

**DR/09/14**

Committee DEVELOPMENT & REGULATION

Date 28 March 2014

### MINERALS AND WASTE DEVELOPMENT

Proposal: **Circular tank, with an internal radius of 11.855m and depth of 4m; de-odourising ring; equipment container; and associated hardstanding to facilitate the storage of abattoir wash water. Together with the use of the existing agricultural access track to access the wash water tank (Retrospective)**

Location: **Little Warley Hall Farm, Ranks Green, Fairstead, Essex, CM3 2BG**

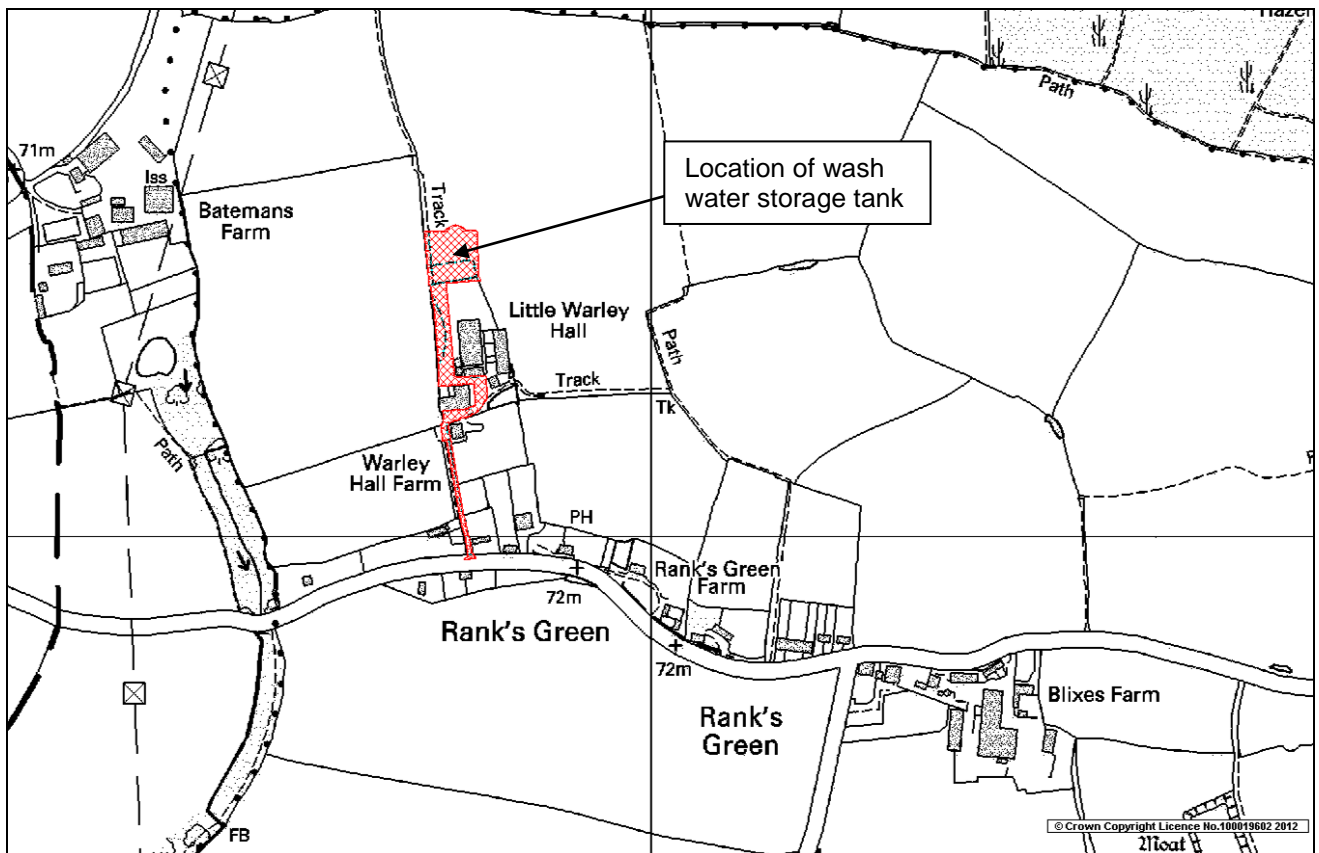
Reference: **ESS/60/13/BTE**

Applicant: **C Humphreys and Sons**

Report by Director for Operations, Environment and Economy

Enquiries to: Tom McCarthy Tel: 03330 136816

The full application can be viewed at [www.essex.gov.uk/viewplanning](http://www.essex.gov.uk/viewplanning)



## **1. BACKGROUND**

The planning application for the above development was considered by the Development & Regulation Committee on 28 February 2013. The original Officer report and addendum for the meeting are attached at Appendix 1.

Members resolved to refuse the application for the retention of the circular tank, with an internal radius of 11.855m and depth of 4m; de-odourising ring; equipment container and associated hardstanding to facilitate the storage of abattoir wash water for the following reasons:

- Not a sustainable location for the development; and
- Insufficient and/or inadequate design details.

In addition to the above, it was noted that as the development had already been constructed, the unauthorised development may require enforcement action to secure its removal.

In accordance with the Committee Protocol, a formal decision on the application was deferred until the March 2014 meeting of the Development and Regulation Committee. The deferral was to allow officers to provide an appropriate and reasonable recommendation, based on planning policy, setting out the reasons for refusal in full as well as a consideration of whether it is expedient to undertake enforcement action to remedy the existing breach of planning control.

## **2. SITE**

The application site is located in Rank's Green, circa 2km north-west of Fairsted, in a largely rural area (in terms of development and majority land use). Accessed from a lane off Mill Lane, the application site is situated at the northern end of the farmyard with arable fields to the north, east and west of the site.

Residential properties line the Lane from which the Farm is accessed. The closest residential property is approximately 150m south of the development (tank). The development site is not located directly within a sensitive area, as directed by the Town and Country Planning (Environmental Impact Assessment) Regulation 2011, however there are a number of Local Wildlife designations within the locality (within 2km).

Further details on the site, the background to the application and the proposal itself are set out in the report at Appendix 1.

### 3. CONSIDERATION

Policy W3A of the Essex and Southend Waste Local Plan 2001 (WLP) states that the Waste Planning Authority will:

1. In determining applications and in all consideration of waste management proposals have regard to the following principles:
  - Consistency with the goals and principles of sustainable development;
  - Whether the proposal represents the best practicable environment option for the particular waste stream and at that location;
  - Whether the proposal would conflict with other options further up the waste hierarchy;
  - Conformity with the proximity principle;
2. In considering proposals for managing waste and in working with the WDAs, WCAs and industrial and commercial organisations, promote waste reduction, re-use of waste, waste recycling/compositing, energy recovery for waste and waste disposal in that order of priority;
3. Identify specific locations and areas of search for waste management facilities, planning criteria for the location of additional facilities, and existing and potential landfill sites, which together enable adequate provision to be made for Essex, Southend and regional waste management needs as defined in policies W3B and W3C.

Given the resolution that the proposed development represents an unsuitable or unsustainable location, it is considered the application conflicts with WLP policy W3A.

WLP policy W3A, as detailed above, seeks to ensure consistency with the goals and principles of sustainable development. Whilst the concept of best practical environmental option has been superseded by Planning Policy Statement 10: Planning for Sustainable Waste Management it is noted that this document clearly defines the overall objective of Government policy on waste as to protect human health and the environment by producing less waste and by using it as a resource wherever possible. By more sustainable waste management, moving the management of waste up the waste hierarchy of prevention, preparing for reuse, recycling, other recovery, and disposing only as a last resort, the Government aims to break the link between economic growth and the environmental impact of waste.

Positive planning has an important role in delivering sustainable waste management: through the development of appropriate strategies for growth, regeneration and the prudent use of resources; and, by providing sufficient opportunities for new waste management facilities for the right type, in the right place and at the right time. In view that it is considered that this site does not represent an appropriate location for the development, because of the potential impacts, and that the benefits to the proposal could be achieved from alternative, less sensitive sites it is considered that the proposal does not comply with WLP policy W3A and as such does not represent sustainable development as defined

within PPS 10 and the National Planning Policy Framework (Framework).

