

Planning Application DC/07/0814(UB): To raise the final restored levels and to continue disposing of waste until 1st October 2010 by varying conditions 1 and 7 of the planning permission numbered DC/04/2232, at Horton Landfill Site, Henfield Road, Small Dole, Henfield, West Sussex, BN5 9XH.



Summary of objections from the Small Dole Action Group.

March 2008.

The Small Dole Action Group, c/o New Cottage, New Hall Lane, Small Dole, Henfield, West Sussex.
BN5 9YH

History

- A landfill site of some 25 ha, to the west of Small Dole was operated by Hales Containers Ltd between 1968 and 1995, and currently belongs to Cemex Ltd.
- The Horton Claypit, Small Dole, operated from 1946 until 1991, supplying Gault clay for the Shoreham Cement Works. It comprised a pit approx. 20 m deep and of 30 ha area.
- In 1990, a planning application (UB/51/90) was submitted by Blue Circle Industries PLC for the landfilling of the clay pit with non-hazardous waste and the restoration of the site for agriculture. The capacity of the site was stated to be 2.5 M m³ in total and it was estimated that it could accept 200,000 t of waste per annum.
- Within a 1 km radius of the landfill site, there are some 366 houses with approximately 1400 residents, mainly to the north east. Some 660 people also work daily at the Mackley Industrial Estate, to the east. In addition, the Hillside Scout Camp, where some 3,000 young people camp outside and cook out of doors throughout the year, lies immediately across the road from the site. The prevailing wind in this location is from the south west, meaning that any pollution from the Horton Landfill site must pass directly towards the homes of local residents.
- Objections to the planning application were received from Horsham District Council, Henfield, Upper Beeding, and Woodmancote Parish Councils, other amenity groups and numerous residents on the grounds of odour, noise, dust, litter and traffic nuisance.
- The WSCC Planning Committee granted planning permission for the disposal of non-hazardous waste subject to 33 planning conditions, including that the site would close on 1/4/04, and would be fully restored to agriculture by 1/11/05.
- The minutes of the Horton Landfill Liaison Group show that from the outset, and throughout the working life of the site, serious problems have occurred due to odour, noise, dust, litter and traffic nuisance, and that none of these have been resolved.
- Between 1992 and 2003, an average of 277,000 t per year of rubbish was deposited, significantly more than anticipated.
- In 1999, without any planning application, public consultation or reference to the Planning Committee, officers at WSCC agreed to an increase in the settlement allowance at the site from the 15% originally used to 27%. This had the effect of greatly increasing the capacity of the site.
- The regular Waste Return dated 21/2/02 stated that the remaining void space was 2,509,428 m³, with the remaining life of the site estimated as 8.17 years, with completion in April 2010.
- In September 2003, planning application DC/04/0700 was submitted by Viridor to extend the period of tipping until 1/4/08. It was stated that 3 M m³ of waste had been deposited on the site, with a remaining voidspace of 1.8 M m³. This was a total of 4.8 Mm³, compared with the original total of 2.5 M m³. It was stated that inputs would continue at 250,000 t per annum.
- At its meeting on 22/6/04, the WSCC Planning Committee were told untruthfully that: *"At that time it was envisaged that the site would be full by April 2004 but a falling off in input had led to there being 1.8 million cubic metres of current capacity"*. Inputs had in truth been

greater than stated. Councilors were not told that the real reason for the time extension was that the site capacity had been increased. Planning permission was granted, subject to 35 conditions including that the site would close on 1/4/08, and would be fully restored to agriculture by 1/11/09.

