housing growth.

6. The situation highlighted by the above comments – that the council seeks to adopt a strategy for Crowborough that has significant flaws – confirms that its approach can only be considered to be a reasonable one if it can clearly demonstrate its position is in accordance with a properly documented approach to the Core Strategy overall (a matter that is considered elsewhere in the Examination) and that it can clearly show the manner in which it has considered possible alternatives for Crowborough. As far as Matter 9a is concerned there is no evidence of any appropriate assessment of alternatives to the approach suggested.

7. The strategy for Crowborough needs to demonstrate a clear emphasis on meeting housing need. Although the NPPF is not yet finalised it should nevertheless be noted that paragraph 109 of the draft indicates that LPA's *"should use an evidence base to ensure their local plan meets the full requirements for market and affordable housing in the housing market area..."* The council has before it evidence of a potential supply of land that would enable it to go considerably further towards meeting acknowledged market need in Crowborough. It should seek to maximise supply as part of a coordinated approach that includes employment land and environmental protection.

8. The strategy has not assessed the redevelopment of existing employment sites or the extension of existing ones, but instead the council proposes a strategy that reduces the supply of employment land. There can be no reasonable justification for this, and aside from references to the need to redevelop previously developed land (which is in itself no justification at all for ignoring the possibility of redevelopment for employment purposes) there is none given. There is no evidence to suggest the council has considered higher employment provision within Crowborough in order that the Strategy can provide the necessary future growth for the town.

9. The strategy has made no positive effort to seek a solution that meets development needs and addresses the environmental constraints arising out of the proximity of the town to Ashdown Forest. Indeed, the strategy merely advocates a solution that fails to provide for any alternative provision of land that will both meet the needs of the increased population it does provide for or seeks to address the present pressures on Ashdown Forest by the provision of alternative

SANGS. It is a wholly inadequate approach to seek financial contributions to SANGS provision when there is no indication at all in the Core Strategy that explicitly deals with how, when, and what scale of SANGS provision will be sought or can be provided. The response of Natural England to a recent planning application for residential development on a site in Crowborough confirms that point explicitly, in the second paragraph. A copy of the letter forms **Appendix 1**.

10. The council should be seeking to identify opportunities that can ensure the provision of SANGS through the allocation of appropriate land that includes SANGS as an integral part of the proposals. There is land at north Crowborough that would enable the provision of SANGS in this way, and there are opportunities for development in that area that could be balanced with that provision.

11. Not only is the inadequacy of that approach relevant to Matter 9, but it also relates to Matter 6 on Uckfield, and heralds the need for a radical rethink of the whole approach to the matter. As it stands at present the Core Strategy is considered to be unsound because of its failure to show an adequately integrated approach to the whole issue of the appropriate scale and location of development in the north of the District.

(b) Is there a clear audit trail showing how and why the preferred strategy was arrived at?

12. In common with much of the content of the Core Strategy the manner in which the strategy for Crowborough was arrived at is very unclear – to the extent that it can be said that the proposed approach to development in the town seems a result of passive extrapolation of trends and ad hoc decision making rather than the sort of positive planning for future change that should be expected of a proposed development plan.

13. Figure 2.1 in Background Paper 10 "Summary of the Evolution of the Core Strategy Spatial Distribution in Relation to S A" is a graphic summary of the period July 2009 to December 2010. It might be said in that respect to be an 'audit trail' of the Core Strategy process between those dates. It is not, however, by any means a complete description. The Spatial Distribution documents of July 2009 gave no more than a brief overview of six possible approaches to development distribution, although there was public consultation at that stage. Two 'Scenarios' were taken forward for assessment but there is no clear description of them in the background to the process, and in fact committee consideration of them did not provide any clear conclusions. Instead, a further scenario was brought forward.

14. Paragraph 8.40 of Background Paper 10 gives a brief summary of the apparent reasons for rejecting scenarios A and B but there is no evidence base which supports this or evidence that these scenarios could have not been accommodated in the District. Although evidence of the infrastructure issues was identified, possibly restricting the adoption of Scenario A, there is no

statistical data or other evidence (other than general unsubstantiated statements) that the council tested Scenario B, i.e. that additional growth should be accommodated in the north.

15. Instead, Scenario C (which forms the basis of the Core Strategy) was briefly described and agreed, and was subsequently published as the Submission Document, on which there had been no prior consultation.

(c) Have the Infrastructure provisions of the strategy clearly been identified and supported by the evidence base? Is it clear who is going to deliver the required infrastructure and by when?