Additionally it was resolved that insufficient and/or inadequate information had been provided to allow the full impact of the development to be assessed. The Framework details at paragraph 120 that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

The Environment Agency recommended that a condition is imposed requiring details of a cap for the tank to be submitted and implemented, however no information has been submitted in respect of the design of the proposed cap and whether that design would subsequently be appropriate and fit for purpose.

The requirement for mitigation and/or independent assessment of impact, in view of potential failure to tank integrity (construction), was also considered a noteworthy omission. It is considered without this information forming part of the application, a full assessment of potential impacts and appraisal of the development in context of the three dimensions of planning is unable to be fully completed. The proposal is therefore in view of potential impact considered, as it stands, to be contrary to WLP policy W10E and Braintree District Local Plan Review 2005 (BLP) policies RLP36, RLP62 and RLP90.

As the development is retrospective, given that the development causes ongoing harm, it is considered expedient that enforcement action is undertaken requiring the removal of the tank from its current unsustainable location.

#### 4. RECOMMENDATION

That planning permission be **refused** for the following reasons:-

1. That the development occupies an inappropriate location, which does not conform with the principles of sustainable development as defined within the Framework, due to the detrimental impact the provision would have on the locality and local residential amenity, contrary to Essex and Southend Waste Local Plan 2001 policy W3A (Sustainable Development, National Waste Hierarchy & Proximity Principle).
  2. Insufficient and/or inadequate information has been provided to demonstrate that the design of the development would not cause unacceptable odour impacts and/or an unacceptable impact upon groundwater and flooding in the event of structural damage/failure to the tank, contrary to Essex and Southend Waste Local Plan 2001 policy W10E (Material Considerations: Policy Compliance and Effects of the Development) and Braintree District Local Plan Review 2005 policies RLP36 (Industrial and Environmental Standards), RLP62 (Development Likely to Give Rise to Pollution, or the Risk of Pollution) and RLP90 (Layout and Design of Development).
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And that:

3. Given the continued injury to local amenity, it is considered expedient that an Enforcement Notice is issued requiring removal of the tank within 3 months of the date the notice comes into effect.

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**BACKGROUND PAPERS:**

ESS/60/13/BTE Application File

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**LOCAL MEMBER NOTIFICATION:**

BRAINTREE – Witham Northern

## APPENDIX 1

AGENDA ITEM .....

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Committee                      DEVELOPMENT & REGULATION

Date                              28 February 2014

### MINERALS AND WASTE DEVELOPMENT

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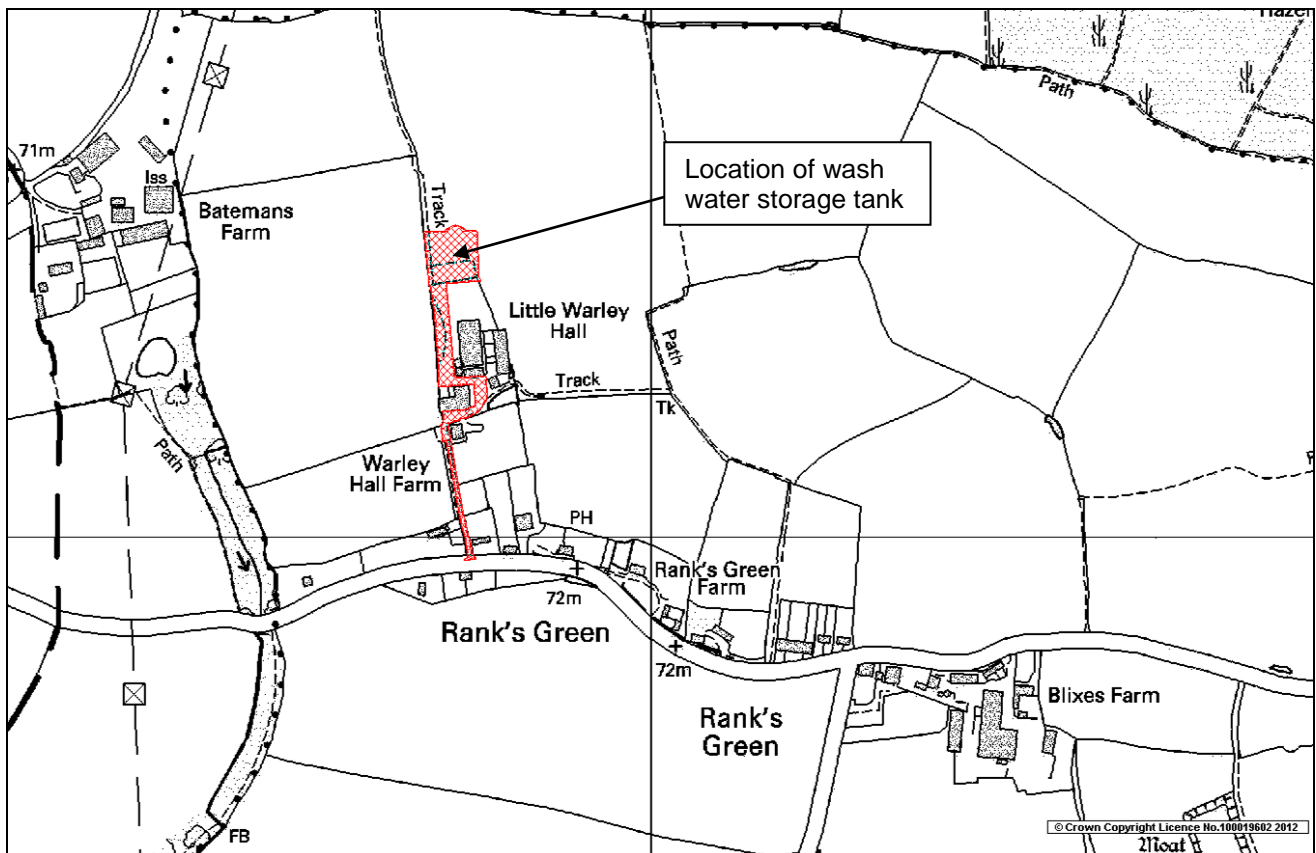
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## **1. SITE & BACKGROUND**

The application site is located in Rank's Green, circa 2km north-west of Fairsted, in a largely rural area (in terms of development and majority land use). Accessed from a lane off Mill Lane, the application site is situated at the northern end of the farmyard with arable fields to the north, east and west of the site.

Residential properties line the Lane from which the Farm is accessed. The closest residential property is approximately 150m south of the development (tank). The development site is not located directly within a sensitive area, as directed by the Town and Country Planning (Environmental Impact Assessment) Regulation 2011, however there are a number of Local Wildlife designations within the locality (within 2km).

This application is retrospective or an application seeking planning permission for development already carried out (Section 73A of the Town and Country Planning Act 1990). The application was previously submitted to Braintree District Council in August 2013 however during the course of determination it was decided that this application represented a County Matter application. The applicant therefore withdrew the application originally submitted to Braintree District Council (September 2013) and re-submitted it to Essex County Council (November 2013).

As background to the application and local concern, the Environment Agency between 20 December 2012 and 10 August 2013 received 47 reports relating to odour, dust and noise on their incident hotline. These reports mainly related to odour thought to be coming from a liquid waste storage tank at Little Warley Hall Farm (the tank subject of this application). The Environment Agency subsequently as such produced a report into the reported odours around Ranks Green with the aim being to assess the impact the site, regulated by the Environment Agency, has on the local community. The findings of the report are further discussed in this report.

## **2. PROPOSAL**

This application proposes the construction (retention) of a circular concrete storage tank, with an internal radius of 11.855m, to store abattoir wash water. The tank which stands 3m above ground and 1m being below ground would (4m deep in total), if filled to capacity (3.5m), would hold approximately 1,545,500 litres (339,962 gallons) of liquid.

The tank is a circular segmental structure comprising a number of identical concrete sections mechanically fixed together on a concrete base. The concrete surface is of a smooth finish and is light grey in colour. An area of crushed rubble hardsurfacing surrounds the tank and a shipping container, painted dark green is situated immediately to the west of the tank. This container is used by the applicant, in association with the tank, to store the deodorising equipment and the solution sprayed from this. The deodorising process is entirely automated and activates only when wind direction dictates this is required/necessary.