- **Between 2003 and 2006, an average of 334,500 t per year of rubbish was deposited, significantly more than anticipated.**
- **The Annual Void Report dated June 2007 stated that there was 550000 m³ remaining "under the permitted scheme". Using the 2005-6 figure of consumption, this means that at April 2008 there should be 340768 m³ left "under the permitted scheme". This is consistent with another year to 18 months of site life. The Clarification Document dated December 2007 states that existing void will be filled by May 2009.**
- **As of March 2008, no part of the site has been restored to agriculture, despite this originally having been required to be completed by 1/11/05, yet WSCC has failed to take Enforcement Action against the operators.**
- **Experience throughout the last 40 years has thus demonstrated that Small Dole is a fundamentally unsuitable location for a landfill site.**

The planning application

- The current application is, like the previous application DC/04/0700, fundamentally dishonest, in that estimates of the operational time needed to carry out the work proposed do not tally at all with the capacity of the site. If granted, it would be physically impossible, taking into account the existing capacity of the site within the existing agreed pre-settlement contours, and the additional capacity proposed, for the site to be completed by October 2010.
- The application site, outlined in red on drawing HCP245 covers the entire 39.72 ha site, and not merely the 12.49 ha "area of change" shown by a dotted red line on drawing HCP248.
- The application is stated to be for an additional 400,000 m³ of capacity added onto the top of the existing landfill. It entirely ignores, however, settlement which has occurred on the previously closed cells. Cells 1-4 were filled to the original 15% settlement allowance, and have been settling for between 10 and 15 years.
- The most important document of the application, the only one which would be enforceable by WSCC, is drawing HCP248 "Proposed pre-settlement restoration contours". If planning permission is granted, the applicants would be entitled to open up and rework all of the previously closed cells, including cells 1-4, to these revised levels.
- The application provides no estimate of the volume required to bring cells 1, 2, 3 and 4 up to the approved pre-settlement levels (HCP10000/Jul'04), before the additional 400000 m³ can be tipped on top. This is estimated to be of the order of an additional 1,000,000 m³.
- This additional void, not mentioned on the application at all, would extend the life of the site by approximately another four years, taking closure to approx 2014.
- Although the application claims that the settlement allowance is 27%, it completely ignores settlement which has already taken place. Measurements taken from the submitted and already authorised drawings show that the settlement allowances in fact amount to approximately 35% in these areas. This means that if planning permission is granted and the cells are filled to the levels shown on drawing HCP248, the site will never settle to the levels shown on the "post settlement contours" drawing HCP 236.
- A more truthful description of the proposed development would therefore be: *"Land raising of artificial landform by further 4-5 m over entire southern area, involving continued rubbish tipping operations until an indeterminate date in approximately 2014"*.

Policy Objections

- **The planning application fundamentally conflicts with both National and Local Planning Policies.**

National Planning Policy.

The approach which WSCC must adopt for allocating sites for Waste Management purposes is laid down in Planning Policy Statement 10 "*Planning for Sustainable Waste Management*" dated July 2005. The Council is required to evaluate the need for various types of waste disposal facilities within the area through a Waste Development Framework, and is required to satisfy that demand by allocating suitable sites, in this case through the West Sussex Minerals and Waste Development Framework, allocating sites through the Strategic Waste Sites Allocations Development Plan Document.

- **Horton Landfill Site is not allocated in the Strategic Waste Sites Allocations Development Plan Document.**

