

DR/34/13

Committee DEVELOPMENT & REGULATION

Date 23 August 2013

## MINERALS AND WASTE

Proposal: **The importation of 50,000m<sup>3</sup> of inert material suitable to correct the differential settlement and reprofile the site and a revised restoration scheme with afteruse to energy crops and conservation grassland.**

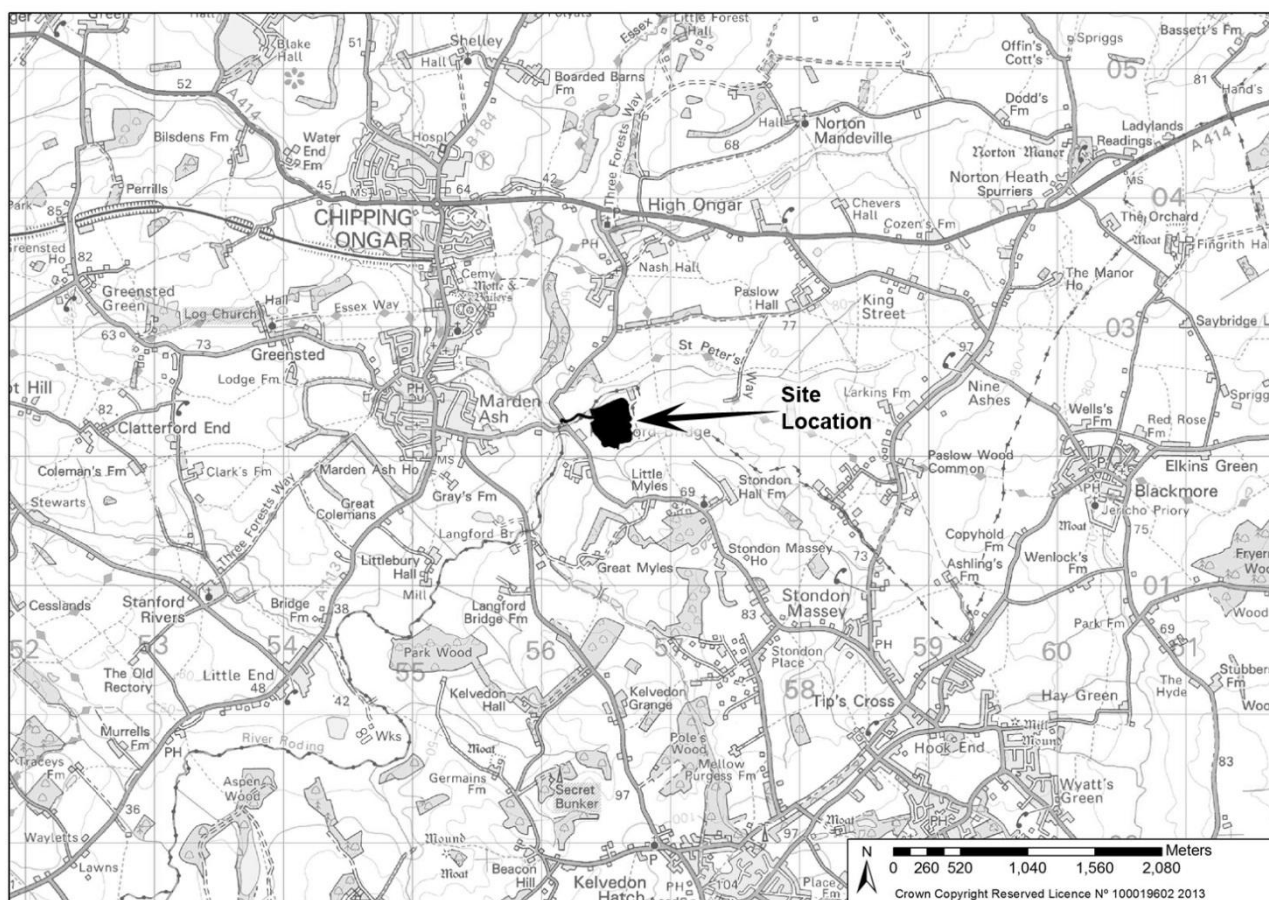
Location: **Ongar Landfill, Mill Lane, High Ongar, Essex, CM5 9RG.**