The applicant's wider business includes an abattoir at Blixes Farm, circa 500m

east of Little Warley Hall Farm. The waste service provider to that business: Albany Waste Services Ltd holds an Environmental Permit which allows the secure storage of specific wastes including untreated wash waters and sludges from washing and cleaning from abattoirs, poultry preparation plants, rendering plants or fish preparation plants only. The permit allows the storage of a maximum of 3000 tonnes (672,000 gallons) of such waste for a period of no longer than 12 months. The application details replicate the details of this with the applicant stating as part of the application that no more than 3000 tonnes of material (672,000 gallons) of waste would be stored on site in any year and that the material would not be stored for longer than 12 months.

Wash water, irrespective of the tank, is spread on the fields surrounding Rank's Green, by the applicant. This activity is permitted as part of the Environmental Permit issued by the Environment Agency by way of an approved deployment plan. This activity itself does not require express planning permission. The applicant has stated that using wash water reduces the need for the use of manufactured fertilizer, as wash water acts as a soil improver/nutrient. This activity (the spreading of the wash water), in its own right is therefore exempt from consideration as part of this application. The proposal is the installation of the tank for the storage of the wash water on site. The process of the spreading is not a consideration of this application. In respect of the tank, it is proposed that wash water would be delivered from Blixes Farm via tankers carrying 2600 gallons of water. It has been suggested that no more than twelve vehicle movements (six in and six out) would result from this activity per week.

### 3. POLICY CONSIDERATIONS

The following policies of the Essex and Southend Waste Local Plan 2001 (WLP) and Braintree District Council Local Development Framework Core Strategy 2011 (BCS) and Braintree District Local Plan Review 2005 (BLP) provide the development framework for this application. The following policies are of relevance to this application:

<u>Policy</u>	<u>WLP</u>	<u>BCS</u>	<u>BLP</u>
Sustainable Development, National Waste Hierarchy & Proximity Principle	W3A		
Highways	W4C		
Difficult and Special Wastes	W5A		
Alternative Sites	W8B		
Alternative Sites	W8C		
Planning Conditions and Obligations	W10A		
Material Considerations: Policy Compliance and Effects of the Development	W10E		
The Countryside		CS5	
Natural Environment and Biodiversity		CS8	
Industrial and Environmental Standards			RLP36
Development Likely to Give Rise to Pollution, or the Risk of Pollution			RLP62
Waste Reprocessing Facilities			RLP75
Landscape Features and Habitats			RLP80



The National Planning Policy Framework (Framework) was published on 27 March 2012 and sets out the Government's planning policies for England and how these are expected to be applied. The Framework highlights that the purpose of the planning system is to contribute to the achievement of sustainable development. It goes on to state that there are three dimensions to sustainable development: economic, social and environmental. The Framework places a presumption in favour of sustainable development. However, Paragraph 11 states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

For decision-taking the Framework states that this means; approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.

In respect of the above, Paragraph 215 of the Framework, which it is considered is applicable to the WLP, BCS and BLP, states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). Consideration of this, as such, will therefore be made throughout the appraisal section of this report.

With regard to updates/replacements or additions to the above, the Waste Development Document: Preferred Approach 2011 (now known as the Replacement Waste Local Plan (RWLP)) should be given little weight having not been 'published' for the purposes of the Framework. The Framework states (Annex 1 Paragraph 216):

From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given), and;
- The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The RWLP has yet to reach 'submission stage' and as such it is too early in the development of the RWLP for it to hold any significant weight in decision making.

Braintree District Council has produced a Site Allocations and Development Management Plan which together with the BCS will allocate development sites and protect other areas in the District from development over the next fifteen years. A public engagement on the Pre-Submission draft of this Plan is scheduled to take place from between 17 February – 28 March 2014 with submission to the Planning Inspectorate anticipated in mid-2014. As a draft of this Plan has not formally been published/submitted to the Inspectorate it is considered that only little weight can be applied, especially as objections may be currently outstanding from consultation.

With regard to waste policy and guidance, the Framework does not contain specific waste policies, since national waste planning policy will be published as part of the National Waste Management Plan for England. The Waste Management Plan for England and an update to the national waste planning policy: Planning for sustainable waste management have both been published for consultation by the Department for Environment Food & Rural Affairs and the Department for Communities and Local Government, respectively. The principles of these documents can therefore be considered in determination of this application however, until formal adoption Waste Planning Policy Statement (PPS 10) remains the most up-to-date adopted source of Government guidance for determining waste applications.

#### **4. CONSULTATIONS**

**BRAINTREE DISTRICT COUNCIL** – Concerns are raised in view of previous complaints received from local residents and the Parish Council when this application was originally proposed to be determined by Braintree District Council. Attention is duly drawn to these letters of representation received in respect of application reference: 13/0909/FUL.

**CHELMSFORD CITY COUNCIL** – No objection in principal to the development subject to no other consultees including the Environment Agency or Environmental Health raising an objection to the proposal.

**ENVIRONMENT AGENCY** – No objection however request the imposition of a condition requiring the applicant to submit a design for the capping of the abattoir wash water storage tank within three months of planning permission being granted, with a requirement that within a further three months the cap shall be fitted, as approved. The Environment Agency consider, in justification for the imposition of this condition, that the proposed odour control measures (the de-odourising ring) would be/is inadequate.

**NATURAL ENGLAND** – No objection. It is advised that the proposal is unlikely to affect any statutorily protected sites or landscapes.

**DEPARTMENT FOR ENVIRONMENT, FOOD & RURAL AFFAIRS** – No comments received.

**FOOD STANDARDS AGENCY** – Any comments received will be reported.

NATIONAL FARMERS' UNION – No comments received.

HEALTH & SAFETY EXECUTIVE – No comments received.

ANGLIAN WATER SERVICES – No comments received.

HIGHWAY AUTHORITY – No objection to the development in principle. The proposal does not involve any new trips on the highway network, but the redistribution of existing trips already on the network.

PLACE SERVICES (Landscape) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection subject to a condition requiring the submission of a landscape plan detailing the species, sizes and planting distances of tree and hedge species proposed. It shall also specify plant protection and maintenance for a five year period.

PLACE SERVICES (Historic Buildings) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection with regard to harm to the setting of the nearby listed buildings. The site is within open countryside located in an established modern farm complex. The proposed tank has the effect of extending the development area further into the open fields, but it would be well screened from view by proposed vegetation. There are several listed buildings around the site; Tudor Cottage at the entrance drive to Little Warley Hall Farm being the closest. It is considered unlikely that this property would however be affected (visually) by the development as the tank is far to the north of the farm and there are a number of modern industrial farm buildings between it and the cottage. Other listed buildings that may have a view of or be included in views of the area, such as Batemans Farm and Ranks Green Farm are quite remote from the site and are themselves either within farms with modern farm building or have planted boundaries that would shield the site from view. Agrees with the landscape officer's recommendation for the details of the proposed landscaping to be submitted and agreed by way of condition.

THE COUNCIL'S AIR QUALITY CONSULTANT – Both the storage of the waste water and the associated spreading on agricultural land is regulated by the Environment Agency. Within the report produced by the Environment Agency, following odour complaints, it was concluded that the operator was working within the conditions of their Permit. The Environment Agency has however recommended that the storage tank is covered with either a roof or floating cover to mitigate the potential of odour issues in the future. In consideration of this it is recommended that a roof or floating cover be constructed.

TERLING AND FAIRSTEAD PARISH COUNCIL – Object to the proposal on the basis that it is considered the tank is being used for industrial waste and the application criteria and supporting documentation is disingenuous to say it is mere wash water. Industrial waste is being transported on a regular basis past the houses in Ranks Green without regard to residents' loss of amenity which is not acceptable, even in a rural location. Strongly commend that the application be refused.

LOCAL MEMBER – BRAINTREE – Witham Northern – The Parish Council has repeatedly discussed odour issues potentially relating to site. Request therefore in view of the significant local interest that the application be heard by the Development & Regulation Committee.

## 5. REPRESENTATIONS

10 addresses were directly notified of the application. The application was also advertised in the local press and on site. 13 letters of representation have been received. These relate to planning issues covering the following matters:

### Observation

Odour concerns. Have lived in the village for our entire lives and have never had to endure such odours since this started in December 2012. The smell renders gardens unusable and results in windows having to be kept closed. The odour can be smelt as far as 1500 metres from the tank.