The procedure for determining planning applications for sites not allocated in the Development Plan Document is also set out in PPS10, which states: "*DETERMINING PLANNING APPLICATIONS. Approach – waste planning authorities. Unallocated sites. 24. Planning applications for sites that have not been identified, or are not located in an area identified, in a development plan document as suitable for new or enhanced waste management facilities should be considered favourably when consistent with: (i) the policies in this PPS, including the criteria set out in paragraph 21".* Para 21 states: "*21. In deciding which sites and areas to identify for waste management facilities, waste planning authorities should: (i) assess their suitability for development against each of the following criteria: - the extent to which they support the policies in this PPS; - the physical and environmental constraints on development, including existing and proposed neighbouring land uses (see Annex E)".* Annex E states: "*ANNEX E Locational Criteria. In testing the suitability of sites and areas against the criteria set out in paragraph 20, waste planning authorities should consider the factors listed below... a. protection of water resources... b. land instability... c. visual intrusion Considerations will include (i) the setting of the proposed location and the potential for design-led solutions to produce acceptable development; (ii) the need to protect landscapes of national importance (National Parks, Areas of Outstanding Natural Beauty and Heritage Coasts). d. nature conservation... e. historic environment and built heritage... f. traffic and access Considerations will include the suitability of the road network and the extent to which access would require reliance on local roads. g. air emissions, including dust Considerations will include the proximity of sensitive receptors and the extent to which adverse emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles. h. odours Considerations will include the proximity of sensitive receptors and the extent to which adverse odours can be controlled through the use of appropriate and well-maintained and managed equipment. i. vermin and birds Considerations will include the proximity of sensitive receptors. Some waste management facilities, especially landfills which accept putrescible waste, can attract vermin and birds. The numbers, and movements of some species of birds, may be influenced by the distribution of landfill sites. Where birds congregate in large numbers, they may be a major nuisance to people living nearby... j. noise and vibration Considerations will include the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise both inside and outside buildings. Intermittent and sustained operating noise may be a problem if not kept to acceptable levels... k. litter Litter can be a concern at some waste management facilities. l. potential land use conflict".* Para 21 continues: "*21. In deciding which sites and areas to identify for waste management facilities, waste planning authorities should: (i) assess their suitability for development against each of the following criteria: – the cumulative effect of previous waste disposal facilities on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential; – the capacity of existing and potential transport infrastructure to support the sustainable movement of waste...."*

- **As will be demonstrated below, the proposal conflicts with Locational Criteria c, f, g, h, i, j and k. In particular, it conflicts with paragraph 21 in that the cumulative effect of 40 years of landfill sites has had a significant adverse effect on the well-being of the local community of Small Dole, including a significant adverse impact on environmental quality, social cohesion and inclusion or economic potential. Evidence from local estate agents suggests that there is a significant depression of property values due to the landfill site, and it is acknowledged that this has also led to an unwillingness for firms to move to the local industrial estate.**
- **Since by definition, WSCC is required to satisfy the need for landfill sites through the Strategic Waste Sites Allocations Development Plan Document, it cannot be over emphasised that for sites such as Horton which are not allocated, the "need" for landfill within West Sussex is not a relevant planning consideration, and must not be discussed by the Planning Committee during consideration of this application.**

County Planning Policy.

Relevant to this application are the West Sussex Waste Local Plan Revised Deposit Draft (July 2004), and the emerging West Sussex Minerals and Waste Local Development Framework (January 2007).

In the West Sussex Waste Local Plan Revised Deposit Draft, Policy U8 states: "*(a) Proposals for landfilling with waste, including the sites allocated in Policy A4, will not be permitted unless: (1) the resulting final landform, landscape and after-use are of high quality and enhance the character of the area...*"

- **The Horton Landfill Site is not allocated in Policy A4, and has produced an artificial hill, an alien intrusion into the landscape, which bears no resemblance whatever to the landform which existed prior to the extraction of clay at the site, seriously detracting from the character of the area. The current planning application would greatly increase this intrusion, and therefore conflicts with Policy U8.**

In the West Sussex Minerals and Waste Core Strategy Development Plan, Policy CSW8: "Landfill Sites" states that "*(b) Subject to (a), proposals for the disposal of non-inert (non-hazardous) waste to land will not be permitted unless: (i) the site is allocated for such use in the Strategic Waste Sites Allocations Development Plan Document (in accordance with Policy CSW9) and the proposal would accord with the general policies of the Core Strategy*"

- **Horton Landfill Site is not allocated in the Strategic Waste Sites Allocations Development Plan Document, and therefore conflicts with Policy CSW8.**

