



LANDSCAPE & VISUAL MATTERS

PROOF OF EVIDENCE

LAND EAST OF DAN TREE FARM (BROWNS)

On behalf of: Mid Sussex District Council and West Sussex County Council

DATE: 24th September 2024

WSP REFERENCE: UK-70115085_1/DAE/Proof of Evidence/001

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AUTHOR: David Ellis *BA DipLArch, DipUD(Dist) MEnvSci CMLI*



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1 INTRODUCTION

My name is David Ellis, I have a Bachelor of Arts degree in Landscape Architecture and a Graduate Diploma in Landscape Architecture from Leeds Beckett University (previously Leeds Polytechnic). I have a Post Graduate Diploma in Urban Design awarded with Distinction from the University of Westminster.

1.1 PROFESSIONAL ACCREDITATION

I am a Chartered Member of the Landscape Institute (Design Division). I have been a professional member of the Landscape Institute since January 1987. My membership reference is 1187. I have also been a Member of the Institution for Environmental Sciences since 1997.

1.2 EXPERIENCE

I have 34 years of experience primarily working as landscape architect and secondarily as an urban designer and sustainability specialist. This includes both private and public sector appointments.

Roles have covered work ranging from strategic planning and policy formulation, landscape and townscape visual impact assessment to the design and delivery of complex landscape and urban realm projects.

My landscape and townscape visual impact assessment experience includes a wide range of sectors including but not limited to landfill and industrial restoration, transportation infrastructure, urban extensions and city centre development.

1.3 CURRENT ROLE

I am presently WSP's Regional Director for Landscape & Urban Design overseeing work in London and the Southeast. I am also WSP's Future Ready Environmental & Innovation Lead championing sustainable design outcomes in the company's consultancy services.

1.4 CODE OF CONDUCT

As a Chartered Landscape Architect, I am responsible for upholding The Landscape Institute's Code of Practice (December 2021) requiring integrity, competence and professionalism from all its members.

Rule 1 requires a member to:

'... deliver landscape service in ways which promote sustainable development and environmentally responsible use of resources.'

'...promote conservation and enhancement of the environment and quality of life for now and future generations.'

'...working in the public interest means working to reduce negative impacts on the environment.'



2 DECLARATION OF EVIDENCE

- 2.1 The evidence which I have prepared and provided for this appeal reference app/d3830/c/23/3319435 in this Proof of Evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

3 TERMS OF REFERENCE

- 3.1 I have been instructed by Mid Sussex District Council to provide expert witness evidence on landscape and visual matters relating to PJ Brown (Civil Engineering) Ltd.'s appeal against the rejection of their application for continued use of land east of dan tree farm for a mixed unauthorised.
- 3.2 The unauthorised development constitutes a change of use of the land from agriculture to a mixed use consisting of:
1. The importation, processing, storage and export of waste material upon the land;
 2. The deposition of waste material upon the land;
 3. The storage of building materials upon the land; and
 4. Laying and construction of hardstanding upon the land.

4 LOCATION

- 4.1 The site is located approximately 6.1 kilometres west of the centre of Haywards Heath and 230 metres east of the A23 trunk road. The Site forms part of the land holdings associated with Bolney Park Farm. The farm is operated for mixed use of equestrian and agriculture.
- 4.2 The Site is accessed directly off the A23 south bound carriageway via a surfaced trackway which also provides access to Dan Tree Farm located immediately to the west of the Site. Bolney park farm is located 500 metres to the south of the Site. To the north of the Site is an expanse of woodland which is designated Ancient Woodland.
- 4.3 The Site falls entirely within the High Weald National Landscape designated area and is located on relatively high ground within the wider area approximating 104 Ordnance Datum.

5 SITE DESCRIPTION

- 5.1 Site activity extends across an area of hardstanding of approximately 4,294 m² (0.429 hectares). The Site is partially covered with various stockpiles of waste aggregate material. A batching plant is located on the site along with welfare facilities including a porta-loo and portacabins, parking for staff vehicles, fuel storage and various excavating machinery.
- 5.2 The Site is partially bound by weldmesh fencing on the eastern side and a treelined boundary to the west.

6 BACKGROUND TO APPEAL

- 6.1 The timeline for the case goes back to WSCC/070/19 certificate of Lawful Development for an existing use or operation or activity: the importation, deposit, re-use and recycling of waste material and use of land for storage purposes: Land @ Bolney Park Farm Broxmead Lane Bolney Hayward Heath West Sussex RH17 5RJ.