The de-odourising equipment which has been installed is totally inadequate and in itself produces a very unpleasant odour.

The Environment Agency's odour assessment cites numerous other sources of odours. These have all been in existence for a number of years and have never caused odour nuisance as currently exhibited.

The odour report/investigation undertaken by the Environment Agency neglects to take account of the odour diaries which residents have been keeping, as requested by the Environment Agency.

The waste generated at Blixes Farm abattoir would be best treated in a filtration plant, as used at other abattoirs with the reclaimed water being used to wash vehicles and equipment. The reason the tank is not sited at the abattoir is that the odour could offend customers using the retail butchers shop.

### Comment

See appraisal.

See appraisal.

See appraisal.

It is not considered appropriate for ECC to comment on this. For ECC's assessment on potential odour impact refer to the appraisal.

This application has to be considered on its own merits. Whilst there is a link with Blixes Farm abattoir and consideration as part of this application will be given to the suitability of the site (see appraisal for comment), the abattoir is a separate entity and outside the immediate scope of consideration for this application.

The abattoir has expanded over the last few years and as such so have the vehicle movements.

Dust nuisance generated from additional vehicle movements from Farm.

The only irrigation carried out previously with the wash water was on growing crops, straight from the bowser, irrespective of land conditions.

See appraisal. Although note above comment re: particular consideration of the abattoir at Blixes Farm.

See appraisal and other comments with regard to vehicle movements and the existing permission for wash water (animal by-product) to be exported from Blixes Farm abattoir.

The deployment of the abattoir wash water is an activity not requiring express planning permission. The deployment is not materially changing the use of the land (i.e. the agricultural use is not ceasing) and no operational development is required. The deployment of the wash water, in itself, is therefore outside the scope of consideration of this application. However, this (the deployment) is regulated by the Environment Agency.

In terms of abattoirs in general, the primary function of an abattoir is the slaughter of animals. Following this process animal by-products are stored on site prior to removal. Waste effluent from the cleaning of the site is separately as abattoir wash water. Any statutory nuisance from the abattoir, itself, would be regulated by Braintree District Council's Environmental Health team. The regulation of the animal by-products Regulations is split between Essex County Council Trading Standards and the Food Standards Agency. Animal by-product consignment notes detail the transfer of animal by-products collected from the abattoir and taken to other sites for treatment or disposal. Odours originating from this movement is regulated by the Animal Health and Veterinary Laboratories Agency (DEFRA) and enforced by Essex County Council Trading Standards. The Food Standards Agency ensures that the abattoir is compliant with the animal by-product regulations which include the

	auditing of the abattoirs management.
	See appraisal for further comment.
Confirmation has been sought from the Environment Agency that the contents of the tank is actually 'wash water' however a conclusive response has not been received.	Noted.
The supporting documentation to the application suggests that it does not matter where the waste comes from. Concern is raised about the source of material entering the tank and ultimately the actual type of waste i.e. is it just abattoir wash water?	See appraisal.
Essex County Council in the Screening Opinion issued (ref: ESS/60/13/BTE/SO2) have misinterpreted the proposed number of vehicle movements. Confirmation is sought that this does not change the conclusion.	A revised Screening Opinion has been issued by Essex County Council to rectify this error (ref: ESS/60/13/BTE/SO2). The conclusion was that EIA was not required.
Slurry only has a limited value in itself as a fertiliser and in view that wash water can be spread all year round it is considered wash water would have even less of a value. This is in reality dumping an industrial waste as cheaply as possible.	See appraisal.
If a roof, as advised by the Environment Agency, is installed how would gas be dispersed?	The condition as suggested by the Environment Agency suggests the applicant is to submit a design for the cap of the tank. It is considered the design put forward would consider if and how gas could be dispersed.
The permit held by Albany Waste Services Ltd states that the deployment activity should not be harmful to human health or the quality of the environment; or cause offence to human sense. The permit is not being complied with.	Comment relates to the deployment of wash water rather than the provision of a tank to store it, as this application proposes. Concerns are nevertheless noted.
Health implications.	See appraisal.

When the wash water is deployed, if it is not ploughed immediately, a huge number of birds are attracted.

Comment relates to the deployment of wash water rather than the provision of a tank to store it, as this application proposes. Concerns are nevertheless noted.

Whilst walking the dogs on public footpaths, animal remains have been picked up by the dogs. The wash water stored at Little Warley Hall Farm contains blood and animal tissue and is therefore not as per the DEFRA definition.

See appraisal.

Within the application there are a number of errors/omissions, for example there have been no statements supplied with regard to highways, landscape impact, the impact on waterways or an independent analysis of the contents of the tank.

The application was validated in accordance with guidance note 'Guidance on information requirements and validation' issued by the Department for Communities and Local Government; the Town & Country Planning (Development Management Procedure) (England) Order 2010 (as amended); and the Growth and Infrastructure Act 2013. See appraisal for comments with regard to areas of concern.

Enforcement action should have been pursued. A Stop Notice should be issued until sufficient information has been submitted to fully assess the application.

Noted.

This is industrial waste.

The application is being determined by Essex County Council, as the WPA, as it has been deemed this is a waste related development. A waste use/development is a sui-generis use as defined within the Town & Country Planning (Use Classes) Order 1987 (as amended). Sui-generis applications are considered on their own merits and therefore the actual clarification of the wash water is considered irrelevant. This is an application for the storage of a waste product to which the applicant has put forward a use for as an agricultural product.

There are clear dangers of using

Noted. See appraisal.

abattoir wash water as a fertiliser. Wash water, as detailed in Chapters 4-6 of the European Commission Directorate – General for the Environment (sec 4.2.3.) states wash water contains high levels of potassium, nitrogen and phosphorus. These elements can cause potential water pollution problems and the wastes also have a high tendency to have a high biochemical oxygen demand which can make the waste readily degradable by soil micro-organisms.

The nearest residential properties are within 100m of the tank and it is considered that this is a clear breach of planning legislation for storage of industrial waste.	See appraisal.
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The need/justification for the abattoir wash water storage tank at Little Warley Hall Farm is questioned.	See appraisal.
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In the event that it is deemed appropriate to grant planning permission, conditions with regard to the requirement of a lid/roof to the tank; what can be stored in the tank and limits on when and from where wash water can be delivered to the site are suggested. Times and conditions with regard to deployment are also suggested.	See appraisal.
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The odour report, produced by the Environment Agency, submitted as part of the application, does not address the real problem which is the odour coming from the storage tank.	See appraisal.
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The odour has resulted in us (a local business) having to send staff home early because the smell was unbearable.	See appraisal.
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A copy of a memorandum from Braintree Environmental Services to the Planning Section, dated 27 August 2013, has been enclosed to a	See appraisal.
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neighbours' representation. This details that the Environmental Health Officer at the end of 2012 whilst investigating the site, following complaint, witnessed a strong unpleasant odour affecting the residential area of Ranks Green. It is concluded that had best practicable means been considered...then an alternative site further from residential property should have been identified as the best environmental option.

Concerns are expressed about potential expansion plans or future additional tanks.

Every planning application has to be considered as applied for and on its individual merits.

Concerns about the impact on house prices and saleability of property in the area.

Property prices in their own right are not a material planning consideration.

This development is purely financially motivated.

See appraisal.

This is a change of use application and the application in turn as such needs to also include the land to which the wash water is deployed as the spreading of waste.

See Proposal section of this report.

The size of the tank is excessive.

See appraisal.

This location is completely inappropriate for this type of development (waste use).

See appraisal.

Recommended that the planning application is held in abeyance or its withdrawal required until appropriate and sufficient supporting assessments and credible mitigation strategies have been submitted; the tank has been categorised as an industrial building; the wash water classed as an industrial waste; and that the land to which the wash water is spread is included within the red line area.

Noted.

In addition to the above, some of the representations enclosed odour diaries detailing wind directions and levels of nuisance/impact since installation of the tank in August 2012.