16. The most significant infrastructure requirement related to development in Crowborough and Uckfield is the need to establish SANGS, a requirement specified in paragraph 3.32 of the Core strategy document, although not specifically mentioned elsewhere.

17. The Core Strategy does not however deal with this issue except in the most peripheral way, and in the circumstances that is a fundamental flaw that not only threatens the protection of the Ashdown Forest SPA and SAC but also potentially means that the council will be unable to show the deliverability of any land in Crowborough or Uckfield.

18. It is essential SANGS are in place at the time of development to ensure their influence on recreation patterns is acceptable. The approach of the council, in its draft Strategic Sites Allocation DPD, is to simply refer to SANGS and their provision by way of development contributions to off-site provision rather than any integral network or strategy.

19. Elsewhere in Crowborough there are significant highway constraints to development that the council has recognised but failed entirely to address - to the extent that it has had to recognise (through the designation of a 'contingency site') that SD10 might not come forward at all. This is an unacceptable approach to the provision of necessary infrastructure.

(d) Is the Strategy flexible to respond to respond to an unexpected change in circumstances?

20. With regard to the environment constraints, the strategy is not considered sufficiently flexible to adapt should suitable SANG's sites not become available, and that is critical to the council's approach. The Strategic Site Allocations DPD merely affords SANGS a brief mention in term of offsite provision.

21. While the Council's provision of a contingency site in northwest Crowborough notionally indicates a degree of flexibility on infrastructure issues in south Crowborough this contingency site is also subject to the uncertainty of suitable SANGS provision. This lack of a coordinated approach undermines the certainty and deliverability of such a strategy.

(e) Is SD8 justified and deliverable?

22. SD8 is allocated for employment by the Wealden Plan 1998 and should be retained for such use in view of the council's concern over the future employment/housing balance.

23. Delivery of SD8 will be dependent on the provision of appropriately sited SANGS, about which the Core Strategy is unsatisfactorily silent.

24. Therefore it is considered the site is not justified or deliverable.

(f) Is the loss of some employment land at SD8 without specific provision for employment uses elsewhere in the Crowborough area soundly based?

25. One of the main constraints to the growth of Crowborough is lack of employment space, as acknowledged in paragraph 8.52 of Background Paper 1. In paragraph 5.64 of Background Paper 3, the council cites environmental constraints for the lack of further employment land and this then forms the basis for less housing as there would then be a disparity between housing and jobs. Against this background there can be no justification for loss of existing employment and without adequate replacement elsewhere.

26. SD8 (and SD9) has the potential to provide additional employment to sustain the future growth of the town but instead has been discounted for housing development, exacerbating the present imbalance.

(g) Is SD9 justified and deliverable?

27. SD9 proposes the redevelopment of an employment site without replacement provision elsewhere. The loss of this employment provision would further worsen the balance between housing and employment. Part of SD9 west of Palesgate Lane lies adjacent to an existing employment area and it would seem entirely appropriate to extend the existing industrial estate.

28. In terms of deliverability, SD9 is again dependant on the provision of SANGS, on which comment has been made above. The allocation of the site is neither justified or deliverable on these grounds.

(h) Is SD10 justified and deliverable?

29. The location of the site and the associated transport network makes the allocation of the site unsound and which is both unjustified and undeliverable. Table 1 of Background Paper 11 confirms the capacity of Western Road is critical and it is uncertain whether appropriate mitigation can be provided. A recent appeal for a development which would result in 14 additional vehicle movements per week was dismissed due to the impact on Western Road, which throws the issue

into stark relief. A copy of the decision is attached to this statement as **Appendix 2** and attention is drawn to paragraphs 17 to 20.

30. The deliverability of the site is seriously undermined by these transport limitations and the SANGS provision outlined above. Therefore the site is not justified nor deliverable.

(l) Is there appropriate justification for the phasing of housing at SD10 from 2024?

31. There is no justification for the phasing of the development within Crowborough, in particular the provision of SD10. All the proposed sites are dependent upon infrastructure and SANGS and the supply of housing in the town is critical. The role of the contingency site is unclear.

(j) Has the contingency urban extension north of the A26 been justified? What are the circumstances that support the identification of a contingency site here but not elsewhere in the District?

32. The contingency has not been properly justified and has not been fully assessed for availability through the SHLAA, with only a small area capable of 20 dwellings having been assessed. Therefore it is not clear whether the site is available at all in the form envisaged. There is no suggestion that the site could make any adequate on site provision for SANGS.