7 REASON WHY GROUND (A) APPEAL SHOULD BE REFUSED

- 7.1 In relation to landscape and visual issues, the development is unacceptable by virtue of its location, scale and appearance which causes harm to landscape character and visual amenity, including impact upon the High Weald National Landscape. As a result of this adverse impact it is contrary to policies in the Development Plan and NPPF.

8 GROUNDS FOR APPEAL

- 8.1 The Appellant's grounds for appeal include a, b, d, f and g of section 174 Appeal against enforcement notice subsection 2 of the Town and Country Act 1990.

9 STATEMENT OF COMMON GROUND

9.1 In landscape and visual 'matters agreed' this includes the following:

- The appeal Site is located within the High Weald National Landscape (previously Area of Outstanding Natural Beauty (AONB));
- Approximately 50% of the District is located within the High Weald National Landscape (formerly AONB). This designation spans the central to northern area of the District; and
- The parties agree to the magnitude/level of adverse impact that the Operation creates upon the existing landscape and defined visual receptors VP 3, 4, 5, and 6 (Reference Appendix A: Section 7 Inert Recycling Operation, associated earthworks and planting, Bolney Park Farm, London Road, Bolney; LVIA by Harper Landscape Architecture LLP Sept 2020) but not as to how this harm may or can be mitigated. Although as explained below, I disagree with the LVIA on the value/sensitivity of the landscape.

9.2 In 'not agreed matters' this included the following:

- Whether or not the development results in an unacceptable detrimental harm upon the visual amenity and character of the rural area and on the National Landscape.

10 EVIDENCE

10.1 My evidence is structured into the following sections:

1. Requirements for Landscape Protection & Enhancement;
2. Sustainable Landscapes;
3. Landscape Character & Quality;
4. Visual Impacts;
5. Lighting Impact and
6. Efficacy of Mitigation.

10.2 REQUIREMENTS FOR LANDSCAPE PROTECTION & ENHANCEMENT

10.2.1. High Weald National Landscape – Area of Outstanding Natural Beauty (AONB)

10.2.1.1 The Site is located within the High Weald National Landscape previously known as an Area of Outstanding Natural Beauty (AONB).

10.2.1.2 The High Weald National Landscape designation covers an area of 1,461 square kilometres extending across the counties of Kent, Sussex and Surrey. It is the fourth-largest National Landscape in England and Wales, 24.6% is woodland and over half of this is designated Ancient Woodland.

10.2.1.3 It was designated as an AONB in 1983 and is one of 46 designated National Landscape areas in England affording the highest landscape policy protection in the country

10.2.1.4 The High Weald is characterised by ridges and valleys covered with a complex pattern of small fields interspersed with farmsteads, abundant woodland historic parks, historic routes, sunken lanes and ridge-top villages.

10.2.1.5 It is one of the best surviving medieval landscapes in northwest Europe and therefore has remained a unique and distinctive area for at least the last 700 years.

10.2.1.6 In November 2023 all Areas of Outstanding Natural Beauty (AONB) were renamed National Landscapes. This change was recommended by the Government's Landscapes Review in 2019. The High Weald National Landscape remains designated as an AONB with respect to all existing policy, legislation and guidance.

10.2.1.7 Significant national, regional and local policy covering landscape protection and enhancement therefore applies to The Site.

10.2.1.8 I have summarised relevant policies and planning guidance below which endorse the council's decision to issue the enforcement notice in relation to landscape and visual matters:

10.2.2. National Planning Policy Framework (NPPF) December 2023

10.2.2.1 Paragraph 180 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:

- a. Protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.

- b. Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefit of the best and most versatile agricultural lands, and of trees and woodland.

10.2.2.2 Both these requirements apply to The Site as it is located the High Weald AONB being a highly valued landscape. The Unauthorised Development therefore does not fulfil the requirements of Paragraph 180 of the NPPF in achieving protection and enhancement of the High Weald landscape.

10.2.2.3 Paragraph 182 states that ‘...**Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty (National Landscapes).**’

10.2.2.4 These policies specifically apply to The Site. The current Unauthorised Development of The Site has the consequence of compromising the sustainable value of the wider High Weald National Landscape.

10.2.2.5 The NPPF places great weight on conserving and enhancing landscape and scenic beauty on National Parks, the Broads and National Landscapes.