## 6. APPRAISAL

The main issues for consideration are:

A – Need & Site Suitability

B - Proposed Operations

C - Impact on Landscape & Amenity

D - Human Rights

In respect of Environmental Impact Assessment, a Screening Opinion (reference: ESS/60/13/BTE/SO) was issued by the WPA in December 2013, following submission of the application. The Opinion concluded that in context of the site locality; the suggested source, maximum storage capacity and use of the wash water; and the likely impacts from the storage in its self that the development would not have an impact of more than local importance and therefore, on balance, an Environment Impact Assessment (EIA) would not be required.

During the determination process of this application an error was noted in the discussion of the Screening Opinion issued (Characteristics of potential impacts) with regard to vehicle movements. A further Screening Opinion re-assessing the application and potential impacts in view of the above was issued by the WPA in February 2014. The Opinion remained that an EIA would not be/is not required.

### A NEED & SITE SUITABILITY

The applicant has stated water is a valuable commodity and re-using wash, from the nearby abattoir, is inherently sustainable as it reduces the burden on water demand. The applicant has suggested that one of the benefits of using wash water for irrigation is that it contains nutrients which reduce the amount of fertiliser required, when crops are first planted. Ploughing in the wash water prior to sowing crops is beneficial to plant growth and materially reduces the amount of manufactured fertiliser that is required to supplement crop production/growth.

The applicant blends his own animal feed, mixing maize grown on site as a component of this. Maize is a nutrient hungry crop and having a supply of wash water available to irrigate the land prior to planting it has been suggested is of benefit to the applicant in ensuring a good return of maize. Without the ability to store the wash water deployed on site, it has been detailed that soil compaction or waterlogging can occur if the weather or soil conditions, when deployed is scheduled, are not appropriate. The tank would allow deployment to occur when conditions are right on the farm and weather conditions favourable (wind direction included) rather than being controlled by the availability of wash water from the abattoir. The applicant has stated that should deployment be programmed and occur when conditions are not necessarily good, compaction and/or waterlogging can occur and this could result in the loss of the holding's Single Farm Payment which is essential in terms of viability. Whilst in such a circumstance it would be easy for the neutral to argue deployment should be delayed, in context of factors outside the applicant's immediate control (availability of wash water), and the need for irrigation this may not be possible. The applicant therefore considers the provision of the storage tank provides flexibility for the holding whilst furthermore

allowing the potential amenity effects of the spreading to be minimised.

Whilst not necessarily a material consideration of this proposal, as explained within the Proposal section of this report, it is nevertheless considered worthwhile to note the operations at Blixes Farm (the abattoir where the wash water would be sourced from). Enquires have been made by the WPA however, understandably, the applicant's agent is unaware of the total amount of wash water produced at Blixes Farm. This it has been suggested is dependent on the throughput of animals at the abattoir. This is a separate issue which would have been considered when the abattoir was originally approved however, importantly it must be remembered that the wash water is a by-product of the abattoir. Without the storage tank, the wash water is still going to have to be transported from the site whether this is to land from deployment or to a storage or secondary processing facility. The provision of the tank on its own is not explicitly generating additional vehicle movements from Blixes Farm and the abattoir.

WLP policy W3A identifies the need for proposals to have regard to the following principles:

- consistency with the goals and principles of sustainable development;
- whether the proposal represents the best practicable environmental option for the particular waste stream and at that location;
- whether the proposal would conflict with other options further up the waste hierarchy;
- conformity with the proximity principle.

Planning Policy Statement 10 (PPS 10) (Planning for Sustainable Waste Management) encourages waste to be managed as per the principles set out in the waste hierarchy. The waste hierarchy promotes, in this order; prevention of waste; re-use of waste; recycling of waste and then any other recovery. It states that the disposal of waste is the least desirable solution and only suitable when none of the above is appropriate. Whilst there has been some discussion as to if this development represents a waste development, when viewed in isolation (i.e. the abattoir separate from the deployment of the wash water) it is clear that the wash water is a waste (by-product) produced at the abattoir. Irrespective that the wash water has a secondary 'use' it is disposed of from the abattoir as a waste product (i.e. of no benefit to the operation of an abattoir). The WPA is unaware as to if there is a market for wash water (i.e. a market willing to pay for it) or if it is just disposed of for cost. This is nevertheless, in this case, considered irrelevant because of the tangible link (same ownership) between Little Warley Hall Farm and the abattoir at Blixes Farm. The proposal, in pure land use terms, is the provision of a tank to store waste (abattoir wash water). It is therefore considered the main consideration of the application is if this site is actually suitable for such a development and/or if the provision/facility would cause undue impact on the locality rendering it unsustainable. In relation to this, and WLP policy W3A, as the proposal is in essence facilitating the re-use of a waste product it is considered that the proposal in principle does comply with the objectives of PPS 10 and WLP policy W3A. That being said it should be noted that the tank in itself does not offer specifically support this as the re-use is in effect the actual spreading. The benefits of a holding supply, as suggested by the applicant, detailed above are

nevertheless noted in this regard.

WLP policies W8B and W8C and the locational criteria within Appendix E of PPS 10 detail a list of criterion to which, if met, such (waste management) development would be supported at. WLP policies W8B and W8C both identify types of location other than those in Schedule 1 of the WLP at which waste management facilities would be permitted. WLP policy W8B is generally targeted towards facilities with a capacity over 25,000 tonnes per annum and suggests that areas suitable for such development include employment areas (existing or allocated) or existing waste management sites where the proposed facility would not be detrimental to the amenity of any nearby residential area. WLP policy W8C which is directed towards sites with a capacity below 25,000 tonnes per annum suggests that such development would also be acceptable in more urban locations where they serve the local community, subject to the protection of residential amenity, and in rural locations where they would be located within existing buildings not requiring significant adaption, not prejudice the openness or character of the locality and not, in the case of farm buildings or hardstandings, result in the re-placement of buildings purely for operational reasons/requirements.

BLP policy RLP75 furthermore, with regard to waste reprocessing facilities, states that development proposals involving waste recovery (such as recycling, waste transfer stations and composting) will be permitted in employment policy areas, subject to: i) there being no unacceptable adverse impact on adjoining uses by reasons of noise, smell, dust or other airborne pollutants and ii) there being no adverse impact on the surrounding road network in terms of road safety or capacity.

In respect of the above policy stance, specifically looking at land use, the site (and surrounding area) is un-allocated white land in the Proposals Map (2011) accompanying the BCS. Ranks Green is considered stereotypical of a small rural village with sporadic housing lining the country Lane through the village. The proposed annual throughput of wash water to be stored on site is 3000 tonnes (672,000 gallons). With regard to facilities within a capacity below 25,000 tonnes per annum, WLP policy W8C details that rural locations may be appropriate providing they are located within existing buildings and do not prejudice the openness or character of the locality. Whilst this facility does not make use of an existing building or structure, it is considered that the tank in appearance is general akin to that expected and accepted on an agricultural holding. A further discussion with regard to the impact the development would have on landscape and amenity is nevertheless considered later in this report.

## **B PROPOSED OPERATIONS**

The supporting text to WLP policy W5C acknowledges that much of the 250 million tonnes of agricultural waste produced in the UK per annum<sup>1</sup> is dealt with by the industry itself mostly by spreading the material on agricultural land as a soil improver. In this regard, WLP policy W5A states that proposals for facilities to reduce the quantity of and to manage difficult and special wastes, using appropriate technologies, will be judged on their merits, against the criteria and

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<sup>1</sup> Accurate at the time of publication of the WLP (2001)

policies stated in the development plan, and having regard to alternative provision with the eastern or south east regions. Wash water is considered a special waste, in the meaning of WLP policy W5A, as facilities for handling and storing this type of waste are quite specialised and reliant on a particular source (i.e. an abattoir in close proximity). Research, undertaken by Essex County Council, into water usage in meat processing has suggested that slaughter and evisceration processes account for almost half the estimated 1,000 litres of water used per carcass. The remaining water usage for a typical plant is principally for cleaning and plant operation, irrespective of throughput<sup>2</sup>.