(k) Have reasonable alternatives to SD8, SD9 and SD10 has been considered – omission sites?

33. The Sustainability Appraisal assessed five sites and allocated SD8, 9 and 10 as well as the contingency site. For the reasons outlined above, these are not deliverable or justified.

34. The fifth site, north east of the town, was assessed in the SHLAA process and considered suitable as well as available and deliverable.

35. The appropriateness of considering both the scale of development proposed and the location of the site have been entirely missed as a means of securing not only an appropriate level of development for Crowborough, but doing so in a manner that meets the wider environmental considerations

Conclusion

36. In relation to its approach to future development of Crowborough the Core Strategy is unsound. The approach it adopts is not justified by a reasonable assessment of alternatives; it is not effective, in that the development it proposes is not deliverable and the strategy is insufficiently flexible; and it is not in accordance with national policy in that it proposes reductions in employment provision.

37. In order to make the Core Strategy sound the strategy for Crowborough should be amended to show that development of land to the north of the town is the primary area for new residential development. That amendment would require deletion of paragraphs 6.35 (from the point at which it begins "No decision has been taken...), paragraph 6.36, paragraph 6.38(4) and figure 9. They should be replaced by suitable wording referring to the allocation of land in north Crowborough for residential development together with the provision of SANGS.

38. In relation to the three constraints set out in the response to Matter 9a allocation of land in north Crowborough would: -

a) Provide housing in a manner that will go considerably further in meeting required housing need. Here is sufficient land available to meet the proposed strategy for Crowborough in that location, and there is sufficient potential in that area to allow a flexible approach to future housing provision, particularly if it is concluded that the Core Strategy makes insufficient overall provision of housing in relation to the South East Plan and/or makes insufficient provision in Crowborough.

b) Provide sufficient housing without resulting in the loss of existing employment provision in the town, and would allow other sites to be brought forward for employment instead of housing. That scenario could be achieved without the transport implications of other sites and without the need to identify an isolated contingency site that has no particular logic in its location and has not been determined to be available for residential use as part of the LDF process.

c) Provide adequate housing in a manner that would perform well in terms of its ability to correlate with the need to afford suitable protection for the Ashdown Forest SPA and SAC. In allocating a sufficient area of land in this manner it is possible to incorporate SANGS within the overall development proposal and to link new recreation and leisure areas such as Lime Kiln Wood and Crowborough Ghyll. Through this means it would be possible as a direct consequence of a comprehensive approach through the Core Strategy not only to make adequate provision for the new population – in this area but also in other parts of Crowborough where new development would then become possible – but to go some way to reducing existing pressure on Ashdown Forest.

APPENDICES

Appendix 1 – Letter from Natural England to Wealden District Council dated

Appendix 2 - Appeal decision dated 27th May 2011 relating to Goods Yard, Western Road, Jarvis Brook, Crowborough, TN6 3DS

APPENDIX 1

MATTER 9/Knight Developments
Mr and Mrs Colliver
Clay Family

Date: 4 November 2011
Our ref: 34510
Your ref: WD/2011/2085/MAO

Claire McIntyre
Development Control
Wealden District Council

Phoenix House
33 North Street
Lewes
East Sussex
BN7 2PH

By email only, no hard copy to follow

Dear Claire,

ASHDOWN FOREST SITE OF SPECIAL SCIENTIFIC INTEREST (SSSI), SPECIAL PROTECTION AREA (SPA) AND SPECIAL AREA OF CONSERVATION (SAC)

Proposal: Proposed development of up to 74 dwellings, with Garages, Parking Spaces, Open Spaces And Means Of Access
Location: Land North Of Stone Cross Road, Alderbrook, Crowborough, TN6 3SQ

Thank you for your letter consulting Natural England on the above application. The application site is approximately 2km from habitats which form part of the Ashdown Forest Site of Special Scientific Interest (SSSI). This SSSI is part of the Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA). This letter and annex comprises our statutory consultation response under provisions of Town and Country Planning (Development Management Procedure (England) Order 2010 and Section 28 of the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').

Natural England objects to the above proposal on the following grounds:

- The information submitted with the application identifies that there will be a likely significant effect on Ashdown Forest SAC/SPA. We are pleased that the impacts have been fully evaluated and that contributions towards SANGS and access management has been identified as suitable mitigation. However, there is currently no strategic SANG available and access management measures on Ashdown Forest have not yet been identified and agreed.
- Until it can be demonstrated that the mitigation is deliverable and secured, we will need to maintain a holding objection to this application.