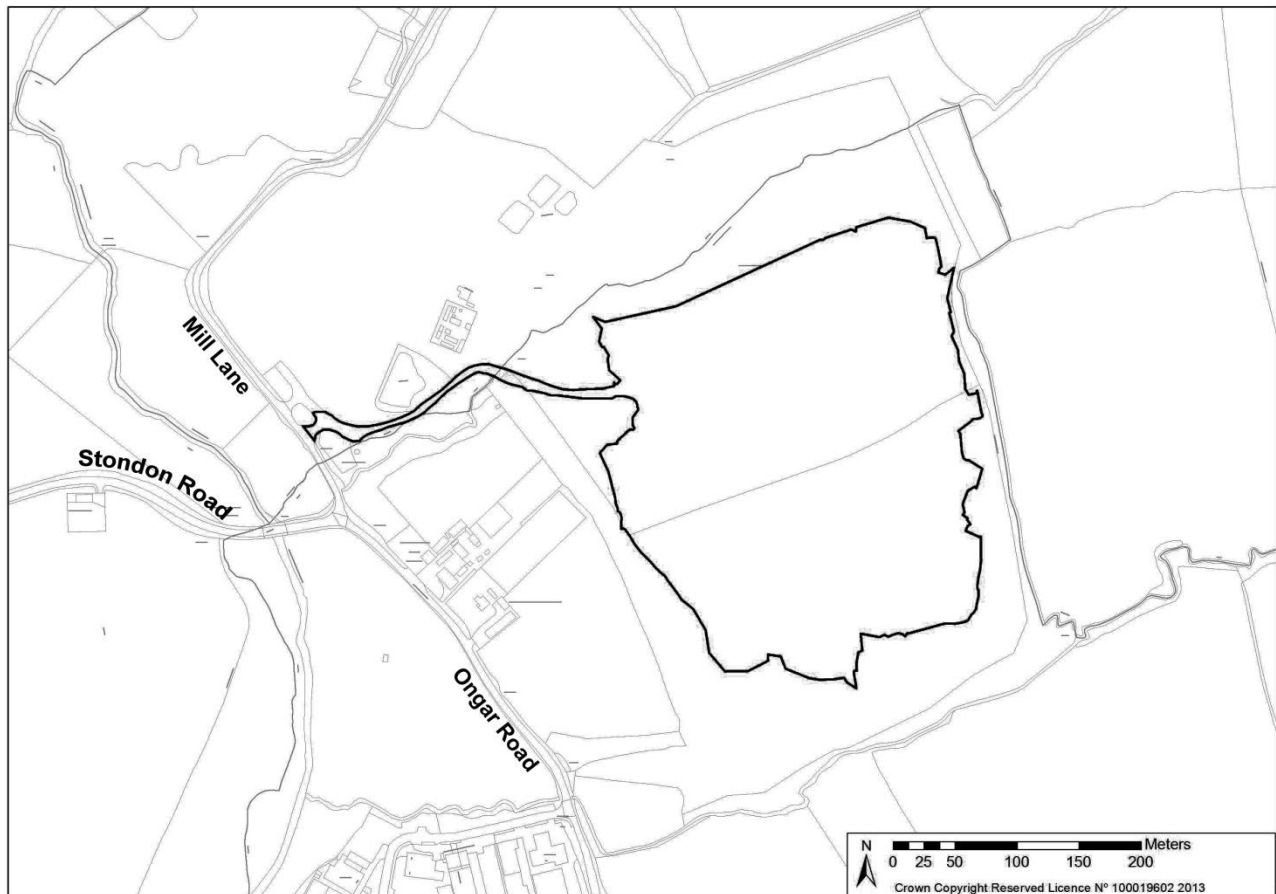
Ref: **ESS/11/13/EPF**

Applicant: **FCC Environmental**

Report by Head of Planning, Environment and Economic Growth

Enquiries to: Glenn Shaw Tel: 01245 437117





## 1. BACKGROUND

The site at Ongar was formerly both active mineral site extracting clay and a processing area making blocks.

Planning permission BRW/123/86 was granted in 1986 for the continuation of existing clay working, extension of working area and landfill restoration of the whole site.

In 2003 a gas engine was installed for the generation of electricity and the management of the gas emissions. This is still on site and exports power to the grid.

The landfill was completed and the site was restored in 2004.

In August 2009 the Development and Regulation Committee was advised that 45,000m<sup>3</sup> of soil was to be imported to correct differential settlement to maintain the integrity of the cap at Ongar Landfill Site until 30 November 2009. This was to be undertaken under the original planning permission extant at that time.

However, due to the lack of available restoration materials in the area and inclement weather conditions, only around 7000m<sup>3</sup> was imported so the development was not completed by 30 November 2009, when the permission

expired. Since that date no more material has been imported or work undertaken to correct the differential settlement.

## **2. SITE**

The site is approximately 1km to the east of Marden Ash Village 2km to the south east of Chipping Ongar. High Ongar is approximately 2km to the north east. Hallsford Business Centre is 600 metres to the south west. The properties of Hallsford House and ABC Nursery & Pre-school border the site's south-western boundary.

The site which is the subject of this application is located on the southern side of the site and is the former clay extraction area and is approximately 9.4ha.

To the north is the restored 'Leca' site which the former block making area and was restored to a country park for the benefit of the local population. This park is not affected by this development.

Footpath 41 High Ongar lies to the north of the site and is unaffected by this application

Access to the site is via Mill Lane and Stondon Road. The access and haul road from the original workings remain on site.

The site is surrounded by mature trees and hedgerows at the lower level.

The site is within Green Belt. The site access is within the area of Epping Forest District Local Plan (1998) and alterations (2006) and the main site, where the material to be used for the correction of the differential settlement is proposed to be used, is within the area of Brentwood Adopted Replacement Local Plan adopted August 2005.

## **3. PROPOSAL**

This proposal seeks to import 50,000m<sup>3</sup> of inert material (soils) over a two year period.

The importation of material is proposed to take place from April to September which would allow the works to be undertaken during the drier months of the year. No importation would take place outside these months.

The importation would allow re-profiling of the site. This would correct the differential settlement levelling depressions which are evident on site.

Once the re-profiling has been completed, the site would be re-vegetated with Miscanthus (Elephant Grass - an energy crop) and conservation grassland and a wild flower seeding.

The proposed maximum vehicle movements are 200 HGV movements per day

(100 in & 100 out) Monday to Friday and 100 HGV movements per day (50 in & 50 out) on Saturdays. This is discussed further in the report.

Access to the site would be from the existing Mill Lane entrance via the Stondon Road and A128 and A113.

It is proposed to install temporary staff facilities, weighbridge and a wheel cleaning facility during the life of the development.

The proposed hours of operation would be:

07:00 to 18:00 Monday to Friday

07:00 to 13:00 on Saturdays, with no working on Sundays and Public Holidays

#### 4. **POLICIES**

The following policies of the Essex and Southend Waste Local Plan adopted 2001 Minerals Local Plan (MLP) adopted March 1997, Epping Forest District Local Plan (1998) and alterations (2006) (EFDLP) and Brentwood Adopted Replacement Local Plan adopted August 2005 (BARLP) provide the development plan framework for this application. The Essex Replacement Minerals Local Plan (RMLP) is now at Pre-Submission Draft stage and is a material consideration. The following policies are of relevance to this application:

Policy	EFDLP	BARLP	WLP	MLP	RMLP
Green Belt Boundary	GB1				
Development In The Green Belt	GB2A				
Rural Landscape	LL1				
Inappropriate Rural Development	LL2				
General Development Criteria		CP1			
Development Criteria		GB2			
Landscape Improvements		C12			
Landraising			W9B		
Restoration			W10C		
Development Control Criteria			W10E		
Hours of Operations			W10F		

Public Rights of Way			W10G		
Restoration				MLP8	
Restoration and After-use					RMLP12

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.

The EFDLP and BARLP were adopted post 2004, however the grace period offered to such plans (in applying full weight to policies) in accordance with Paragraph 214 of the Framework passed 12 months after adoption of the Framework. As such it is now considered that The EFDLP and BARLP together with the MLP and WLP (both adopted pre 2004 and/or not under the Planning and Compulsory Purchase Act 2004) fall within the remit of consideration according to Paragraph 215. Paragraph 215 of the Framework 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). The level of consistency of the policies contained within the EFDLP and BARLP and WLP and MLP, referred to above, is considered further in this report, as appropriate, and also shown in Appendix 1.