Wash water or 'dirty water' is defined by DEFRA within the publication Nitrate Vulnerable Zones Fact Sheet 1: Slurry and Dirty (Version 2.1, May 2011) as lightly-contaminated runoff from lightly-fouled concrete yards or from dairy/parlour that is collected separately from slurry. Dirty water is not referred to in the Nitrate Pollution Prevention Regulations 2008. Under these Regulations an organic manure means any nitrogen fertiliser derived from animal, plant or human sources, including livestock manure. Slurry and dirty water fall within this category. Both slurry and dirty water have a high readily available nitrogen content, so the rules for organic manure on storage and the closed periods should apply. However, compared with slurry, dirty water has a low total nitrogen content that limits its impact on nitrate leaching. Taking this into account, DEFRA and the Environment Agency have agreed to exclude dirty water from the need for long-term storage. This means it can be applied to land during the closed periods – provided it is managed and spread safely, so that it does not enter surface water.

The wash water proposed to be stored in the tank is the residue liquid from the wash down process at Blixes Farm abattoir. After animals are killed in the slaughterhouse the floor is initially cleaned manually with mop and shovel with the product collected stored in a Category 1 waste bin for disposal. The floors are then hosed down with pressure washers with water draining to a channel covered by a via 4-6mm grate. The water which is collected in this channel is 'wash water' as described by this application. The water contains blood, small traces of flesh and faeces but only of a size small enough to pass through the drain grate (i.e. less than 4mm in size). The channel of wash water leads to a tank where it is stored before being loading by vacuum into a tanker for onward transportation. Should planning permission be granted, the applicant is willing to accept a condition restricting the contents of the tank to that described with the application details, paraphrased above.

In terms of process, wash water would be delivered to the site from Blixes Farm via tankers carrying 2600 gallons of water. It has been suggested that no more than twelve vehicle movements would result from this activity per week (six in and six out). The applicant is willing to accept a condition as such and a condition restricting deliveries from just Blixes Farm however is unable to provide a more detailed assessment/breakdown of vehicle movements as the tank would not always be full. In practice, it is anticipated, that wash water would be deployed twice a year (after the main crop is taken off the land in July/August and after the

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<sup>2</sup> Planning for Sustainable Use of Water in Abattoirs, Guenter Hauber-Davison, Water Group Australia  
<http://www.watergroup.com.au/store/system/articles/products/127/OpinionFeature%20HauberDavisonWater%20Abattoirs.pdf>

maize crop in October). On the basis of a maximum of twelve weekly vehicle movements it would not be possible to fill the tank to capacity between July and October and conversely from October the tank could in theory be filled in approximately five and a half months (mid-March). This would in effect mean there would be a period (three and a half months), once the tank is full, when there would be no deliveries to the tank. This is however dependant on the amount and availability of wash water from the abattoir.

With regard to the above, as previously outlined, the use/spreading of wash water on this site is an existing practice. The vehicle movements therefore associated already occur and would continue to do so, even without the provision of the storage tank. This is important to consider as the tank in its own right is not explicitly generating additional vehicle movements from Blixes Farm. If the wash water was stored and spread directly from the abattoir then yes, these movements are additional, however there is no such provision at the abattoir and currently the wash water is transported by approved contractor.

In relation to this WLP policy W4C states access for waste management sites will normally be by a short length of existing road to the main highway network. Exceptionally, proposals for new access direct to the main highway network may be accepted where no opportunity existing for using a suitable existing access or junction, and where it can be constructed in accordance with the Council's highway standards. Where access to the main highway network is not feasible, access onto another road before gaining access onto the network may be accepted if, in the opinion of the WPA having regard to the scale of development, the capacity of the road is adequate and there would be no undue impact on road safety or the environment. The Highway Authority has not raised an objection to the proposal because it would not involve any new trips on the highway network, but the redistribution of existing trips already on the network. No concerns have been raised about the junction with Little Warley Hall Farm and as the wash water would likely be delivered, although this has not formally been expressed, by tractor with a tanker trailer it is further considered that there is likely to be a change in character of vehicles visiting the farm. Subject to appropriate site management in respect of the haul road, in context of the limited amount of vehicle movements per week, it is therefore considered the application complies with WLP policy W4C.

As outlined above, the Highway Authority has not requested any conditions be imposed, should planning permission be granted. The suitability of condition restricting the number of vehicle movements, to that detailed within the application, is considered further in this report.

## **C IMPACT ON LANDSCAPE AND AMENITY**

The Framework at Paragraph 122 details that local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.

WLP policy W10E details a list of criterion to which satisfactory provision must be

made, within the proposal, to demonstrate that no significant impacts are likely to result from implementation. Included in this list of criterion is the effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants; the effect of the development on the landscape and the countryside; and the impact of road traffic generated by the development. The locational criteria of Annex E of PPS 10 furthermore details a list of considerations and potential adverse impacts waste related developments can have including, as detailed in WLP policy W10E, visual intrusion; traffic and access; air emissions; odours; vermin and birds; noise and vibration; and potential land use conflict.

Looking initially at the design of the storage tank and the potential impact on the landscape, BCS policy CS5 details that development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. Furthermore, in relation to landscape and agricultural, BCS policy CS8 states that development should protect the best and most versatile agricultural land. Development must have regard to the character of the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape.

BLP policy RLP90 states that a high standard of layout and design in all developments will be expected. Planning permission will only be granted where the following criteria are met (only criteria related to this proposal have been detailed): the scale, density, height and massing of buildings reflect or enhance local distinctiveness; there shall be no undue or unacceptable impact on the amenity of any nearby residential properties; designs shall recognise and reflect local distinctiveness, and be sensitive to the need to conserve local features of architectural, historic and landscape importance; the layout, height, mass and overall elevational design of buildings and development shall be in harmony with the character and appearance of the surrounding area, including their form, scale and impact on the skyline in the locality; and landscape design shall promote and enhance local biodiversity.

The design of the storage tank, as considered by Braintree District Council, is utilitarian. The development itself does not have a positive impact on the landscape setting. That being said, the development being characteristic of an agriculturally related provision does not conversely significantly detract from the landscape setting and is not out of keeping with the surrounding area. Located to the north of the farm holding, the storage tank would be visible from areas to the north, east and west and from the public footpath network around the adjoining fields. These views would however be screened by the proposed landscaping around the tank and hardstanding. In respect of this, the Council's landscape consultant has raised no objection to the proposal, in principle, recommending a condition requiring the submission of a landscape plan detailing the species, sizes and planting distances of tree and hedge species proposed. This condition has been suggested to ensure that the necessary planting for screening establishes and is effective. Natural England has, for reference, raised no objection to the development detailing that the proposal is unlikely to affect any statutorily

protected sites or landscapes.

BLP policy RLP80 inter-alia details that development which would not successfully integrate into the local landscape will not be permitted. As expressed above, this development whilst of no real design quality is considered characteristic for a farm. No objection from any statutory consultee has been raised about the landscape impact of the tank and it noted that similarly no such concern has been expressed by the public. The development area whilst extending the working farm area further to the north is considered appropriate to the locality and with the screening proposed, secured by restrictive condition should planning permission be granted, it is considered would fully integrate the development in the existing landscape setting, rendering the actual provision of a tank in this location compliant with BCS policies CS5 and CS8 and BLP policies RLP80 and RLP90.

With respect to the above it is noted that there are several listed buildings within close proximity of the site and Little Warley Hall Farm. Ranks Green Lane (16) is furthermore in part a Protected Lane of Grade II Listing. The Framework inter-alia details at Paragraph 132 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Leading on from this, at Paragraph 133, it is detailed that where a proposal will lead to substantial harm, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that, when considered, outweigh the harm caused.

BLP policy RLP87 states that the Council will seek to conserve the traditional landscape and nature conservation character of roads designed as Protected Lanes, including their associated verges, banks and ditches. Any proposals that would adversely affect the physical appearance of these Lanes, or give rise to a material increase in the amount of traffic using them will not be permitted. The Council's historic building consultant notes that Tudor Cottage, at the entrance drive to Little Warley Hall Farm, is the closest listed building to the development. It is however considered unlikely that this property would be affected (visually) as the tank is at the far north of the farm site and there are a number of modern industrial farm buildings between it and the cottage. In context of the site, as existing, and the other nearby listed buildings whilst it is noted that there may be some views of the development it is not considered the tank would harm the setting of any of listed buildings at a level to be contrary to the Framework and/or BLP policy RLP87. Support is nevertheless shown to the requirement for a detailed landscape scheme, as recommended by the Council's landscape consultant, to ensure the effective management of the proposed screening.