Under S28I of the Wildlife and Countryside Act 1981 (as amended) your authority must take Natural England's advice into account in deciding whether or not to grant permission for a proposal affecting a SSSI. If your authority resolves not to follow this advice then it must notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, it has taken our advice into account. You must then allow a further period of 21 days before the development can commence to allow us to consider any further action. For further details of these requirements, and a summary of the legislation protecting SSSI's and the duties that apply to planning authorities, please refer to Part II of Circular 06/2005[1].

European Protected Species (EPS)
The survey information provided by the applicants indicates that bats and dormice are utilising features that are to be affected by the proposed development. Natural England is satisfied that the avoidance and mitigation proposals set out in the application appear sufficient to mitigate any

potential impacts on these species. The proposals should therefore not be detrimental to the maintenance of the population of bats and dormice at a favourable conservation status in their natural range (as defined in Regulation 53 of the Conservation of Habitats and Species Regulations 2010)

Whilst we are satisfied that the favourable conservation status of these species is likely to be maintained, based upon the mitigation proposed, it is for the Planning Authority to conclude whether the carrying out of the development would be likely to offend Article 12(1) by, for example, causing disturbance to the species in question.

The issues raised in this correspondence represent Natural England's advice at the planning application stage and considers potential harm to populations of protected species from the proposed development. Bats and dormice are European protected species and as such a licence is required in order to carry out any works that involve certain activities such as capturing the animals or destroying their resting places. This licence is applied for after planning permission has been granted and is processed by Natural England's Wildlife Management & Licensing Team, rather than by the local Team (though the local Team will have an input at this stage). The later decision on a licence application is a more detailed assessment and may require additional survey information, population assessment and specific details relating to the effectiveness and workability of the mitigation proposals before works can proceed. This means that our comments on the application at a local level cannot provide a guarantee that a licence will be granted post planning permission, although it should indicate that in general the conservation issues are being handled effectively.

Other Protected Species
The information supplied in support of the application highlights the impacts resulting from this proposal upon other protected species that are protected by the Wildlife and Countryside Act (1981). Detailed advice on survey effort and mitigation requirements for these species can be found within our protected species standing advice available from http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/default.aspx. In accordance with our standing advice, we recommend that you consult the standing advice to establish whether sufficient survey effort has been undertaken to fully assess the impacts of this proposal along with the appropriateness of any necessary mitigation measures proposed in respect of these species.

Ancient Woodland
Natural England advises that the proposals as presented have the potential to adversely affect woodland classified on the ancient Woodland Inventory. Natural England refers you to our Standing Advice on ancient woodland
http://www.naturalengland.org.uk/regions/south_east/ourwork/standingadvice/default.aspx

We would be happy to comment further when the additional information regarding mitigation for recreational disturbance is submitted but in the meantime if you have any queries, please do not hesitate to contact Marian Ashdown at the above address, by telephone on 0300 060 4050 or by email to marian.ashdown@naturalengland.org.uk

Yours sincerely

Dominic Coath
Senior Adviser
Land Use Operations Team

Appeal Decision

Site visit made on 5 April 2011

by D E Morden MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 May 2011

Appeal Ref: APP/G1440/A/10/2141518
Goods Yard, Western Road, Jarvis Brook, Crowborough, TN6 3DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Skip Express against the decision of East Sussex County Council.
- The application Ref WD/626/CM, dated 1 February 2010, was refused by notice dated 27 May 2010.
- The development proposed is the use of the land as a waste transfer station for general non-hazardous waste including the installation of ancillary structures.

Decision: The appeal is dismissed as set out in the Formal Decision at paragraph 25 below.

Procedural matters

1. The application form included the phrase 'the installation of ancillary structures' in the description. It was explained at the site visit that this constituted three things (shown on the application drawings). Firstly an existing portakabin office (approved as part of the planning permission that was given in 2009 by Wealden District Council for the land to be used for the storage of empty skips) would remain in its current location; secondly, a weighbridge would be installed just beside that office and thirdly, a 'waste sort area' would be constructed.

2. The waste sort area would be formed by erecting walls two metres high in a wide U – shape around a rectangular area 24 metres long and 9 metres deep. Above the walls would be a further 2.5 metres of 'netting' to help stop the spread of waste. The front of the sort area would be open and there would be no 'roof' of netting to the area.