*"5.3.41 Landfill (including land-raising) is the least preferred form of waste management in terms of the waste hierarchy. Proposals will be rigorously examined and will require strong justification....
5.3.46 ...Proposals for land-raising do not form part of the preferred strategy and are unlikely to be acceptable unless there are exceptional circumstances."*

- **The development proposed is for land raising, not land filling, and therefore conflicts with paras 5.3.41 and 5.3.46.**

Policy CSW9: "Landfill Site Allocations" states: "*Non-Inert Landfill (a) Sites for non-inert (i.e. non-hazardous) landfill to meet the expected need to 2021 will be allocated in the Strategic Waste Sites Allocations Development Plan Document (SWSADPD). If acceptable sites to meet the expected need to*

2021 cannot be identified, proposals for additional capacity will be considered on their merits against the criteria in Policy CSW8. The release of sites will be subject to a 'plan, monitor, and manage approach' in accordance with Policy CSW8(a) to avoid an over-provision of capacity. (b) Sites allocated for non-inert landfill in the WSADPD will be:... (iii) well-related to the Advisory Lorry Route; (iv) not located within Areas of Outstanding Natural Beauty, unless it can be shown that no suitable alternative sites are available elsewhere; (vi) consistent with Policy CSG11 regarding cumulative impact."

- **As will be shown below, the current planning application thus conflicts with Policy CSW9.**

Policy CSG3: "Areas of Outstanding Natural Beauty" states that: "(a) Proposals for minerals or waste development, either within or outside an AONB, that would irreversibly damaged the intrinsic qualities of the area (including its natural beauty, distinctive character, and remote and tranquil nature) will not be permitted." An increase in height of a further 4 - 5 m would greatly exacerbate the visual intrusion of the artificial hill, and irreversibly affect the Area of Outstanding Natural Beauty nearby. The site will be only 300 m from the boundary of the proposed South Downs National Park, and will be clearly visible from many points within it, including the South Downs Way long distance footpath.

- **The proposal therefore conflicts with Policy CSG3**

Policy CSG7: "Transport" states that: "Proposals for mineral or waste development will be permitted provided that... (c) where the need for road transport is accepted, materials are capable of being transported using the Advisory Lorry Route with minimal use of local roads, unless special justification can be shown". The application site lies some 8 km from the nearest point on an Advisory Lorry Route or the Strategic Road Network either via the A23 or the A27, and is only accessible on roads with long narrow stretches, tight bends, and which pass through residential areas.

- **The proposal thus conflicts with both Policies CSW9 and CSG7.**

Policy CSG8: "Public Amenity" states that: "Proposals for mineral and waste development will be permitted provided that: (a) they include a proposed scheme of working that will employ sensitive and environmentally sound practices and not have an unacceptable impact on public health and amenity or neighbouring land-uses; (b) appropriate measures are incorporated to minimise noise emissions, in accordance with Government guidance".

The log of complaints received by the Environment Agency between 5/4/07 and 29/10/07 shows that there were a total of 272 complaints, an average of 1.3 per day. Of these, 86 % were complaints about odour, and 11 % were complaints about noise. At the public exhibition held by the applicants on 23/1/08, Mr Cooke, the company's External Affairs Manager, was quoted as saying that substantial sums of money had been pumped into the site to combat any problems with smell. He stated: "As much as can be done is being done". The fact that residents are still suffering daily nuisance from odour, even after everything that can be done, has been done, proves that the problems associated with the site cannot be controlled.

- **Practical experience over the last 16 years has thus proved that the serious problems with emission of landfill gas, odour, noise, dust and litter cannot be overcome due to the fundamentally unsuitable location of the site. The current planning application will result in a continuing unacceptable impact on public amenity, and therefore conflicts with Policy CSG8.**

Policy CSG11: "Cumulative Impact" states that: "Proposals for mineral or waste development will be permitted provided that an unreasonable level of disturbance to the environment and/or local communities will not result from sites operating simultaneously and/or successively."