A number of letters of representation received raised concern about damage being caused to Ranks Green Lane. As previously detailed in relation to vehicle movements (Proposed Operations) it is not considered that this application would explicitly result in additional vehicle movements on the Protected Lane. Wash water has to leave Blixes Farm and this transportation by the fact that Blixes Farm is also located on Ranks Green Lane has to, by default, travel on it. The types of vehicle using the Lane, necessary to transport the material, are large vehicles



however are considered akin to that utilised on a regularly basis by normal farming activities and as such it is not considered that the proposal in itself would give rise to a material increase in traffic generation and subsequent damage to verges, banks and/or road ditches. In this regard it is considered that the proposal would not unduly impact the Protected Lane designation or affect the setting of the nearby listed buildings at a level to be contrary to BLP policy RLP87 and RLP90 (criteria in respect of the local distinctiveness).

Turning now to amenity impacts, the vast majority of public representation received raised concern with regard to odour. BLP policy RLP36 details that planning permission will not be granted for new development, extensions and changes of use, which would have an unacceptable impact on the surrounding area, as a result of noise; smells; dust; grit or other pollution; health and safety; visual impact; traffic generation; contamination to air, land or water; impact on nature conservation interests; and/or unacceptable light pollution. BLP policy RLP62 goes on to detail that planning permission will not be granted for development including changes of use which will, or could potentially, give rise to polluting emissions to land, air and water, or harm nearby residents including noise, smell, fumes, vibration or other similar consequences, unless: i) adequate preventative measures have been taken to ensure that any discharges or emissions, including those which require the consent of statutory agencies, will not cause harm to land use, including the effect on health and the natural environment; and ii) adequate preventative measures have been taken to ensure that there is not an unacceptable risk of uncontrolled discharges or emission occurring, which could cause harm to land use, including the effects on health and the natural environment.

In support of the planning application the applicant has submitted a report produced by the Environment Agency into reported odours around Ranks Green. As detailed in the report, the aim of the investigation was to assess the impact the sites regulated by the Environment Agency were having on the local community in an attempt to establish if the activities were creating unacceptable levels of odour. As detailed in one of the comment boxes to a representation received, the report separates the potential sources of odour from the abattoir itself, the transfer of the wash water to Little Warley Hall Farm, the storage at Little Warley Hall Farm and the deployment on to the surrounding fields. The assessment is made in context of other nearby sources of potential odour including manure heaps, silage storage tanks and Bateman's (poultry) Farm off Mill Lane.

Odour monitoring was undertaken by the Environment Agency between 10 June and 2 August 2013. Of which between 15 July and 2 August 2013 daily monitoring occurred. Set monitoring points were established around the site at points which were considered to represent high, medium and low sensitivity areas. Each site (six locations were chosen) was monitored for 10 minutes with the findings being recorded on a specific monitoring report sheet, used by the Agency in such circumstances. During the monitoring a range of weather conditions were experienced and of particular note so was a range of wind directions. Below is a table detailing the summary of the Environment Agency's investigation at the monitoring locations:

Location	Summary of Findings
Road Bridge – south-west of the storage tank and in a westerly direction of Blixes Farm abattoir.	Intermittent odour detected on 7 of the 29 occasions. Officers were unable to confirm any odour on 23 occasions. It is possible that 1 of the 6 confirmed odours was associated with the storage tank at Little Warley Hall Farm.
Little Warley Hall Farm – north of the storage tank and to the north-west of Blixes Farm abattoir.	Constant odour was detected on 6 out of 31 occasions and an intermittent odour was detected on 6 out of 31 occasions. Officers were unable to substantiate any odour on 19 occasions. It is possible that 7 of the 12 confirmed odours were associated with the storage tank at Little Warley Hall Farm.
Ranks Green – south-east of the storage tank and to the north-west of Blixes Farm abattoir.	Intermittent odour was detected on 4 out of 31 occasions. Officers were unable to confirm any sources of odour on 27 occasions. It is likely that none of the 4 confirmed odours were associated with the storage tank.
Footpath – south-east of the storage tank and to the north-west of Blixes Farm abattoir.	Constant odour detected on 1 out of 31 occasions. An intermittent odour was detected on 4 occasions. Officers were unable to substantiate any odour on 26 occasions. It is likely that 1 of the 5 confirmed odours was associated with the storage tank.
Footpath – south-east of the storage tank and to the north-west of Blixes Farm abattoir.	Intermittent odour was detected on 11 out of 29 occasions. Officers were unable to substantiate any sources of odour on 18 occasions. It is possible that 1 of the 11 confirmed odours was associated with the storage tank at Little Warley Hall Farm.
Ranks Green road junction – south-east of the storage tank and in a westerly direction of Blixes Farm abattoir.	Intermittent odour was detected on 6 out of 30 occasions. Officers were unable to substantiate any odour on 24 occasions. It is likely that none of the confirmed odours at this monitoring point were associated with the storage tank. The odours on these occasions were identified as likely being from Blixes Farm.

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With regard to the nuisance/odour diaries kept by local residents, the Environment Agency notes that on 7 occasions nuisance was recorded when land spreading (deployment) of the wash water was being undertaken. However, on 5 occasions no nuisance or incident report was recorded by residents when spreading was taking place. This it is considered by the Agency demonstrates that odours from the spreading does not always reach the Ranks Green area. From the analysis of the nuisance diaries, seen by the Environment Agency, it has been found that 58% of concern/incidents noted took place during time when the wash water was being spread on the land; and 41% of incidents recorded were at time when wash water was being transferred from Blixes Farm to Little Warley Hall Farm. Concentrating on the storage of the wash water, and the provision of a tank (the development to which this application relates), the Environment Agency note that from the monitoring points outside the farm the Officers were able to substantiate several odours which could have originated from the abattoir wash water storage tank. The Environment Agency have however inspected the tank and determined the tank is compliant with 'How to comply with your land spreading permit'.

A deodoriser was installed around the tank in March 2013 and this is being used as a suppressant when the wind is in a specific direction. Residents of Ranks Green have voiced concerns regarding the airborne deodoriser but we (the Environment Agency) have looked at the data sheeting and these state that the "the ingredients did not indicate any toxicological cause for concern in terms of hazard and risk, to either human users or consumers or to animals that may come into contact with the products".

The overall conclusion of the report was that whilst odour was detected on several occasions it was at a level that would be expected of a storage tank and the operator is taking the measures we would expect to minimise them. The storage of abattoir wash water is by its nature an odours one and therefore it would not be expected to be odour free at all times. In respect of this, and as detailed in the formal consultation response received from the Environment Agency, the Agency recommend a condition be attached, should planning permission be granted, requiring the tank to be capped, details of which would to be approved in writing by the Waste Planning Authority in conjunction with the Agency.

The Framework at Paragraph 109, a position/consideration replicated in many of the policies in the WLP and BLP referred to previously in the section, that the planning system should contribute to and enhance the natural and local environment by: (bullet point 4) preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. In consideration of this application – which is the provision of a storage tank for wash water – it is considered that the findings of the Environment Agency's report are useful in determining the actual impact the provision and storage of the wash water is/would have on the locality. The Environment Agency are the regulatory authority for the storage and deployment of the wash water and have already, as detailed previously, issued a Permit/Licence to cover the activities.

The Officer supporting report to Braintree District Council's formal consultation response, in relation to odour, notes that the site is in the countryside where it is not unusual to experience odours as a result of agricultural activity. However, it is considered in this report that this application relates to waste disposal and is not directly related to agricultural. Policies RLP36 and RLP62 of BLP, detailed previously in this report, seek to ensure that new development does not give rise to unacceptable environmental impacts as a result of, amongst other things, visual impact, traffic generation, noise and smells. The Council (Braintree District Council) is aware of issues regarding odour nuisance, however Braintree District Council Environmental Health does not consider they have sufficient evidence to support an objection on the grounds of odour nuisance.

