

**The Rt Hon Steve Barclay MP**  
**Secretary of State for the Environment,**  
**Food and Rural Affairs**  
Seacole Building  
2 Marsham Street  
London  
SW1P 4DF

**Date:** 21 May 2024

Dear Secretary of State,

Thank you for your letter of 13 May 2024 regarding the illegal dumping of waste that has occurred at the Hoad's Wood SSSI in Kent. I entirely share your serious concerns about this appalling offending. I want to assure you that the Environment Agency takes waste crime seriously and I thought it would be helpful to provide a summary of the action we have taken to stop the dumping of waste at the site and what our next steps must be.

### **Investigation and disruption action**

The EA is leading the investigation into the illegal waste dumping in this area of ancient woodland with support from Natural England, Kent County Council, Ashford Borough Council and Kent Police Rural Taskforce. The site at Hoad's Wood is suspected to be linked to other illegal commercial waste sites across the county and linked to an organised crime group that operates in Kent and further afield. Our response therefore has needed to consider the tactics used by a highly coordinated and well-resourced criminal network, driven by the potential for significant financial gain.

As often is the case with the most serious waste crime the site is in a remote area. Whilst we were aware of previous illegal waste dumping activity in 2020, this activity had been stopped by a planning injunction obtained by Ashford Borough Council. In August 2023 we began to receive complaints that waste was being dumped on the site and after confirming reports we started our investigation and disruption tactics within days. This included evidence gathering of traffic movements and road stops with Kent Police. The road stop action led to interviews of lorry drivers under caution and efforts to trace the ownership of vehicles, although many were driving under false number plates and documents.

From our investigation we gathered the evidence to obtain a Restriction Order from Medway Magistrates Court to stop any dumping at the site from 16 January 2024. This restricts access to the site and as soon as the Order was obtained the EA placed a concrete block in front of the site gate. The maximum time permitted for the

Order is six months and it is due to expire on 16 July 2024. We will be applying for an extension to prevent illegal activity restarting. We also continue to work with the Joint Unit for Waste Crime and law enforcement partners as part of a major investigation to map what is a huge, complex web of criminality, and to enable early intervention and disruption at any potential new locations where there is risk of further environmental, social and economic harm. We will use the full suite of disruption interventions at our disposal against this offending. A separate briefing at a higher classification can be provided on these measures if this would be helpful to you.

### **Site clearance**

I understand from your letter that you would like us to lead on the clearance of the site, alongside the pursuit of the criminals responsible for the dumping. Given the threat to ancient woodland and its complex biodiversity, it may be more expedient for the EA to consider exercising its powers under Section 59(7) or Section 59ZA-C (following formal notice) of the Environmental Protection Act 1990 to remove the waste from this SSSI. Whilst the EA has these powers, it was not established for this purpose and is not generally resourced or funded by Government to carry out waste removal, which under the legislation is normally the responsibility of the landowner.

### **Land ownership**

In parallel to the investigation and disruption activity we also examined the private ownership of the woodland, which is divided into many small individually owned plots, some of which change ownership frequently. As you are aware landowners may be required to clear illegally deposited waste from their land. However, the numerous landowners and the divided ownership mean that the situation is complicated and would require significant coordination given the scale of the site and volume of waste. I therefore agree with your conclusion that to clear the site and minimise further impact on this protected area this action cannot be left to the landowners acting on their own. In these circumstances the powers in Section 59 of the Environmental Protection Act 1990 may be more suitable than those under Regulation 57 of the Environmental Permitting (England and Wales) Regulations 2016.

### **Costs and funding**

We have been out on site with a third-party contractor to assess the scale, requirements and estimated cost of clearance. The initial estimated cost is over £10m, with the landfill tax element representing over £3m of the bill. It is inevitable that costs will be higher than first estimated and I would recommend making £15m available to build in some contingency to deal with foreseeable operational challenges, such as health and safety risks, access issues and the additional cost of disposing of hazardous wastes and securing the site to prevent future dumping once works are completed.

The legislation allows the EA to recover the costs in principle. However, it is unlikely, given the remoteness of the site, the complexity of the land ownership and occupation that the owners will have been responsible for or aware of the illegal activity – as the legislation puts it, to have “knowingly caused or knowingly permitted the deposit”. Our assessment of the likelihood of recovering costs incurred is very low.