3. Finally, this decision takes into account the further comments received from the parties following the appellant's clarification of the traffic generation figures that were set out in the original representations; in particular the number of lorry movements that would occur if the use was to be allowed to operate from this site and how that affected the appellant's aspirations to achieve an annual throughput of around 18,000 tonnes per annum.

Main Issues

4. There are three main issues in this case, having regard to the objectives of the prevailing policies of the Development Plan for the area. These are whether the development would materially harm firstly, the living conditions of nearby residential occupiers by reason of noise, dirt and disturbance, secondly, highway safety in the area and thirdly, the effect of the development on surface water drainage in the area.

Reasoning

5. Dealing with the first main issue, the site is located in a part of what was once a goods yard behind houses that front Western Road. The rear wall of the nearest dwelling is located about 65m the appeal site boundary and the rear garden boundary of the house is just over 40 m away. The land in between is occupied by a builders' merchant and consists mainly of open storage.

6. The old goods yard is an area where Policy CR4 of the Wealden Local Plan (LP) adopted in December 1998 states that the Council will try to retain low key business and storage uses bearing in mind that it is in an area that is bounded by residential properties (to the south east). Uses that would have a detrimental impact on the local road network and the living conditions of the nearby residential occupiers will not be permitted. Whilst the appellant argued that the use complied with the objectives of the policy that is only the case if it does not have detrimental impacts due to the two matters set out in the policy.

7. The proposed use is not a Class B1 business use (as set out in the Town and Country Planning (Use Classes) Order 1995, as amended) and it is not, therefore, an appropriate use to site close to residential occupiers bearing in mind the activities involved. It is also a use that it is proposed to operate from 0730 hours until 1800 hours Mondays to Saturdays as well as from 0900 until 1400 on Sundays and Bank Holidays. It would cause disturbance to those residential occupiers from the use itself and from lorries using Western Road to get to the site, including days when they would expect to be able to enjoy a more peaceful environment.

8. I acknowledge that the proposal would help to provide an appropriately related site in relation to sources of waste (they would generally come from within a 16 kilometre radius) and to that extent it satisfies Policy WLP2 of the East Sussex and Brighton & Hove Waste Local Plan (WLP) adopted in February 2006. Policy WLP13 also supports recycling and materials recovery facilities where they are on permitted or allocated industrial sites or on other suitable previously developed land.

9. Policy WLP35 makes it clear, however, that proposals should not have an adverse effect on the standard of amenity appropriate to the established land uses likely to be affected by the development. In this location there is likely to be significant adverse effects on nearby residential occupiers from noise due to the operations being undertaken on the site and the traffic going to and from the site. There is also likely to be a nuisance from dirt/dust/rubbish from the site.

10. Policy WLP35 requires that an adequate means of controlling noise, dust, litter, odours and other emissions needs to be secured before a use of this nature is allowed. The sorting area would be enclosed on three sides by a wall two metres high with a further 2.5 metres of netting above that. In my view, whilst that would help to restrict the spread of material from the site it would not stop it and would have minimal effect on the spread of dust and dirt. It would also only be around the sorting area and not the rest of the site where material might also be stored for short periods either before or after sorting and processing.

11. The appellant submitted a noise survey but that was based on the levels emanating from an adjoining use immediately to the south of the appeal site.

It assumed a similar use and the use of similar vehicles/machinery/plant on the appeal site. It also made a number of assumptions/predictions based on the fact that there are different barriers and buildings involved between the noise source and the nearby residential properties (compared to where the measurements were actually taken). The measured noise levels were taken over a period of just seventy minutes on one weekday afternoon.

12. The conclusion drawn was that noise levels would not exceed the background noise levels at the nearest properties in Western Road and as such there would not be a noise problem. There are however many letters on the file confirming that noise is a problem from the existing adjoining site (and that use has some activities that take place within a building unlike the proposed use on this site where everything would take place in the open) for those living nearby. This use also proposes to operate all day Saturdays and, in particular, up until 1400 hours on Sundays and public holidays when it would be expected that ambient noise levels would be much lower and those who live nearby should be able to expect a reasonable degree of peace and enjoyment of their gardens and their homes.

13. As the use takes place in the open there would be no way of reducing noise emanating from the site and no chance to ensure through conditions that noise levels measured at the boundaries of the site could be set with any degree of certainty that they could be maintained. I acknowledge that noise from traffic going to and from the site whilst the subject of complaints regarding noise would not be materially different in the working week to that already approved for a different use on the land if vehicle movements were restricted to 14 lorry movements per day. The use would still result in additional traffic, however, on Sundays and public holidays.