10.2.2.6 The Unauthorised Development does not fulfil the NPPF requirement to protect and enhance the natural environment which is a condition also under the NPPF definition of Sustainable Development.

10.2.2.7 The presumption in favour of sustainable development does not mean that considerations for protecting and enhancing the natural environment can be overlooked or that protection afforded by Regional and Local Planning considerations can be avoided.

10.2.2.8 Paragraph 183 of the NPPF also says that:

“When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.”

10.2.3. High Weald National Landscape AONB Management Plan 2024 -2029

10.2.3.1 The new management plan puts great emphasis on conserving and enhancing the rural landscape for future generations and encouraging sustainable land uses through regenerative land management.

10.2.3.2 This recently published document is highly relevant in the assessing the level of protection afforded to the designated High Weald AONB area, and requires stringent standards for landscape protection and enhancement and in relation to expectations for future planning approvals.

10.2.4. Levelling-up & Regeneration Act 2023

10.2.4.1 The Levelling up and Regeneration Act 2023 was given Royal Assent in October last year. The Act demonstrates an increase in the commitment by the Government now and into the future to protect designated landscapes.

10.2.4.2 The Act increases the weight upon Local Authorities to conserve and enhance the natural beauty of National Landscapes it states that:

“Relevant authorities ... must seek to further the purposes of the National Landscapes this purpose is conserving and enhancing natural beauty.”

10.2.4.3 This is in response to an increase in societal and political awareness of the vulnerability of the nation’s valuable landscapes including the High Weald National Landscape.

10.2.5. Mid Sussex District Plan 2014 - 2031

10.2.5.1 **DP1 - Sustainable Economic Development.** This policy sets out the need for increase in employment within the District providing for an average of 543 jobs per annum. The policy sets out how this should be achieved. The employment activities of The Site however do not comply with any of the criteria given in the policy with respect to landscape based employment which would include activities associated with agriculture, forestry and horticulture, landscape gardening and equine activities.

10.2.5.2 **DP12 - Protection and Enhancement of Countryside.** This policy seeks to protect the countryside for its intrinsic character and beauty and solely supports development within a rural location where it enhances the visual quality of the landscape and is aligned to the purposes of agriculture, or it is supported by a specific policy reference elsewhere in the Plan. The Site does not achieve this requirement.

10.2.5.3 **DP16 - High Weald Area of Outstanding Natural Beauty** requires compliance with protecting and enhancing the High Weald National Landscape as set out in the recently revised High Weald AONB Management Plan 2024 to 2029 to support and enhance the attractiveness of Mid Sussex as a visitor destination.

10.2.5.4 The policy supports small scale proposals which are compatible with the conservation and enhancement of the essential characteristics of the High Weald National Landscape. The Site and proposed mitigation however will not achieve this.

10.2.5.5 **DP26 Character and Design Strategic Objectives** –The borough has a high quality built and natural environment. This policy therefore is concerned with ensuring good design is achieved with all new planning proposals. There is a requirement that new development should be sensitive to the countryside and address the character of the surrounding landscape. The Unauthorised Development does not achieve this requirement.

10.2.5.6 **DP29 - Noise, Air and Light Pollution.** This policy provides protections to National Landscape areas with respect to lighting impacts. No information has been provided by the appellant on site operations during wintertime or out of core working hours. There is the potential adverse impact of lighting on the surrounding landscape from operations within the Site as well as from headlights of lorries accessing the haul road from the A23.

10.2.6. West Sussex Waste Local Plan 2014 – 2031

10.2.6.1 **W11 Character** This policy states that waste development proposals will only be permitted provided they would not have an unacceptable impact on the character, distinctiveness, and sense of place of the different areas of the County and that they reflect and, where possible, reinforce the character of the main natural character areas.

10.2.6.2 **W12 High Quality Developments.** This policy sets a requirement for waste developments to have regard to the local context, including: the varied traditions and character of the different parts of West Sussex; the characteristics of the site in terms of topography and natural and man-made



features; the topography, landscape, townscape, streetscape and skyline of the surrounding area and views into and out of the site.

- 10.2.6.3 **W13 Protected Landscapes.** There is a presumption against waste proposals within or near Protected Landscapes such as the South Downs National Park and National Landscape designated areas. Exceptions include sites already allocated in the adopted plan or small scale facilities which meet local needs providing they can be accommodated without undermining the AONB designation.
- 10.2.6.4 The Unauthorised Development even with proposed mitigations measures outlined in the Harper LVIA document does not fulfil the West Sussex Waste policy requirements of Policy W11, 12 and 13 summarised above.