- **Since there have been rubbish dumps operating near Small Dole continuously since 1968, causing an unreasonable level of disturbance to the local environment and the local community, the current planning application conflicts with Policy CSG11.**

Technical objections

- **If planning permission is granted, the applicants would be entitled to raise ground levels over the entire site. This involves raising the final levels in Cell 7, which is currently being filled, but will also involve the opening of all other cells for further tipping. All but Cells 6C and 7B were originally engineered before the 2002 Landfill (England and Wales) Regulations came into force, and therefore do not have artificial bottom sealing liners.**

Environment Agency Landfill Guidance Note 6: "Interpretation of the engineering requirements of Schedule 2 of the Landfill (England and Wales) Regulations 2002" states: "2... *There is a fundamental requirement for a geological barrier in all instances, and also a bottom liner (artificial sealing liner) where leachate needs to be collected. This cannot be altered by the outcome of a risk assessment. Both of these elements are always required whenever there is a need to collect leachate... 11. Previously deposited wastes. Where there are existing deposits of waste within the landfill installation... there may be landfilled areas that do not have an engineered basal liner... Deposits of waste into new cells or phases... must however meet the basal engineering requirements of the landfill regulations... This would preclude any proposals to reopen "closed" phases for overtipping where basal engineering does not meet the requirements of the landfill regulations*".

- **The "surcharging" of Cells 1, 2, 3, 4A, 4B, 5A, 5B, 6A, 6B, and 7A, as proposed in the application, would thus be in breach of the Landfill (England and Wales) Regulations 2002.**

The transitional provisions in Schedule 4 of the Landfill (England and Wales) Regulations 2002 apply to "Existing landfills" only. They do not apply to the reworking of closed cells which have been closed and the capping certified to Certified Quality Auditor (CQA) standards. The CQA assessments for cells 1, 2, 3, 4a, 4b, 5a, 5b, 6a, 6b, and 6c were completed in November 1994, February 1995, February 1997, January 1999, November 2002, November 2002, February and November 2007, February and November 2007, and February and November 2007, respectively.

- **The work proposed in this application involving re-opening old closed cells that have been capped to CQA requirements is thus classed as a new landfill and EU Landfill Directive 1999/31/EC and the Landfill (England and Wales) Regulations 2002 apply.**

Asbestos

- The original planning application UB/51/90 stated that the landfill site would be for "*non-hazardous*" waste, and that no "*special waste*", would be accepted. Planning consent was granted "*in accordance with your applications and plans*". Therefore, despite the fact that the planning conditions did not specifically mention the types of waste to be accepted, the consent was granted for what was applied for, namely the tipping of non-hazardous waste.
- At some time after the beginning of operations, asbestos, then classified as "*special*" waste, and now classified as "*hazardous*" waste, began to be tipped at the Horton Landfill Site. The tipping of asbestos would constitute a material change of use, requiring planning consent, yet to our knowledge, no application for such consent was ever submitted or granted.

Part II, Section 10 of the Pollution Prevention and Control (England and Wales) Regulations 2000 states that: "*(4) In the case of an application for a permit that will authorise the carrying out of a specified waste management activity at an installation... the permit shall not be granted unless... (b) in the case of an installation where the use of the application site for the carrying out of that activity requires planning permission granted under the Town and Country Planning Act 1990(c), such planning permission is in force in relation to that use of the land.*".

- Since planning consent for tipping these materials was neither sought nor obtained, tipping of asbestos at the site has been, and therefore remains unlawful.
- Through the Freedom of Information Act, we have sought an explanation for how asbestos ever came to be dumped in the Horton Landfill site, but have been told that WSCC is "*unable to locate any written correspondence pertaining to the granting of the original Waste Management Licence, 1991 and subsequent amendments to it*".