14. Taking all these factors into account, I consider that the use would be likely to be materially harmful to the living conditions of nearby occupiers and should not be permitted.

15. Turning to the second main issue, I acknowledge that Wealden District Council has already approved the use of the site for the storage of skips and has imposed a condition limiting that use to 14 lorry movements per day. Those movements would be skip lorries bringing empty skips to the site and also taking them away for delivery to various addresses. The appellant stated that he was willing to accept a restriction to 14 lorry movements per day on this proposal although the later correspondence shows that the appellant's aspirations of an annual throughput of up to 18,000 tonnes could not be achieved with that restriction.

16. Restrictions on movements are difficult to enforce in practice; is 16 movements rather than 14 on three or four occasions in a month something that action can be taken on (for breach of condition) or 18 movements on one occasion? If the same thing happens in three different months in a period of five or six months is that a breach of the condition against which action can actually be taken? Even if a log is to be kept (a requirement of the permission for the storage of skips) of vehicle movements it is extremely difficult to police. In this particular instance the appellant has aspirations for a throughput of material that cannot be provided if vehicle movements are restricted to 14 per day so there is a greater chance of the numbers being exceeded. In my view it would be extremely difficult in practice to restrict the movements to only 14 per day.

17. Even if there were only 14 movements per day I agree with the County Council (the planning authority in this case) that it would materially harm highway safety in the area, notwithstanding that the District Council has permitted that level of vehicular movement in the permission it granted.

18. It is not disputed that the lines of sight at the entrance are below the required distance. Visibility to the right as one exits is not helped by the right hand turn in the road although I acknowledge that it does help to slow traffic down as it approaches the site access. Western Road itself is not wide – cars travelling in opposite directions cannot pass each other when vehicles are parked. It also twists and turns and continually changes level. Most of the north western side of the road has double yellow lines on it prohibiting parking and in places where forward visibility is poor there are double yellow lines on both sides.

19. During the day time I noted that there was a high level of parking with many vehicles parked partly on the highway and partly on the footway to try to improve the flow of traffic. There are three bus routes that pass along Western Road and it has a fairly high volume of traffic allowing those travelling in an east/west direction to journey from the B2100 to the A26 (and vice versa) without going through the centre of Crowborough.

20. Bearing in mind the width and layout of Western Road, and also its topography and current usage I consider that fourteen movements a day by lorries would materially harm highway safety along that road. As such it would be contrary to the objectives of Policy TR3, in particular criteria (1) and (2) which state that new development should not create or perpetuate unacceptable traffic conditions and that a satisfactory means of access is provided.

21. Dealing finally with the third main issue, the site does have a porous surface and it is not proposed to concrete over that, even for the walled sorting area. The Environment Agency does not object in principle to the use proposed, however, it stated that the method of disposal of contaminated surface water was unacceptable. Further, no details were provided regarding foul water drainage/disposal.

22. The appellant submitted further information with the appeal and included a very short drainage study which showed the runoff from the sort area and foul drainage (the latter via a pumping station) being discharged into the foul drainage system rather than to a soakaway as originally proposed. The Council have not commented on the revised proposals but it seems to me from reading the representations that the objections from the Environment Agency relate to technical matters that can be overcome. This could be achieved through the imposition of conditions requiring details to be submitted for approval and implementation. In these circumstances I consider that the dismissal of the appeal for drainage reasons cannot be substantiated. That does not outweigh however, the strong objections that I found on the other two issues.

23. I have considered whether the proposal could be made acceptable through the imposition of planning conditions and almost all of those put forward by the Council have already been dealt with in looking at the main issues. The Council suggested restricting operating hours in particular stating that there should be no work on Saturday afternoons, Sundays or public holidays. Whilst the appellant has not commented on the Council's suggested conditions (they may have been missed as they were attached to the questionnaire rather than the formal representations), such a restriction is clearly not how the appellant

wishes to operate. Further, as the suggested restriction to 14 vehicle movements per day would not enable him to reach his aspirations regarding annual throughput of material, the loss of a further 60 or so days would not be likely to be acceptable to the appellant.

Conclusion

24. For the reasons given above, and taking into account all other representations made, including those by interested persons, I conclude that the appeal should be dismissed.

Formal Decision

25. I dismiss the appeal.

D E Morden

INSPECTOR