In context of Paragraph 122 of the Framework; that the Council's air quality consultant has not raised an objection in principle to the development, although they have supported the motion for a condition requiring the tank to be covered (as suggested by the Environment Agency); and the above position of Braintree District Council Environmental Health it is considered that whilst odour is a concern the impact is likely to be significant enough, alone, to warrant refusal. In respect of this, and the notable local concern, it is nevertheless considered appropriate to consider if conditions could be imposed to limit potential nuisance and appease some of the local negativity. In this respect it must nevertheless be remembered that any condition imposed as detailed in Circular 11/95: Use of conditions in planning permission (the six tests for conditions) must be relevant to planning and relevant to the development to be permitted and in this regard any conditions imposed cannot solely relate to the deployment of the wash water. The conditions would need to relate to the tank and the activities associated with the use of that provision as a storage facility for abattoir wash water.

Initially with regard to covering the tank, a condition recommended by the Environment Agency and the Council's air quality consultant, the applicant has indicated that they would be willing to accept a condition as such. As it is considered would further seek to prevent odour nuisance and limit the actual exposure of the wash water to the atmosphere (during storage). With regard to other potential conditions, some of which have been recommended in public consultation responses received, it is considered that conditions could be applied limiting the use of the tank to just wash water as described in the application details and the total number of vehicle movements (deliveries) to the tank per week. The imposition of such conditions it is considered would seek to offer some certainty on the permitted storage and intensity of use.

With regard to the source of waste (wash water), whilst there is considered a tangible link between Blixes Farm abattoir and Little Warley Hall Farm, the benefits of the tank, as outlined by the applicant, remain irrespective of where the wash water is physically sourced from. It is considered that in land use terms, the site and proposal to a certain degree only comply with relevant policy because of the close proximity to the abattoir. However, the imposition of a condition specifically restricting waste sourced from Blixes Farm abattoir it is considered would be ultra-vires and not relevant to planning or the development to be permitted.

The provision of a storage tank for abattoir wash water it is considered does offer the applicant additional flexibility in context of the land spreading/deployment which is undertaken of the material for agricultural purposes. It is nevertheless also a fact that wash water by its very nature is odorous and as such can have negative impacts on the locality. Guided by technical experts on the matter it is nevertheless not considered, in this instance, that the level of nuisance or impact from the tank would be of a level to warrant refusal of the development. In context of this conclusion and with appropriate conditions attached, should planning permission be granted, it is considered that the development would demonstrate general compliance with WLP policy W10E and BLP policies RLP36 and RLP62.

## **D HUMAN RIGHTS**

Article 8 of the European Convention on Human Rights (as incorporated by Human Rights Act 1998), provides that everyone is entitled to respect for his private and family life, his home and correspondence.

Article 1 of Protocol 1 of the European Convention on Human Rights provides that everyone is entitled to peaceful enjoyment of his possessions.

In light of the absence of considered significant impacts in terms of noise, odour, dust, lighting, traffic or other amenities, it is considered there is no interference with either Article 8 or Article 1 of Protocol 1. Even if there were such interference, Officers are of the view that the interference would be of such a level as to be clearly justified and proportionate in the public interest.

## **7. CONCLUSION**

At the heart of the Framework is a presumption in favour of sustainable development. At paragraph 6 of the Framework it is detailed that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental. In an economic role planning should be contributing to building a strong, responsive economy, by ensuring that sufficient land of the right type is available in the right places and the right time to support growth and innovation. In a social role planning should be supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating high quality built environment, with accessible local services that reflect the community's needs and support is health, social and cultural well-being. In an environmental role planning should be contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.

In relation to the three dimensions of planning it is considered that there are clear benefits, to this development, within the economic and environmental roles. The development would support the farming activities at Little Warley Hall Farm and in an environment role minimise waste in that the wash water (a waste/by-product of the abattoir) is being utilised for agricultural benefit. Questions have been raised

as to the merits and rationale of the proposal and process (deployment of abattoir wash water for agricultural reasons) however the WPA in view that expert statutory consultees have not expressed similar concerns, in-deed a Permit/License already exists for the deployment, consider that there is an accepted agricultural use and benefit to the spreading. In light of the Localism Act 2011 and empowering local communities, particular in respect of the social role of planning, the concern and objection raised with regard to odour is of note. That being said it is not considered that sufficient evidence exists to demonstrate that any potential undue impact to the social role would outweigh the above benefits within the economic and environmental roles. This opinion is furthermore supported by the fact that no objection, in principle, to the provision of a storage tank has been raised by any statutory consultee.

It is therefore considered, subject to the imposition of certain restrictive planning conditions, that this proposal does represent sustainable development and as such complies with WLP policies W3A, W4C, W5A, W8B, W8C and W10E; BCS policies CS5 and CS8; and BLP policies RLP36, RLP62, RLP75, RLP80, RLP87 and RLP90.

## **8. RECOMMENDATION**

That planning permission be granted subject to the following conditions:

1. COM3 – Compliance with Submitted Details
2. DET2 – Design Detail (Variant)  
Within three months of the date of this permission, design details for the capping of the storage tank shall be submitted to and approved in writing by the Waste Planning Authority. The submitted detailed include scale drawings together with an indicative guide of function during operation (delivery of wash water). The cap shall be implemented in accordance with the approved details within three months of the date of the design details being approved.
3. HIGH4 – Prevention of Mud and Debris on Highway
4. HIGH5 – Vehicle Movement Limits (Variant)  
The total number of vehicle movements associated with the delivery of wash water to the storage tank, hereby permitted, shall not exceed 12 movements (6 in and 6 out) per calendar week.
5. LAND1 – Landscape Scheme
6. LAND2 – Replacement Landscaping
7. WAST1 – Waste Type Restriction (Wash water as described within the application details)

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### **BACKGROUND PAPERS:**

ESS/60/13/BTE Application File

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### **THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010:**

The proposed development is not located within the vicinity of a Special Area of Conservation (SAC) or Special Protection Area (SPA) and is not directly connected with or necessary to the management of those sites. Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of

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Habitats and Species Regulations 2010 is not required.

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**EQUALITIES IMPACT ASSESSMENT:** This report only concerns the determination of an application for planning permission. It does however take into account any equality implications. The recommendation has been made after consideration of the application and supporting documents, the development plan, government policy and guidance, representations and all other material planning considerations as detailed in the body of the report.

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**STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER:** In determining this planning application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been taken positively and proactively in accordance with the requirement in the National Planning Policy Framework, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012.

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**LOCAL MEMBER NOTIFICATION:**

BRAINTREE – Witham Northern

**ADDENDUM FOR THE MEETING OF DEVELOPMENT & REGULATION  
COMMITTEE 28<sup>th</sup> February 2014**

**Item 5a (DR/03/14) Little Warley Hall Farm, Ranks Green**

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**REPRESENTATIONS**

Since publication of the Committee Report an updated representation from a member of the public has been received. The following planning issues were raised:

Observation

Questions the use of the wash water on standing crops, especially as a condition of the deployment license is that it must be ploughed within 24 hours.

Comment

See appraisal (page 26-27 of the Committee agenda).

The local community are accepting that if planning permission is refused deployment may continue. The main problem with the storage tank is odour, which is emitted all the time. If the

Noted.

wash water was spread direct from the abattoir this nuisance would not occur.

The development is not typical of an arable farm. An arable farm would have no need for a storage tank for abattoir wash water, neither the vehicles associated. Vehicle movements are higher than stated in any case.

See appraisal, particularly Section B – Proposed Operations.

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#### SECTION A – NEED & SITE SUITABILITY

1<sup>st</sup> paragraph, first line insert the word 'water' for sentence to read '...and re-using wash water, from the nearby abattoir...'.

#### Page 26

#### SECTION B – PROPOSED OPERATIONS

3<sup>rd</sup> paragraph, sixth line delete the word 'via' to read '...to a channel covered by a 4-6mm grate.'

#### Page 29

#### SECTION C – IMPACT ON LANDSCAPE AND AMENITY

1<sup>st</sup> full paragraph, fifth line insert the word 'is' for sentence to read '...impact of the tank and it is noted that similarly no such concern...'.

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#### SECTION C – IMPACT ON LANDSCAPE AND AMENITY

2<sup>nd</sup> paragraph, sixth line insert the word 'not' for sentence to read '...the impact is not likely to be significant enough, alone, to warrant refusal.'

4<sup>th</sup> paragraph, final sentence replace 'ultra-virus' with 'ultra-vires'.