With regard to the above ECC submitted the Replacement Minerals Local Plan – Pre-Submission Draft (January 2013) (RMLP) to the Secretary of State on 12th July 2013.

The RMLP, since it has been submitted, is considered to have some weight in the determining of planning applications. Paragraph 216 specifically states, in relation to this, that 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 the Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

## **5. CONSULTATIONS**

EPHING FOREST DISTRICT COUNCIL – objects on the following grounds:

- Raising of the Land conflicts the purposes of the Green Belt;
- Site is now closed and restored and further importation is unacceptable in principle;
- Impacts on habitats and protected species;
- Traffic movements;
- Contamination.

BRENTWOOD BOROUGH COUNCIL – No objection.

ENVIRONMENT AGENCY – No objection, however recommends a stability risk assessment is carried out.

NATURAL ENGLAND - No comments received.

PLACE SERVICES (Landscape) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection.

PLACE SERVICES (Ecology) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection subject to a protected species survey being submitted prior to commencement of development.

PLACE SERVICES (Trees) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection.

HIGHWAY AUTHORITY – No objection, subject to wheel washing and visibility splays conditions.

HIGHWAY AUTHORITY (Public Rights of Way) – No comments received.

COUNTY COUNCIL'S NOISE CONSULTANT - Any comments received will be reported.

STONDON MASSEY PARISH COUNCIL objects on the following grounds:

- Who will be counting the vehicles;
- Quality of material to be imported;
- Justification for 5000 lorry loads;
- Why 'Miscanthus' is being grown.

ONGAR TOWN COUNCIL – has concerns about traffic movement through Ongar

High Street.

HIGH ONGAR TOWN COUNCIL. Concerns about:

- Vehicle movements through Chipping Ongar
- Hours of operation requesting Saturday working to commence at 08:00

LOCAL MEMBER - BRENTWOOD – Brentwood Rural - Any comments received will be reported.

LOCAL MEMBER - EPPING FOREST – Ongar and Rural - Any comments received will be reported.

6.

## 7. REPRESENTATIONS

11 properties were directly notified of the application. Four letters of representation have been received. These relate to planning issues covering the following matters:

<u>Observation</u>	<u>Comment</u>
Noise & Dust	See appraisal
Highways Impact	See appraisal
Footpaths Impact	See appraisal
Water run off	See appraisal
Ecology	See appraisal
Visual Impact	See appraisal
Not being consulted.	The respondee lives outside the 250m notification radius as derived from the adopted Statement of Community Involvement
Regulation of Waste	See appraisal

## 8. APPRAISAL

The key issues for consideration are:

- A. Need
- B. Green Belt
- C. Landscape and visual Impact
- D. Noise, dust & odour
- E. Traffic & Highways

- F. Hours of Operation
- G. Ecology
- H. Footpaths
- I. Restoration

## A NEED

Planning permission BRW/123/86 was granted in 1986 for the restoration and agricultural aftercare of the Ongar Landfill and Leca works site.

The landfill site which is the subject of this application was infilled using imported domestic, commercial and industrial waste and capped and completed in December 2004. In 2006 one small scheme was carried out to correct differential settlement.

In 2008 the previous site operators undertook survey work complete with visual inspections which identified that large areas of the site were suffering from severe differential settlement. In some of the areas of the site it was identified the integrity of the cap had been compromised. Furthermore the undulating effect of the differential settlement was likely to affect the extraction of the landfill gas from the site due to the snaking effect of the pipe work.

As a result of differential settlement over the site, reparation works were considered necessary. For differential settlement to be resolved, it is usual for the operator to import additional 'soils' to fill and even out undulations in the land. This proposal involves the importation of 50,000m<sup>3</sup> of inert soil. Therefore, in order to carry out the works, the site would need to be 'reopened' for a temporary period of 2 years.

The issue of whether the need to import this amount of material to correct differential settlement needs to be considered. Epping Forest District Council has objected to the proposal as it is considered that the former landfill is closed and restored and do not consider the amount to be imported is necessary as settlement would continue and further importation of material is unacceptable in principle.

As already stated, in 2009 a limited amount of material approximately 7,000m<sup>3</sup> was imported which corrected the areas where the integrity of the cap had been compromised but owing to a lack of suitable material and the adverse weather conditions, time ran out for the operation to be completed under planning permission BRW/123/86.

Although the compromised areas of the cap were successfully corrected in 2009, the correction of the differential settlement over the remainder of the site still needs to be completed as there is an increased risk that water could compromise the low-permeability cap that seals the landfill. The cap is essential in protecting the local environment and prevents the escape of pollutants. With increased surface water ponding, there is a greater chance of breaches of the cap which if left may allow the ingress of water and oxygen which in turn would increase the amount of leachate and the potential for odour and fire risk through the escape of



the landfill gas.

This application is for the importation of 50,000m<sup>3</sup> over a 2 year period. This would correct the differential settlement and allow the site to be re-profiled to the permitted contours. This would allow the surface water to shed off the site and provide an additional protection to the cap through additional soil cover.

The site was originally capped and restored with restoration soils to the full 1m depth. A full survey of the site was undertaken and it was calculated that an area of approximately 5ha (50,000m<sup>3</sup>) needs remediation, which at an average depth of 1m, requires 50,000m<sup>3</sup> of soil. If this is added to the limited amount of material already on site it would give sufficient material to carry out the required works to a satisfactory quality and minimise the need to return in the future. The application site is 9.4ha with 4.4ha for the deposit of soils and working area.

The site is in agricultural aftercare and the differential settlement has hindered agricultural operations due to the undulations of the ground form. This in some areas has allowed invasive weeds to colonise the site which has now become unsightly.

The NPPF supports positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including making it easier for jobs to be created. The NPPF also supports economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

WLP policy W9B states inter-alia that: *Landfill or landraising, for its own sake, without being necessary for restoration, will not be permitted. Landfill outside the boundaries of the preferred sites will not be permitted unless it can be demonstrated that satisfactory restoration cannot otherwise be achieved. Landfill will not be permitted when at a scale beyond that which is essential for restoration of the site is of relevance to this application.*

MLP Policy MLP 8 states inter-alia that: *planning permission will not normally be given for the working of mineral unless the land is capable of being restored within a reasonable time and to a condition such as to make possible an appropriate and beneficial afteruse.*

RMLP policy S12 states inter-alia that: *Proposals for minerals development will be permitted provided that it can be demonstrated that the land is acceptable of being restored at the earliest opportunity to an acceptable environmental condition and beneficial after-uses, with positive benefits to the environment, biodiversity and /or local communities.*

It is considered that there is a justifiable need to re-open the site for a temporary period of 2 years albeit for a 6 month period so that the development can be undertaken in the driest part of the year. It is considered that the correction of the differential settlement to provide good surface profile is essential in order to maintain effective environmental control of the gas system and effective surface water run off and if the differential settlement is not corrected, there could be the

potential for damage to the cap. Furthermore the quantity of material proposed to be imported and deposited is considered to be the minimum required to effectively correct the differential settlement to enable restoration to a beneficial afteruse.