10.3 SUSTAINABLE LANDSCAPES

- 10.3.1.** Sustainable development is a much misunderstood and misused term in planning; the appellant has proposed that the unauthorised development fulfils sustainability policy in providing land based employment. However, the definition of land based employment traditionally relates to farming and industries connected to the land and the environment, including horticulture, food production, forestry, conservation, landscape gardening and equine activities.
- 10.3.2.** The appellant has also proposed that the screening and recycling of aggregates is contributing to the circular economy. This may be the case but to the detriment of other sustainability policies put in place to conserve and enhance the natural environment and particularly within the High Weald National Landscape AONB designated area.

10.4 LANDSCAPE CHARACTER AND QUALITY IMPACTS

- 10.4.1.** The appellant's Landscape & Visual Assessment (LVIA) report by Harper (2020) identifies that the local landscape is considered to be of **Medium Sensitivity** as whilst the Site is in the National Landscape designated area "*it is heavily detracted by the A23 road corridor located in close proximity and it has been in operation for 15 years becoming an accepted element within the baseline condition*" (see paragraph 5.15 of the LVIA).
- 10.4.2.** The presence of the road corridor and particularly the impact of traffic movements does detract from an element of the tranquillity of the immediate landscape. However (even putting aside that it is not accepted that the current use has been ongoing for 15 years, as covered in the evidence of others) I disagree with the approach in the LVIA that it is relevant to take account of the current use when assessing the baseline condition of the Site, and the sensitivity of the Site, in the ground (a) appeal. The current use is unlawful and cannot be legitimately used to affect an assessment of the baseline sensitivity of the Site, prior to assessing the impact of the development. My view is that the local landscape is of a High Sensitivity, as it is protected by a national designation and prior to the unlawful use it was an agricultural field contributing to the AONB. Therefore, the Low to Medium adverse impact is on a **High Sensitivity** landscape.
- 10.4.3.** Given the value attributed to the immediate and wider landscape and the expectations of the High Weald AONB Management Plan for conserving but also enhancing of this highest rated English landscape, a **Low to Medium Adverse** Impact should be considered unacceptable. In particular the AONB Management Plan identifies fieldscapes and aesthetic and perceptual qualities, which the Site would contribute to had it not been for the unlawful development, as core character components of the AONB. This is in respect also to the lack of opportunity to mitigate the adverse impacts effectively.

10.5 VISUAL IMPACTS

- 10.5.1.** The Harper LVIA report commissioned by the appellant includes a Zone of Theoretical Visibility (ZTV) dated 9th September 2020. It is assumed that the visibility is based upon full leaf cover affording maximum screening by surrounding deciduous hedgerows, trees and woodland although this is not clarified in the report. Reference: Appendix A 3.1.
- 10.5.2.** No information also is included in the Harper LVIA report to describe or benchmark the optimum scale and massing of the inert recycling operations area or potential adverse impacts during winter.
- 10.5.3.** Photographic information has identified that the piles can be up to 10 metres in height.
- 10.5.4.** A digital ZTV was undertaken on behalf of the Mid Sussex District Council to test the robustness of the Harper LVIA information. This was achieved by assuming a range of heights from 0 to 10 metres of stockpiling across the site using a 3D terrain model and LIDAR data of vegetation and buildings. Reference Appendix 2 Figures 1, 2 and 3.
- 10.5.5.** The digital ZTV demonstrated that there are potential glimpses of the site further away from the site than that which has been implied in the Harper LVIA ZTV. Reference Appendix 2 Figures 1, 2 and 3.
- 10.5.6.** Additional visibility zones include areas north and east of The Hanger woodland valley – north of Broxmead Farm and west of Barnstaple Farm. Reference Appendix 2 Figures 1, 2 and 3.
- 10.5.7.** There is no assessment in the Harper LVIA covering winter impacts – when there is less screening afforded from deciduous trees and woodland.
- 10.5.8.** Views from the footpath northwest of Barnstaple Farm (PROW) is considered negligible but potentially slight adverse in winter when the screening benefit of adjacent hedgerow vegetation is lost.