As you are aware from our previous conversations I am committed to delivering significant efficiencies against the EA's budget this year. This includes the £15m savings agreed with HMT and finding a further £8m in efficiencies to fund our work on water. I am not in the position to be able to find further efficiencies to cover the cost of clearing the site. The only option I have available is to stop an annual transfer from RDEL to CDEL to fund assets relating to charge regimes which will impact the floods capital programme. This would then leave an equivalent shortfall in CDEL. Options to manage this shortfall impact our capital investment, including a potential reduction in investment in flood protection. We would seek to manage this through programme slippage but if CDEL were made available from the Defra group, we could protect flood outcomes. I will keep the budgetary position under review with Defra.

## **Timescale**

If we first serve a statutory notice on the landowners requiring removal of the waste under Section 59, Section ZA or Section ZC of the Environmental Protection Act 1990 the recipient has 21 days to appeal to the Magistrates' Court. If there is no appeal, or the Notice is upheld on appeal, but the landowner fails to comply, the EA can exercise default powers to remove the waste. But the appeal process brings in a considerable degree of uncertainty. The EA is not required to go through that process before exercising its powers to remove waste in certain circumstances provided for by the legislation. In those circumstances there is no requirement to give landowners formal notice of intention to act, but it would be reasonable to give 21 days' notice before entering the land to commence work and help identify any particular difficulties or objections in advance, including whether it may be necessary to apply for warrant of entry.

Using an existing commercial framework will make the process for contracting a third party to clear the site relatively straightforward. I am confident we can contract within the 21 day notice window. The expectation is that the site will take more than six months to clear. Again, it would be sensible to add in some contingency for operational challenges including the weather, but it would be feasible to aim for the site to be cleared by early 2025.

## **Environmental risks**

The EA is actively monitoring the pollution risk at the site. This includes water quality sampling at specific locations on the River Beult and testing leachate and run-off from the site; and air quality monitoring at sensitive receptors in the local area and body worn gas monitors when on site. Whilst monitoring has not highlighted any significant pollution concerns, the risk remains dynamic as the waste decomposes and reacts to temperature change and moisture, and monitoring will need to continue. UKHSA and Kent County Council are leading on assessing any risk to public health and we are sharing the monitoring data we have recorded with them.

## **Other factors**

In your letter you asked me to raise any other procedural, legal or practical factors to consider. I wholeheartedly share your desire to see the waste cleared at Hoad's Wood and the SSSI woodland protected. Unfortunately there is significant pressure to clear a number of other illegal and abandoned waste sites across the country. Clearing waste from land and disposing of it appropriately is, as highlighted in the

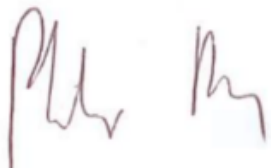
case of Hoad's Wood, a considerable expense and there is a risk of repercussive spend that you will want to consider, as part of any future obligations and commitment the Government wants to make to clearing illegally dumped waste.

The Government has shown considerable leadership in taking steps to reduce the scourge of illegal waste, with regulation of carriers, brokers and dealers; tighter regulation of international waste shipments and more onerous requirements on producers all set to contribute to a reduced risk. The EA is strengthening its role through new powers and partnerships and has achieved significant successes in prosecuting waste crime.

But as of today we estimate that there are around 500 active illegal waste sites across England of varying size and scale of criminality. On average two thirds are closed within six months but as we can see with Hoad's Wood a lot of damage can be done in a relatively short period. The EA, local authorities, law enforcement and other local partners all have a role, but responsibilities and leadership are not always clear, and financial trade-offs can be difficult for partners. The roundtable discussion with Minister Moore tomorrow is an opportunity to also explore these challenges and to share the learning points so far from Hoad's Wood to help our partnership response.

Ancient woodland provides a unique habitat for plant and wildlife species and therefore it seems appropriate for you to direct the EA in this instance. I very much welcome your leadership on this important issue and look forward to working with you, the Ministerial team and Defra colleagues to clear Hoad's Wood and to tackle the blight of illegal waste sites on our environment, countryside and communities.

Yours sincerely,

A handwritten signature in red ink, appearing to read 'Philip Duffy', is positioned above the typed name.

**Philip Duffy**  
Chief Executive, Environment Agency