The need for this scheme is considered an appropriate means by which the differential settlement can be corrected and the site can be restored to a beneficial afteruse. In this respect the proposal would comply with the requirements of W9B landfill or landraising and MLP 8 Restoration and RMLP policy S12 Restoration and After-use.

The Environment Agency (EA) has been consulted on the proposed development and does not object to the quantities proposed or the technical assumptions made subject to a stability risk assessments being carried out. Should planning permission be granted a suitable condition could be applied.

While the principle of the development would seem to be in accordance with local plan policies and the NPPF, it is necessary to consider the environmental impacts of the proposals as set out below.

## **B GREEN BELT**

The site is located within the Metropolitan Green Belt of both Brentwood Borough Council (that has not objected to the proposal) and Epping Forest District Council (that has objected to the proposal as the impact and scale of the development would be harmful to the openness of the Green Belt).

The Government, as highlighted in the NPPF, attaches great importance to Green Belts and highlights openness and permanence as being essential characteristics of Green Belts.

At the heart of the NPPF is a presumption in favour of sustainable development. For decision-taking this means where the development plan is absent, silent or relevant policies are out-of-date such as the EFDLP, granting permission unless any adverse impacts would outweigh the benefits, when assessed against the policies within the NPPF taken as a whole or specific policies in the NPPF which indicate that the development should be restricted.

The NPPF states Green Belt serves 5 purposes of Green Belt, namely:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The NPPF highlights that certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are, inter-alia, mineral extraction and engineering operations.

EPDLP POLICY GB2A (Development In The Green Belt) states that:

*Planning permission will not be granted for the use of land or the construction of new buildings or the change of use or extension of existing buildings in the Green Belt unless it is appropriate in that it is:*

- (i) for the purposes of agriculture, horticulture, or forestry; or*
- (ii) for the purposes of outdoor participatory sport and recreation or associated essential small-scale buildings; or*
- (iii) for the purposes of a cemetery; or*
- (iv) for other uses which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in the Green Belt; or*
- (v) a dwelling for an agricultural, horticultural or forestry worker in accordance with policy*

EFDLP Policy GB2A is of great importance on protecting the Green Belt which includes preserving the openness and is for the purposes of agriculture. It is considered that this policy is broadly consistent with the NPPF.

This proposal is to re-open the restored site over a 2 year period to allow the importation of material to allow the correction of the differential settlement which would involve the use of plant and machinery during the correctional phase. This would produce a slightly higher landform than the existing "settled levels". It is considered the restored landform to agriculture would be consistent with Green Belt policy. Nonetheless, the construction period would have an impact upon the Green Belt in the short-term and would not help preserve its openness.

The development, albeit for a 2 year period and temporary in nature, is considered due to its mass and scale to be inappropriate development for the purpose of the NPPF and as stated, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### Special Circumstances.

This proposal was an active clay extraction site and was restored using imported domestic, commercial and industrial waste and capped and completed in December 2004 with restoration to agriculture and also stated above the site was granted planning permission for the installation of a gas engine to produce electricity by burning off the extracted landfill gas. The restoration, albeit

currently poor, was therefore a requisite following mineral extraction, which is not generally considered inappropriate development in the Green Belt.

In 2009 a limited amount of material approximately 7,000m<sup>3</sup> was imported which corrected the areas where the integrity of the cap had been compromised but owing to a lack of suitable material and the adverse weather, time ran out for the operation to be completed under planning permission BRW/123/86.

The applicant has provided information in support of the application which shows that an area of approximately 5ha is suffering from differential settlement. This is creating hollows and depressions and if left could allow water to accumulate which could affect the integrity of the cap. The applicant has stated that if this was allowed to happen this may affect the extraction of the landfill gas.

The applicant has stated that it would be necessary to import 50,000m<sup>3</sup> of inert material to correct the differential settlement and re-profiling of the site which would not raise the restoration levels above those previously permitted. This would allow the land to be brought into a beneficial afteruse for agriculture to grow Miscanthus and on the lower levels a grass and wildflower sward. It is considered this would enhance the area by improving the shape of the landform within the landscape.

It is further acknowledged that this was a former clay extraction which was restored and this proposal is considered to represent both the restoration of a former mineral site through engineering profiles with inert waste to correct the differential settlement. This adds weight to the justification of the development in the Green Belt.

This site is an existing feature in the landscape and the proposed development would not have a significant impact on the openness of the Green Belt, by reason of its scale, nature and location.

The proposal is for a temporary period of 2 years only over Spring/Summer months, for correction of the differential settlement which if left could cause harm to the locality in the form of pollutants being released in the atmosphere. It is considered that only limited harm would arise during the construction period; However the final landform and afteruse would be appropriate development within the Green Belt. Taking into account the need for the development and that the longer-term use is appropriate development in the Green Belt, it is considered that there are very special circumstances which would clearly outweigh the potential harm to the Green Belt from the temporary operations and would preserve the openness of the Green Belt in the longer-term. The development therefore complies with EFDLP policy GB2A and the NPPF.

## C LANDSCAPE AND VISUAL IMPACT

EFDLP policy LL2- Inappropriate rural development states inter-alia that:

*The Council will not grant planning permission for development in the countryside unless it is satisfied that the proposal will:*

- (i) respect the character of the landscape; and/or*
- (ii) enhance the appearance of the landscape; and*
- (iii) where appropriate, involve the management of part or all of the remainder of the site to enhance its contribution to the landscape.*

BARLP policy CP1 General Development Criteria states inter-alia that:

*any development will need to satisfy all of the following:*

- i) the proposal would not have an unacceptable detrimental impact on visual amenity, or the character and appearance of the surrounding area.*
- ii) the proposal would not have an unacceptable detrimental impact on the general amenities of nearby occupiers or the occupiers of the proposed development by way of overlooking, lack of privacy, overbearing effect or general disturbance.*

It is considered that these policies are broadly consistent with the NPPF.