10.6 LIGHTING IMPACTS

- 10.6.1.** As well as the aspects of fieldscapes and aesthetic and perceptual qualities referred to above, the High Weald National Landscape is characterised by having some of the darkest skies in the south-east of England. this gives the area a sense of uniqueness and remoteness.
- 10.6.2.** Objective DS 1 of the High Weald AONB Management Plan 2024-29 seeks to:
- ‘... protect and maintain the existing dark skies within the high weald for the benefit of all, including future generations, for our health, wellbeing and enjoyment, to increase our understanding and sense of place in the universe, and for the benefit of wildlife and to reduce energy consumption.’***
- 10.6.3.** There is no assessment in the Harper LVIA covering potential lighting impacts of the Unauthorised Development.

10.6.4. Lighting from site operations and haulage to and from the site could have significant impact on the rural character of the immediate area. This includes impacts to residential properties on Broxmead Lane and the footpath (PROW 2525) which connects Broxmead Lane to The Hanger woodland valley.

10.7 EFFICACY OF MITIGATION

- 10.7.1.** The Unauthorised Development cannot be successfully mitigated by using landscape design screening methods, even if these could be imposed by condition. These are reliant on major landform measures and planting design.
- 10.7.2.** Given the nature of the surrounding topography and the physical presence of the proposals, substantial earthworks are required to totally screen The Site from the wider landscape.
- 10.7.3.** The Harper Landscape LVIA includes mitigation proposals to create a bund up to 4.5 metres high wrapping round the eastern and northern eastern side of The Site involving the importation of thousands of cubic metres of spoil.
- 10.7.4.** A 5-metre-wide strip of indigenous planting is proposed along the southern boundary of the access road and a 10-metre wide strip of indigenous mix planting is proposed on the top of the bund. However, there are no details of species, planting sizes and anticipated growth rates. (reference: figure 4 Harper LVIA report).
- 10.7.5.** These landscape proposals would potentially screen off The Site in the long-term assuming successful establishment of the planting. However, the extensive landfill extending over approximately 1.2 hectares of farmland would permanently alter the natural topography and character of the existing protected landscape.
- 10.7.6.** The topography of the High Weald is an intrinsic part of this highly valuable landscape, consisting of deeply incised, ridged and faulted landforms running generally east to west. The High Weald AONB Management Plan therefore seeks to:
- ‘...conserve landform and topography on which the High Weald’s character depends, and maintain nationally important geological exposures, allowing for erosion where appropriate, conserving the fern, moss and liverwort communities they support, and protecting their value as significant sites of prehistoric archaeology in the AONB.’***
- 10.7.7.** Actions in the management plan include:
- ‘Ensuring developments seek to avoid substantive alterations to landform’.***
- 10.7.8.** The scale of landfill measures required to screen off the site and proposed in the Harper LVIA would be in contravention of enhancing and protecting the intrinsic natural landform and pattern of the High Weald National Landscape.

11 SUMMARY

11.1 My reasons for objecting to the development are as follows:

- The development is not compliant with National, Regional and Local Policy which has been put in place to protect and enhance England's most valuable landscapes for current and future generations;
- To allow this development will undermine these well considered policies and set precedents for other projects which will compromise the integrity of the protection afforded to the 46 National Landscapes across England including the High Weald;
- The aggregate storage, temporary buildings, welfare facilities, batching plant, presence of operating machinery introduces a perceptible adverse impact on the visual and landscape amenity of the area;
- The Inert Recycling Operations do not comply with appropriate land based activities which are consistent with National Landscape Policy designation;
- The development will result in perceptible adverse changes to the landscape; and
- The proposed land raise mitigation measures outlined in Harper' LVIA Report will introduce further man-made landforms within the natural topography of the surrounding area to the detriment of the landscape.

12 APPENDICES

12.1 **APPENDIX A:** Zone Of Theoretical Visibility – by Harper Landscape Architects (extracted from LVIA)