The disposal of asbestos at the site remained totally unknown to local residents until, as recorded in the minutes of the Horton Landfill Liaison Group on 16/9/02: "*Mr Hudson mentioned that an announcement was expected today concerning the identification of sites which are to receive hazardous waste. Mr Gower stated that this must be referring to the Landfill Directive which has demanded from every site a Conditioning Plan which is a statement of the environmental risk of the site. Sites are defined as either Hazardous or Non-Hazardous (referring to the waste it is allowed to receive). Mr Dewar reported that Horton will be Hazardous, by virtue of receiving cement based asbestos hazardous waste.*"

- There are three sources of asbestos within the site: 1. Prior to September 2005, loads of bonded asbestos were dumped on a "*co-disposal*" basis, being buried under household waste; 2. Prior to July 2004, when under the Landfill (England and Wales) Regulations 2002 it became a requirement to pre-treat or sort any landfill waste, any load entering the site could have contained quantities of asbestos; 3. Since September 2005, a much wider range of asbestos wastes have been tipped in a dedicated asbestos cell.
- Determining the location of asbestos within the site is difficult, because contrary to the requirements of Section 12 (1) of the Landfill (England and Wales) Regulations 2002 and in breach of Condition 2.1.2.3 of the Site's PPC Permit No. BV99001S, there is no facility for examining the contents of incoming loads at Horton.
- The system for leachate management at Horton means that leachate is collected from all cells, and then, unless removed by tanker for disposal elsewhere, is recirculated under the temporary capping of one of the other cells. This process will therefore have ensured that asbestos fibres dislodged by the compaction process and contained within the rubbish mass,

may have been redistributed anywhere. It must therefore be assumed that any part of the site may contain asbestos.

The 2004 Environment Agency publication "Hazardous waste Brief Guide on Asbestos and Asbestos Contaminated Waste" states that: *"no work may be carried out on the landfill or cell that could lead to release of fibres (e.g. drilling of holes)".* Removal of the capping of these cells would also be in breach of the Control of Asbestos Regulations 2006, in particular, Part 1 Section 3(4) states: *"Where a duty is placed by these Regulations on an employer in respect of his employees, he shall, so far as is reasonably practicable, be under a like duty in respect of any other person, whether at work or not, who may be affected by the work activity carried out by the employer..."* Part Section 5 states: *"An employer shall not undertake work in demolition, maintenance, or any other work which exposes or is liable to expose his employees to asbestos in respect of any premises unless either (a) he has carried out a suitable and sufficient assessment as to whether asbestos, what type of asbestos, contained in what material and in what condition is present or is liable to be present in those premises..."* Section 6 states: *"(1) An employer shall not carry out work which is liable to expose his employees to asbestos unless he has - (a) made a suitable and sufficient assessment of the risk created by that exposure to the health of those employees and of the steps that need to be taken to meet the requirements of these Regulations; (b) recorded the significant findings of that risk assessment as soon as is practicable after the risk assessment is made; and (c) implemented the steps referred to in sub-paragraph (a). (2) Without prejudice to the generality of paragraph (1), the risk assessment shall - (a) subject to regulation 5, identify the type of asbestos to which employees are liable to be exposed; (b) determine the nature and degree of exposure which may occur in the course of the work; (c) consider the effects of control measures which have been or will be taken in accordance with regulation 11; (d) consider the results of monitoring of exposure in accordance with regulation 19; (e) set out the steps to be taken to prevent that exposure or reduce it to the lowest level reasonably practicable; (f) consider the results of any medical surveillance that is relevant; and (g) include such additional information as the employer may need in order to complete the risk assessment."*

Section 3 of the Health and Safety at Work Act, 1974 states that: *"General duties of employers and self-employed to persons other than their employees. (1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety... (3) In such cases as may be prescribed, it shall be the duty of every employer and every self-employed person, in the prescribed circumstances and in the prescribed manner, to give to persons (not being his employees) who may be affected by the way in which he conducts his undertaking the prescribed information about such aspects of the way in which he conducts his undertaking as might affect their health or safety"*.