The site is visible from the properties to the east of Marden Ash some 500m away and the properties on the eastern side of Chipping Ongar approximately 800m away and properties in High Ongar approximately 700 m away to the north. The ABC Nursery and Pre-school and Hallsford House adjoin the site's southern boundary.

One letter of representation has been received regarding the visual impact of the site.

There are established hedges and trees which surround the site's lower levels. This limits the views into the site. The top of the site is covered with self-set weeds and grass and the pipe work associated with the gas and leachate system. The proposal would remove the weeds and grass whilst correctional works take place.

It is accepted that the proposal would impact on the visual amenity whilst the importation and levelling phase takes place due to the height of the land form and plant and machinery to be used. This would be visible when viewed from the north and the west and from the nursery and pre-school and Hallsford House to the south. However, the applicant has stated that the works would be carried out in a phased manner which it is considered would minimise the visual impact.

As such, whilst it is considered that this proposal would have an impact on the visual amenity of the area for the proposed 2 year development period, the gain achieved by the longer-term successful final restoration of the site, would outweigh the relatively short term visual impact. This impact is not considered unacceptable given the longer-term benefits the correction of the settlement would provide.

Once the correctional works have been completed the main part of the site would be planted with Miscanthus and the lower areas with a wild flower mix. It is further

proposed that existing pipe work would be buried so that they would no longer be visible.

Brentwood Borough Council, Epping Forest District Council, the parish and town councils of Stondon Massey, High Ongar Town Council and Ongar Town Council and the Place Services Landscape and Trees have not objected to the proposal on the grounds of visual impact.

It is considered that once the works have been completed the local area would be enhanced by the growing of Miscanthus and the planting of the wildflower mix and is in accordance with EFDLP policy LL2 and BARLP policy CP1.

## D ENVIRONMENTAL PROTECTION

BARLP policy CP1 General Development Criteria states inter-alia that:

*Any development will need to satisfy all of the following:*

*vii) the proposal would not have an unacceptable detrimental impact on health, the environment or amenity due to the release of pollutants to land, water or air (including noise, fumes, vibration, smells, smoke, ash, dust and grit).*

It is considered that this policy is broadly consistent with the NPPF.

### Noise

In terms of policy the NPPF states a maximum of 55dB(A)<sub>L<sub>Aeq</sub></sub>, 1h (free field), mineral planning authorities should aim to establish a noise limit at the noise-sensitive property that does not exceed the background level by more than 10dB(A). It is recognised, however, that in many circumstances it will be difficult to not exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator. In such cases, the limit set should be as near that level as practicable during normal working hours (0700-1900) and should not exceed 55dB(A) <sub>L<sub>Aeq</sub></sub>, 1h (free field).

WLP policy W10E Development Control in summary states:

*The effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants.*

Two letters of representation have been received regarding noise. The nearest properties are the nursery and pre-school and Hallsford House located on the sites southern boundary. The applicant has not submitted a noise survey. However, all machinery would be to manufacturer's specification regarding noise and the applicant has stated that the phasing of the operations would start on the western side and move in an easterly direction away from any areas of habitation. Furthermore the site would only be operating for approximately 6 months of the year and during the drier time of the year.

As already stated there is established planting around the lower part of the site which would help mitigate any noise produced.

As already stated the site was opened to allow the importation of material in 2009 but due the adverse weather conditions and lack of material, the correction of the differential settlement was not completed. However, whilst the works were being undertaken no noise complaints were received by the Waste Planning Authority.

Subject to noise limit and monitoring conditions being imposed, it is considered that this proposal would comply with BARLP policy CP1, the NPPF and WLP policy W10E with regard to noise.

#### Dust, Odour & Contaminated Soils

Letters of representation have been received regarding dust. The nearest property to the site is the ABC Nursery and Pre -school which adjoins the site southern boundary. The applicant has stated that the inert material by its nature is normally in a damp condition and a water bowser would be on site to dampen the access road and haul roads. Furthermore the applicant has stated that soils would be placed as close to the area as possible. This would negate the necessity for unwanted soil movement.

One letter of representation has been received regarding chemicals in the imported soils and odour. The applicant has responded by stating that this proposal would not be importing contaminated soils and it is not usual for inert soils to produce odour.

Brentwood Borough Council, Epping Forest District Council, the Parish and Town Councils of Stondon Massey, High Ongar Town Council and Ongar Town Council and the Place Services Landscape and Trees have not objected to the proposal on noise, dust and odour issues.

The Environment Agency has not objected to this proposal.

It is considered that this proposal would be in compliance with BARLP policy CP1, WLP policy W10E and the NPPF with regard to dust, odour and contamination issues,

#### **E HIGHWAYS & ACCESS**

The applicant has submitted a Transport Assessment which sets out traffic movement and impacts on the local road network resulting from this proposal.

Access to the site would be via Mill Lane and the Stondon Road onto A128 and A113 which is approximately 750 metres to the south. The applicant has proposed that the HGVs carrying soil would only use this route.

It is proposed that there would be a maximum of 200 HGV movements per day (100 in and 100 out) Monday to Friday and 100 (50 in and 50 out) per day movements on Saturday mornings. However it is not anticipated that the site

would operate at the maximum proposed and actual lorry movements may be less than the maximum proposed.

Epping Forest District Council and Ongar Town Council have raised concerns that HGVs would come through Ongar Town High Street. The applicant has responded that all HGVs carrying the inert material would come from the south and avoid Ongar Town. However, the applicant has also stated that HGVs carrying plant and machinery would require access through Ongar Town, but it is anticipated that this would be very limited and singular movements only.

Letters of representation have been received regarding the suitability of the local road network.

Stondon Massey Parish Council and High Ongar Town Council have objected on highway grounds as the roads through their respective areas are not suitable for HGV traffic. Mill lane which connects High Ongar Town to the Stondon Road has a weight restriction of 7.5 tonnes and the roads going through Stondon Massey are country roads. The applicant has stated that HGVs accessing the site would only use the route as described above which would avoid both Stondon Massey and High Ongar.