- Figure 1

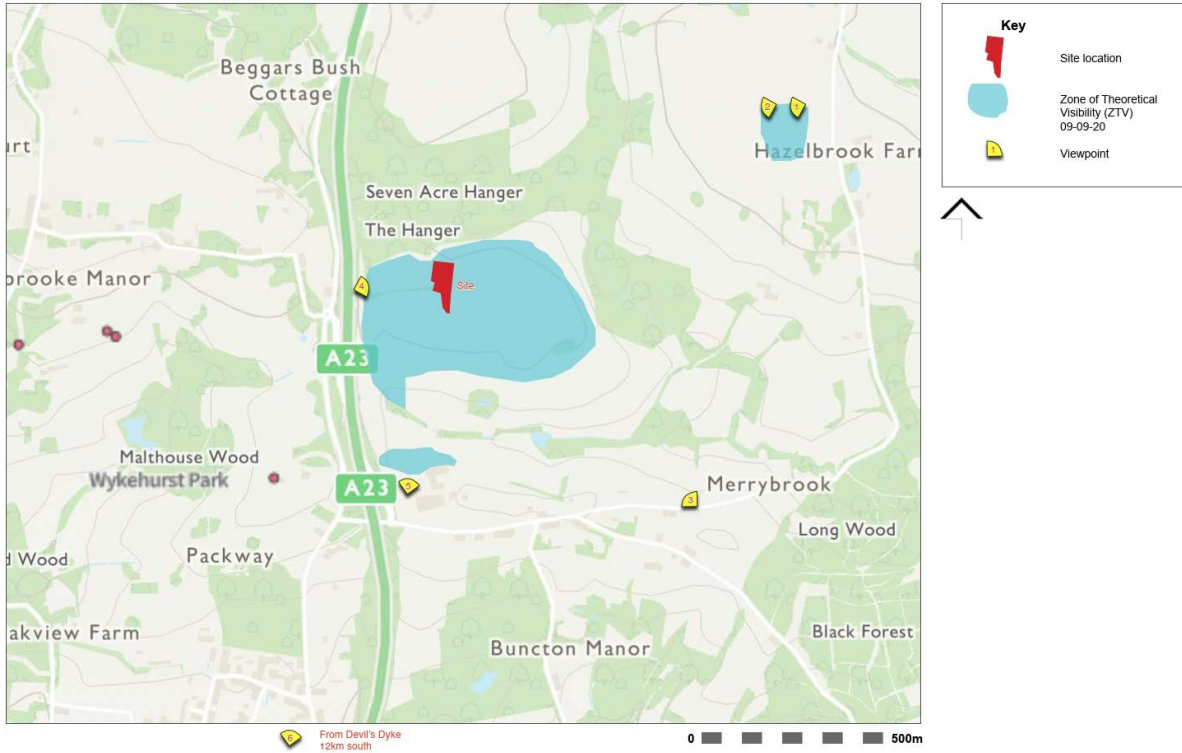
12.2 **APPENDIX B:** Zone of Theoretical Visibility – BY WSP

- Figure 1
- Figure 2
- Figure 3

13 APPENDIX A:

13.1 ZONE OF THEORETICAL VISIBILITY – BY HARPER

Figure 1: The plan below has been extracted from the Harper LVIA Report (Figure 9 page 30)



14 APPENDIX B

14.1 ZONE OF THEORETICAL INFLUENCE - BY WSP

To assist with testing the efficacy of the Harper LVIA Report, Zones of Theoretical Influence (ZTVs) have been created, these determine the theoretical visibility of the site based on the terrain and visual obstructions such as buildings, hedgerows and woodland:

- Figure 1: Without aggregate stock piling
- Figure 2: With stockpiling up to 5metres high
- Figure 3: With stockpiles up to 10metres high.

The ZTVs were created using Geographic Information Systems (GIS) to determine the theoretical visibility of the Site. This process involved analysing elevation data and mapping it onto GIS ArcPro digital software.

In ArcGIS Pro, visibility analysis has been performed using Visibility Analysis which determines the raster surface locations visible to a set of observed features and identifies which observer points are visible from each raster surface location.