- **The reworking of previously closed cells containing asbestos for "surcharging" will inevitably expose local residents to asbestos fibres.**
- **Since the nature, abundance and location of asbestos within the site is unknown, it would not be possible to produce a meaningful Risk Assessment. The reworking of the previously closed cells would thus be in breach of Section 3 of the Health and Safety at Work Act, 1974 and the Control of Asbestos Regulations 2006.**

Health objections

- Many chemicals released from landfill sites, in particular those contained within landfill gas, are known to be carcinogenic and it is impossible to demonstrate that they do not have a deleterious effect on local residents.
- In recent years, considerable evidence has emerged within the medical literature to demonstrate a strong epidemiological link between chemicals released from landfill sites and diseases such as diabetes, endometriosis, birth defects and cancer.
- Dolk *et al.* (1998) found that for the infants of mothers living within 3km of landfill sites throughout Europe, including Britain, there was a 33% increase in non-chromosomal defects, causing nervous system anomalies such as spina bifida and abdominal wall defects, as well as an increased risk of prematurity. The survey included all those living within 7km of landfill sites, and found that the excess risk of congenital defects declined steadily the further people lived from the site.
- Fielder *et al.* (2000) reported increased rates of congenital malformations in the areas surrounding the Nant-y-Gwyddon landfill site, South Wales, having examined five "exposed" and 22 "control" wards. Commenting on this study, Roberts *et al.* (2000) recommended that: *"protocols be developed to measure community exposures systematically in areas where raised rates of congenital abnormalities have been identified... to resolve the legitimate concerns of local residents"*.
- Elliott *et al.* (2000) compared pregnancy outcomes among British women living within 2 km of landfill sites to those who did not, and found increased risks of certain pregnancy outcomes compared with the control group, consistent with previous studies, reviewed by Vrijheid (2000). Commenting on this study, McNamee and Dolk (2000) concluded that: *"It is important that we gain a better understanding of the health impact of different waste management options. Future studies ought to give attention to better estimates of exposure of residents"*.
- Palmer *et al.* (2005) studied populations living near 24 landfill sites in South Wales, and found an increased risk of births with congenital malformations after the landfill sites opened compared with before they opened.
- Although epidemiological studies inevitably have limitations and it is difficult to prove "cause and effect", it must be noted that no study has shown that landfill sites are safe.
- Of particular concern in the case of Small Dole is that the prevailing wind, the so called "pollution pathway", carries landfill gas, asbestos fibres and other contaminants directly into the village.

References:

- Dolk, H., Vrijheid, M., Armstrong, B., Abramsky, L., Bianchi, F., Garne, E., Nelen, V., Robert, W., Scott, J.E.S., Stone, D., Tenconi, R. (1998). Risk of congenital abnormalities near hazardous waste landfill sites in Europe: the EUROHAZCON study. *The Lancet* **352**, 423-427.
- Elliott, P., Briggs, D., Morris, S., de Hoogh, C., Hurt, C., Jensen, T.K. (2001) Risk of adverse birth outcomes in populations living near landfill sites. *British Medical Journal* **323**, 363-8.

- Fielder, H.M.P., Poon-King, C.M., Palmer, S.R., Moss, N., Coleman, G. (2000) Assessment of impact on health of residents living near the Nant-y-Gwyddon landfill site: a retrospective analysis. *British Medical Journal* **320**, 19-22.
- McNamee, R., Dolk, H. (2000) Does exposure to landfill waste harm the foetus? *British Medical Journal* **323**, 351-2.
- Palmer, S.R., Dunstan, F.D., Fielder, H., Fone, D.L., Higgs, G., Senior, M.L. (2005) Risk of congenital anomalies after the opening of landfill sites. *Environmental Health Perspectives* **113**, 1362-5.
- Roberts, D., Redfearn, A., Dockerty, J. (2000) Health effects of landfill sites. *British Medical Journal* **320**, 1541.
- Vrijheid, M. (2000) Health effects of residence near hazardous waste landfill sites: a review of the epidemiological literature. *Environmental Health Perspectives* **108**, 101-12.