Stondon Massey Parish Council has raised the question for the justification for 5000 vehicle movements. The traffic assessment considered that 6100 HGV would be required to complete the proposal. The applicant has stated that the anticipated volume of material required is 50,000m<sup>3</sup> and has further stated that depending on the consistency of the material being imported and using a conversion rate of 2.2 tonnes per cubic metre, this would equate to approximately 100,000 to 110,000 tonnes.

It is acknowledged that if the maximum 200 movements per day limit were reached, the development could be completed in a much shorter timescale, however the operator has requested sufficient flexibility in this respect.

It has been stated earlier that a weighbridge would be installed which would weigh and record each vehicle that arrives on site. The applicant has stated that once the amount of material needed (50,000cm<sup>3</sup>) has been imported, then all importations of inert material would cease which would shorten the importation phase. Should planning permission be granted then a condition could be attached requiring the throughput information to be submitted to the County Planning Authority on a monthly basis, to ensure that no more material than is required to complete the development is imported and deposited and furthermore a restoration plan has been submitted showing the pre settlement contours.

To minimise mud on the road the applicant has stated that a wheel wash would be installed and if necessary a road sweeper would be on site.

The Highways Authority has not objected subject to conditions relating to visibility splays and wheel cleaning facilities.

Brentwood Borough Council has not objected to the proposal.



It is considered that this proposal is acceptable in highway safety and capacity terms and subject to imposition of appropriate conditions would be in compliance with WLP policies W4A and W10E

## F HOURS OF OPERATION

WLP policy W10F Hours of Operation of the Waste Local Plan states inter alia that:

*Where appropriate the WPA will impose a condition restricting hours of operation on waste management facilities having regard to local amenity and the nature of the operation.*

The proposed hours of operation are:

07:00 – 18:00 Monday to Friday

07:00 – 13:00 on Saturdays.

High Ongar Town Council has requested that work commences at 08:00 on Saturday. The applicant has responded by saying due to operational reasons and the need to complete this development the start time on Saturday needs to be at 07:00. Reducing hours of operation would only prolong the project possibly requiring a further dry season

It is considered that the hours of operation are not unacceptable and are in compliance with WLP policy W10F.

## G ECOLOGY

EFRLP POLICY LL1- (Rural landscape) states, inter-alia, that:

*The Council will continue to act to:*

*(i) conserve and enhance the character and appearance of the countryside; and*

*(ii) encourage the considerate use and enjoyment of the countryside by the public.*

*Subject to specific circumstances, particular attention will be paid to:*

*(a) the needs of agriculture, woodland planting and management, and other habitat and wildlife conservation;*

*(b) the provision of facilities for public access and informal recreation and to enable quiet enjoyment;*

*(c) the protection of historic features and their settings; and*

*(d) the achievement and conservation of visually attractive landscapes.*

It is considered that this policy is broadly consistent with the NPPF.

Epping Forest District Council has objected to the proposal as it would temporarily

impact on established habitats. Letters of representation have been received regarding the impact on the ecology. The applicant has submitted an ecological survey.

Three ponds are located approximately 95m from the north west boundary and another larger pond is present adjacent the site's access road. The ecological survey advises that reptile surveys are undertaken during the optimal surveying period (mid March – Mid June).

The development area was considered to provide sub-optimal habitat for reptiles. The restored grassland varies in its establishment across this area with large stands of goats rue which is a non-native. Grass snakes have previously been observed within the marginal habitats on site, including scrub, established grassland, tall herb and ruderal. Should planning permission be granted a condition could be applied to ensure that a reptile survey is undertaken during the optimal surveying period in 2013 (April – June, September).

No trees, buildings or structures would be directly or indirectly affected by the proposed development.

The boundary vegetation was considered to offer bat foraging habitat, however, the development is confined to the restored grassland cover of the site and therefore no constraints are posed from bat species.

An active badger sett was identified within the marginal habitats of the site. The proposed development area is approximately 80m from the badger sett and therefore outside the recommended 30m standoff distance. Although the site is likely to be used for foraging, given the variety of surrounding habitat and given the temporary nature of the development, the loss of the restored grassland is not considered to be detrimental to the local badger population.

Skylark has been observed. The removal of the vegetation would therefore be carried outside of the bird breeding season (between September – February inclusive). If this is not possible the areas would be inspected by a suitably qualified ecologist for active nests prior to clearance. A condition could be imposed to this effect should permission be granted.

Place Services (Ecology) has not objected to the development subject to the surveys stated above which, if planning permission is granted could be conditioned to be undertaken prior to commencement of the development.

The Environment Agency and Brentwood Borough Council have not objected to the proposal on ecology issues.

It is considered that subject to appropriate conditions this proposal would be in compliance with WLP policy W10E Development Control and EFRLP policy LL1- Rural landscape.

## H FOOTPATHS

WLP policy W10G states that: *Applications for waste management facilities should include measures to safeguard and where practicable to improve the rights of way network, which shall be implemented prior to any development affecting public rights of way commencing.*

A letter of representation has been received relating to the potential for the development to impact on the footpath.

Footpath 41 High Ongar runs to the north east of the site and is outside the development area and approximately 150 m from the development area at its closest point.

While there may be some visual impact and noise during the works, it is considered the long-term benefits outweigh any temporary impacts on users of the footpath, therefore it is considered that the development would not impact on this footpath and would be in accordance WLP policy W10G.

## I RESTORATION

BARLP policy C12 (Landscape Improvements) states inter – alia that:

*The council will, in conjunction with its countryside management service, seek to encourage local land owners to implement schemes to improve the environment through planting, habitat creation, improved public access, management agreements and other measures, whilst also implementing its own programme of environmental improvement schemes throughout both the urban and rural areas of the borough.*

EFDLP Policy LL1- (Rural landscape) states inter – alia that:

*The Council will continue to act to:*

- (i) conserve and enhance the character and appearance of the countryside; and*
- (ii) encourage the considerate use and enjoyment of the countryside by the public.*

It is considered that these policies are broadly consistent with the NPPF.

WLP policy W10C ( Restoration) states inter alia that:

*In considering planning applications for landfill proposals the WPA will require the proposed measures for restoring the land to an acceptable and sustainable after-use to be feasible.*

MLP Policy MLP 8 (Restoration) states inter alia that:

*Planning permission will not normally be given for the working of mineral unless the land is capable of being restored within a reasonable time and to a condition such as to make possible an appropriate and beneficial afteruse.*

RMLP policy S12 (Restoration and After-use) states inter-alia that:

*Proposals for minerals development will be permitted provided that it can be demonstrated that the land is acceptable of being restored at the earliest opportunity to an acceptable environmental condition and beneficial after-uses, with positive benefits to the environment, biodiversity and /or local communities.*

The NPPF states in Achieving Sustainable Development in an environmental role which contributes 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 and further states in Section 11. "Conserving and enhancing the natural environment", The planning system should contribute to and enhance the natural and local environment by: "minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"

Ongar Landfill site as already stated is situated mainly in an agricultural area growing a range of crop types and varieties.