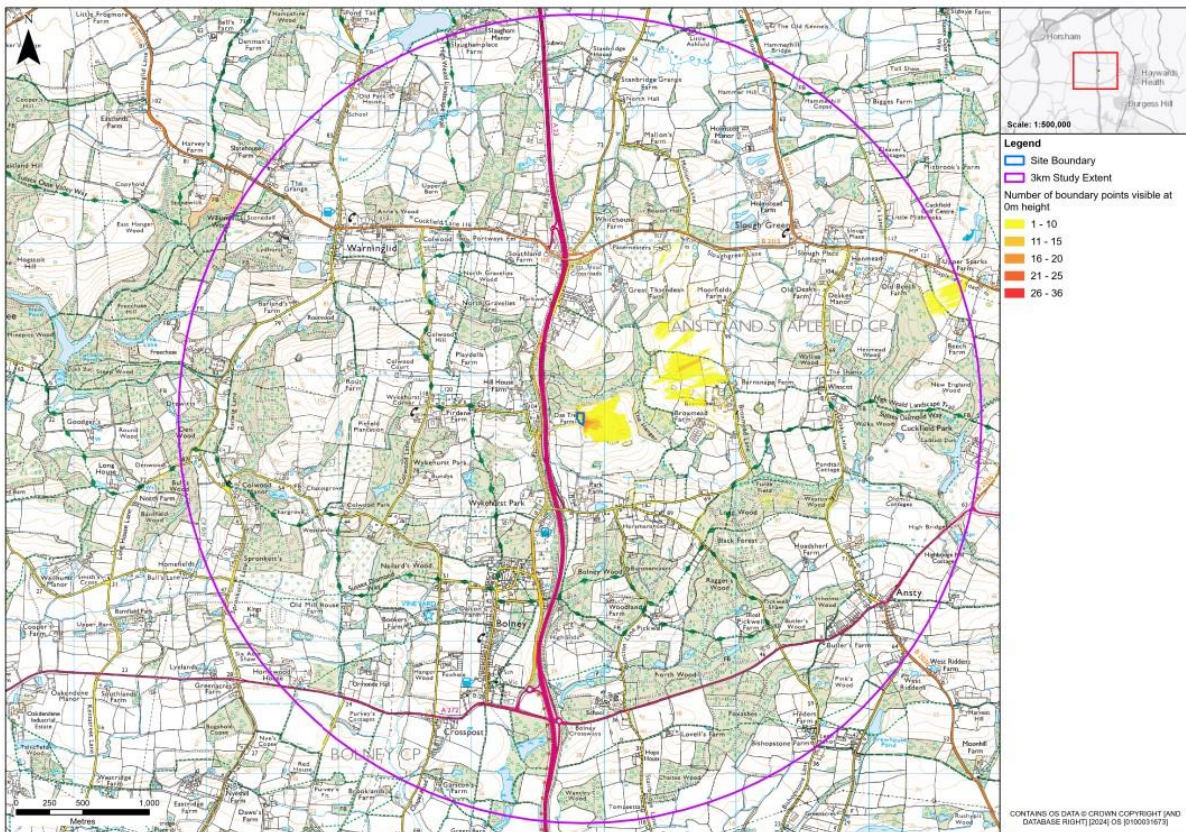


FIGURE 1: ZONE OF VISUAL INFLUENCE - WITHOUT AGGREGATE STOCKPILING

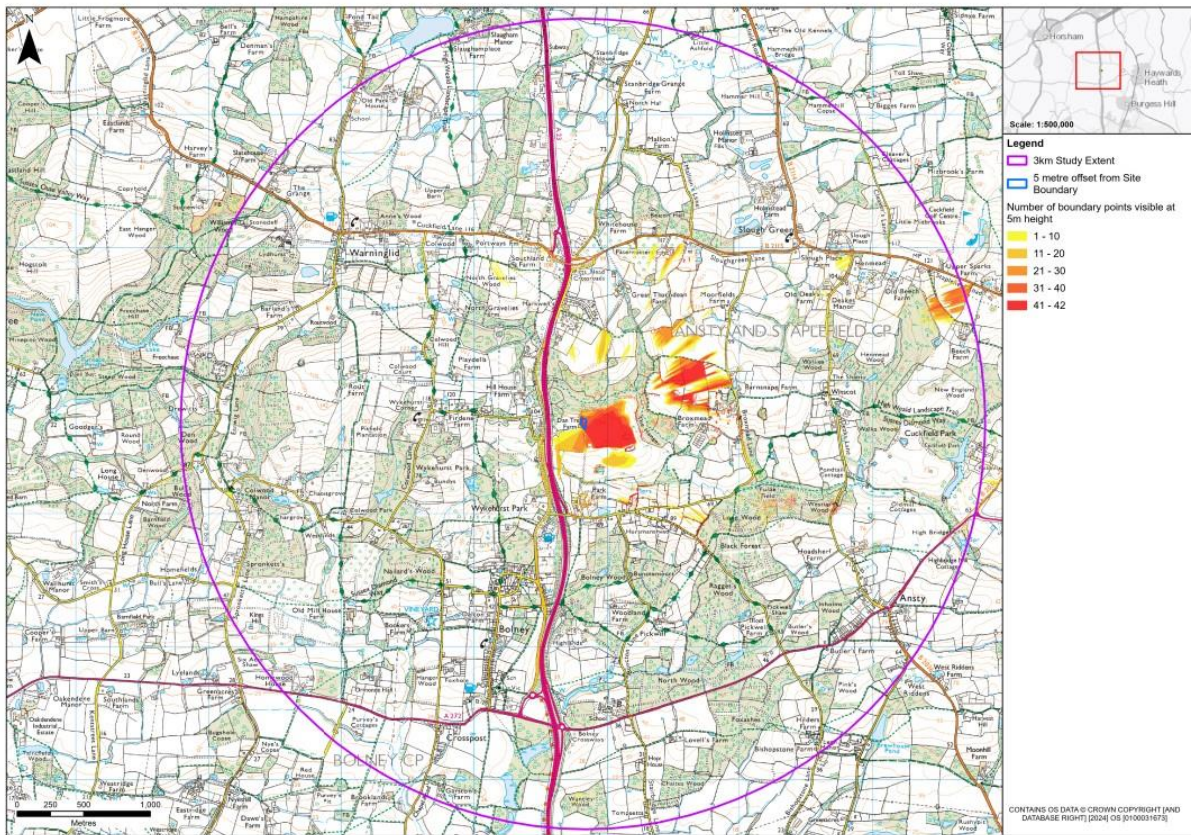


FIGURE 2: ZONE OF VISUAL