Human Rights objections

Section 6 of the Human Rights Act 1998 states that: *"It is unlawful for a public authority to act in a way which is incompatible with a Convention right."* In reaching decisions on planning applications the Local Planning Authority is therefore required to take into account the rights of the public under the European Convention on Human Rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of public safety and the economic well being of the country. Article 1 of Protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest. For an interference with these rights to be justifiable, the interference (and the means employed) needs to be "Proportionate" to the aims sought to be realised. Case law has indicated that certain development, such as landfill sites, does indeed interfere with an individual's rights under Human Rights legislation. Article 6 of the Convention, the focus of which is the determination of an individual's civil rights and obligations, provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal.

- **Any planning permission granted by WSCC for further extension of the life of the Horton Landfill site clearly goes far beyond what is "proportionate" in terms of its continuing effects upon the private lives and homes of the residents of Small Dole, and would therefore constitute a breach of Section 6 of the Human Rights Act 1998.**

Article 2 of the Convention states: *"Right to life. 1 Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law"*.

- **To permit this planning application, in the full knowledge that the activities proposed would further expose the residents of Small Dole to pollution from landfill gas, asbestos fibres and other compounds, which would further endanger their lives, would thus be in breach of Article 2 of the European Convention on Human Rights, and thus Section 6 of the Human Rights Act 1998**
- **The people of Small Dole have suffered as a result of the forty years of nuisance and contamination blowing from landfill sites to the south west of the village. The predominantly south westerly wind creates a flow of contaminants blowing straight towards the population. The situation experienced by the residents of Small Dole is therefore abnormal even for the victims of landfill sites. The adults and children of Small Dole have thus been used, against their will, in an experiment to see how long it will take for the contamination to medically affect all of their lives.**

Conclusions

- After 40 years of rubbish dumps, the residents of Small Dole feel that they have had enough. The village has more than done its fair share towards solving the waste disposal problems of West Sussex.
- The aims of the Small Dole Action Group are to ensure that the completion of landfilling operations at the site takes place as soon as possible, and is carried out to as high a standard as possible, taking into full account the amenity of local residents and recognition of health and safety legislation. We wish to see the restoration of the site for agriculture to a high standard as soon as possible.
- We recognise that there is significant remaining landfill capacity within the ground contours already agreed, and accept that an extension of time to complete these operations will be necessary, possibly until 2010, with final restoration until 2011.
- We are, however, totally opposed to any proposal which seeks any further increase in the capacity of the site.
- The current planning application must be assessed solely in the context of a new proposal for "land raising", not as a mere extension of an existing "landfill" site.
- The current planning application must be assessed solely on current 2007 planning policies and criteria, and not those which may have applied in 1991 when permission for a "landfill site" was originally granted. Full consideration must also be taken of the practical experience of local residents gained through 17 years of operation of the rubbish dump.
- The application is wholly unacceptable because it is contrary to National and County planning policies. It would adversely affect the landscape, and expose the residents of Small Dole to further nuisance and pollution until approximately 2014.
- In considering this application, the Planning Committee must take account of Section 7.38 of "Planning for Sustainable Waste Management: A Companion Guide to Planning Policy Statement 10", which states: *"The Waste Planning Authority should not assume that because a particular area has hosted, or hosts, waste disposal facilities it is appropriate to add to these or extend their life. It is important to consider the cumulative effect of previous waste disposal facilities on a community's wellbeing. Impacts on environmental quality, social cohesion and inclusion and economic potential may all be relevant"*.

We therefore urge you to reject this planning application.

Subject to certain improved planning conditions relating to the management and restoration of the site, the Small Dole Action Group would, however, support a fresh planning application to complete the unfinished part of the site only, which would provide landfill capacity in West Sussex for a further year to 18 months.