To the north of the site is the Leca park site which has established woodland, ponds and grass which as already stated is not part of this proposal.

Epping Forest District Council has objected that this scheme is likely to reduce the site's habitat significance.

The site at present looks unkempt with large populations of weeds which it is considered does not fulfil the original scheme for agriculture and does not enhance the character of the local agricultural area or improve the environmental planting and habitat conservation. The two landscape policies seek to conserve and enhance the appearance of the countryside and improve the environment, supporting planting and wildlife conservation.

The restoration of the landfill as permitted by BRW/123/86 was to agriculture. This was to be in the form of a grass lay which could be grazed by livestock and taken for a conservation crop. However due to the undulations on the surface of the landfill site caused by differential settlement, agricultural operations were unable to be undertaken and the site has taken on an unkempt appearance.

It is proposed that once the re-profiling of the site has been undertaken to correct the differential settlement, Miscanthus would be grown as a bio-fuel crop. The applicant has stated that the reason to grow Miscanthus on the site rather than low level agriculture (potentially grazing and conservation) currently consented is that Miscanthus is a Biomass crop and is used as an alternative low carbon fuel in power stations, commercial or domestic heating systems. One tonne of Miscanthus is able to displace around 0.7 tons of coal.

It is considered that growing Miscanthus would allow the site to achieve a high level of aftercare during and beyond the first 5 years of aftercare following completion of the proposal.

In terms of volume and management of the Miscanthus, It is considered that Miscanthus would yield approximately 15 tonnes per hectare per annum after year 3 which approximately equates to around 150t per annum. The crop duration is

approximately 15 to 20 years.

The crop would be harvested between February and April by cutting it to ground level, leaving it in windrows to dry further and then baled. These bales would be taken off site by either tractor or trailer or lorry depending on distance the material needs to travel.

Vehicle movements would equate to:

- HGV approximately 7 movements
- Tractor and trailer approximately 10 movements.

Both of these figures are dependent on yield and would be consistent with an agricultural afteruse.

In terms of grazing and conservation, the applicant has stated that locating livestock farmers to graze the site with sheep and potentially take a conservation cut has proved difficult. Furthermore it is considered this would lead to a lower level of management of the site.

The lower levels of the site would be drilled with a grass/wild flower mix. This it is considered would add value to and enhance the biodiversity of the site and conserve and enhance appearance of the area. It would also improve the wildlife conservation and is considered an acceptable and sustainable afteruse.

Places Services (Trees, Landscape and Ecology) has not objected to this scheme.

It is considered that the restoration plan is in accordance with WLP policy W10C, MLP policy MLP8, RMLP policy S12, and EFDLP policy LL1 and BARLP policy C12 and the NPPF.

## **9. CONCLUSION**

It is considered that the applicant has demonstrated that there is a need to rectify the differential settlement at the site before the situation deteriorates further. Measures have been put in place to assist in safeguarding the visual amenity of the local area and the local transport network. It is considered that there is a defined need for the importation of soils to the site to rectify the settlement problems and long-term environmental benefits outweigh the short-term visual harm and the harm caused by the additional traffic movements.

In respect of the impact upon Green Belt it is considered that the development would not have a significant impact on the openness of the Green Belt and such an impact would only occur during the operational period. Taking into account this consideration and the need for the development there are considered to be to be very special circumstances to justify the development within the Green Belt. It is further considered the benefits of the proposal within the environmental and economic dimensions, as defined within the NPPF, outweigh any harm caused. This proposal is as such considered to represent a sustainable development, as

described within the NPPF.

Accordingly the proposal is in accordance with the NPPF and is in accordance with WLP policies, W4A, W9B, W10C, W10E, W10F, W10G and EFDLP policies GB1, GB2, LL1 and LL2 and BARLP policies CP1, GB2 and CP12 and MLP policy MLP8 and RMLP policy S12.

## **10. RECOMMENDED**

That planning permission be **granted** subject to conditions covering the following matters:

1. COM 1 Commencement
2. COM 3 Compliance with submitted details
3. CESS 2 Cessation of Development
4. Restriction on period in which inert materials may be imported on site.
5. CESS 3 Removal of ancillary equipment
6. CESS 7 Revised Restoration in Event of Suspension of Operations
7. HOUR 1 Hours of Working (General)
8. PROD 4 Monitoring Waste Data
9. HIGH 4 Prevention of Mud and Debris on Highway
10. HIGH 5 Vehicle Movement Limits
11. HIGH 11 Visibility Splays
12. NSE 1 Noise Limits
13. NSE3 Monitoring Noise Levels
14. NSE 6 Silencing of Plant and Machinery
15. VIS 1 Limiting Impact of Skips, Containers
16. DUST 1 Dust Suppression Scheme
17. DUST 3 Spraying of Haul Road
18. ECO 3 Protection of Legally Protected Species
19. ECO 4 Wildlife Protection Plan
20. ECO 7 Update of Survey before Commencement of Development
21. Wildlife Surveys
22. Soil stripping outside bird nesting season
23. LS 8 Soil Handled in a Dry and Friable Condition
24. LS 12 Topsoil and Subsoil Storage
25. RES 1 Stones to be Picked
26. RES 4 Final Landform
27. AFT1 Aftercare & Landscaping Schedule to be approved
28. WAST 1 Waste Type Restriction
29. WAST 5 No Waste Deposit Outside Defined Areas
30. WAST6 No Crushing of Stone or Hardcore
31. Stability Risk Assessment

---

## **BACKGROUND PAPERS**

Consultation replies

Representations

Ref: P/DC/Glenn Shaw ESS/11/13/EPF

---

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

The proposed development would not be located adjacent to/within screening distance to a European site.

Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required.

---

**EQUALITIES IMPACT ASSESSMENT:** The report only concerns the determination of an application for planning permission and takes into account any equalities 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.

**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 had pre-application discussions with the applicant and has worked 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 NPPF, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012.