INFLUENCE: WITH AGGREGATE STOCKPILING UP TO 5 METRES HIGH

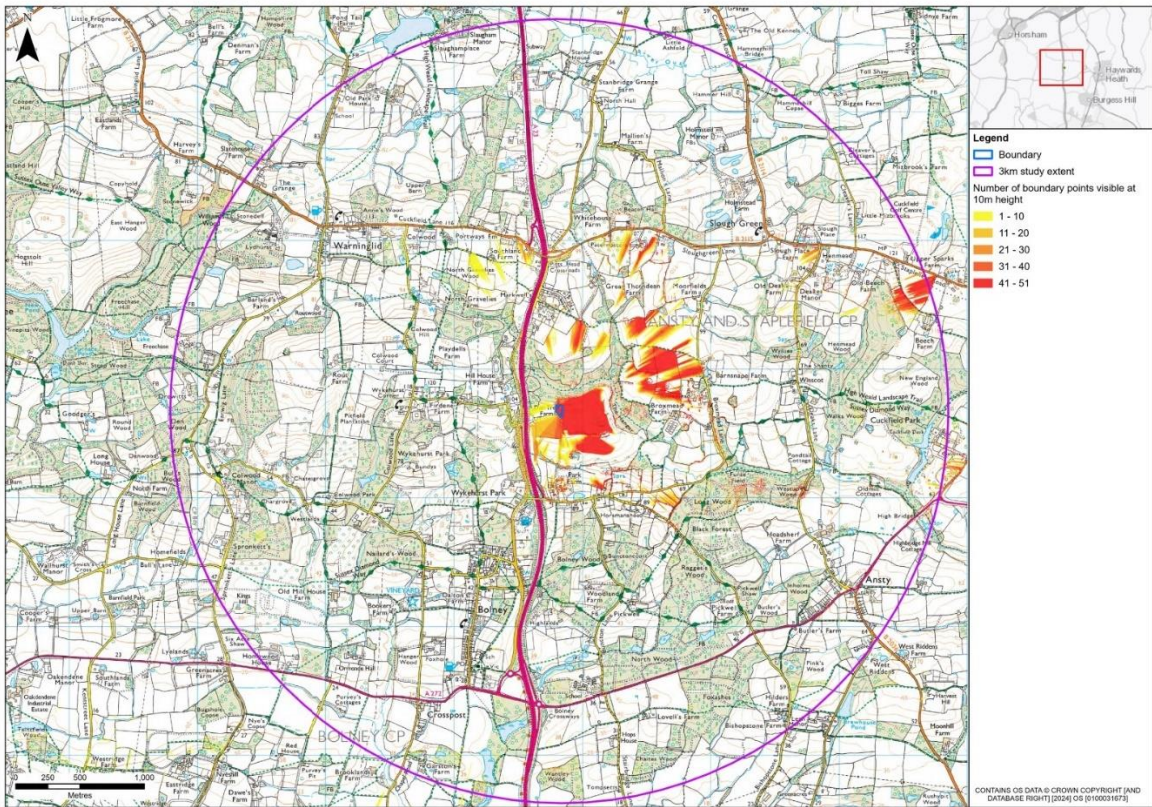


FIGURE 3: ZONE OF VISUAL INFLUENCE: WITH AGGREGATE STOCKPILING UP TO 10 METRES HIGH