**LOCAL MEMBER NOTIFICATION**

BRENTWOOD – Brentwood Rural.

EPPING FOREST – Ongar and Rural.

## APPENDIX 1

### Consideration of Consistency of Policies

The Essex & Southend Waste Local Plan Adopted September 2001

Policy Ref No	Policy Title	Policy Wording	Consistency with the Framework
W4C	Highway/Transport Access	<ol style="list-style-type: none"> <li>1. Access for waste management sites will normally be by a short length of existing road to the main highway network consisting of regional routes and county/urban distributors identified in the Structure Plan, via a suitable existing junction, improved if required, to the satisfaction of the highway authority.</li> <li>2. Exceptionally, proposals for new access direct to the main highway network may be accepted where no opportunity exists for using a suitable existing access or junction, and where it can be constructed in accordance with the County Council's highway standards.</li> <li>3. 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</li> </ol>	<p>Paragraph 34 of the Framework states that 'Decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised'.</p> <p>Policy W4C is in conformity with paragraph 34 in that it seeks to locate development within areas that can accommodate the level of traffic proposed. In addition the policy seeks to assess the existing road networks therefore, being in accordance with the Framework and PPS10.</p>



		<p>there would be no undue impact on road safety or the environment.</p> <p>4. Proposals for rail or water transport of waste will be encouraged, subject to compliance with other policies of this plan.</p>	
W9B		<p>Landfill, or landraising, for its own sake, without being necessary for restoration, will not be permitted. landfill outside the boundaries of the preferred sites will not be permitted unless it can be demonstrated that satisfactory restoration cannot otherwise be achieved. landfill will not be permitted when at a scale beyond that which is essential for restoration of the site.</p>	<p>PPS10 sets out the key objectives to achieve sustainable waste management including Paragraph 3 "...driving waste management up the waste hierarchy, addressing waste as a resource and looking to disposal as the last option, but one which must be catered for:..."</p> <p>Policy W9B seeks to minimise landfill and landraising to that essential to achieve restoration, thereby minimising the amount of waste going to landfilling pushing waste management up the waste hierarchy.</p>
W10C	Restoration	<p>In considering planning applications for landfill proposals the wpa will require the proposed measures for restoring the land to an acceptable and sustainable after-use to be feasible.</p>	<p>Policy W10C is in conformity with the Framework in that the policy is concerned with the protection of the environment and plays a pivotal role for the County Council in ensuring the protection and enhancement of the natural, built and historic environment. The policy therefore, is linked to the third dimension of sustainable development in the meaning of the Framework.</p>
W10E	Development Control	<p>Waste management development, including landfill, will be permitted where satisfactory provision is made in respect of the following criteria, provided the development complies</p>	<p>Policy W10E is in conformity with the Framework in that the policy is concerned with the protection of the environment and plays a pivotal role for the County Council in ensuring the protection and enhancement of</p>

		<p>with other policies of this plan:</p> <ol style="list-style-type: none"> <li>1. The effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants (the factors listed in paragraph 10.12 will be taken into account);</li> <li>2. The effect of the development on the landscape and the countryside, particularly in the AONB, the community forest and areas with special landscape designations;</li> <li>3. The impact of road traffic generated by the development on the highway network (see also policy W4C);</li> <li>4. The availability of different transport modes;</li> <li>5. The loss of land of agricultural grades 1, 2 or 3a;</li> <li>6. The effect of the development on historic and archaeological sites;</li> <li>7. The availability of adequate water supplies and the effect of the development on land drainage;</li> <li>8. The effect of the development on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations;</li> </ol>	<p>the natural, built and historic environment. The policy therefore, is linked to the third dimension of sustainable development in the meaning of the Framework.</p>
--	--	---	--

		and 9. 9. In the Metropolitan Green Belt, the effect of the development on the purposes of the Green Belt.	
W10F	Hours of operation	Where appropriate the WPA will impose a condition restricting hours of operation on waste management facilities having regard to local amenity and the nature of the operation.	<p>In addition Paragraph 123 of the Framework states that planning decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new developments, including through the use of conditions. Furthermore, paragraph 203 states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.</p> <p>It is considered that as policy W10F is concerned with the protection of amenity and seeks to impose conditions to minimise this policy W10F is in conformity with the requirements of the Framework.</p>
W10G	Footpaths	Applications for waste management facilities should include measures to safeguard and where practicable to improve the rights of way network, which shall be implemented prior to any development affecting public rights of way commencing.	<p>Paragraph 75 of the Framework states that 'Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails'.</p> <p>Policy W10G seeks the protection and enhancement of public rights of way and therefore, is in conformity with</p>

			the Framework.
--	--	--	----------------

The Essex Minerals Local Plan Adopted First Review January 1997

MLP8	Agriculture	<p>Planning permission will not normally be given for the working of minerals unless the land concerned is capable of being restored within a reasonable time to a condition such as to make possible an appropriate and beneficial after-use. Where planning permission for mineral working is given on Grade 1, 2 or 3a of the Ministry of agriculture's land classification, the land will be required to be restored within a reasonable time and as nearly as possible to its former agricultural quality. Where filling material is necessary, permission will not be given until it is shown that suitable material will be available and that the compatibility of the landfill gas and leachate monitoring and control structures and processes with the afteruse is demonstrated. Wherever possible land permitted for mineral working will be restored to agricultural use, but due regard will also be had to the need for areas for nature conservation, water-based recreation, afforestation and Leisure activities. Where permission is given,</p>	<p>Paragraph 144 of the Framework requires LPAs when determining planning application inter alia "provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards.</p> <p>Paragraph 109 of the Framework requires protection of soils.</p> <p>The Framework does not place such weight as the MLP on the need for restoration to agriculture for land that is best and most versatile, however it is recognised in paragraph 112 that the economic and other benefits of the best and most versatile land should be taken account of. In addition at Paragraph 109 it does require protection of soils. MLP8 recognises and does not preclude restoration to alternative afteruses.</p>
------	-------------	--	---

		<p>conditions will be imposed to secure:</p> <ul style="list-style-type: none"> <li>(i) progressive working and restoration;</li> <li>and</li> <li>(ii) aftercare and maintenance of the restored land for not less than 5 years, and</li> <li>(iii) a beneficial after use of the restored land including the use of areas that remain waterfilled.</li> </ul>	<p>It is therefore considered that MLP8 is largely in conformity with the Framework</p>
--	--	---	---