

DR/15/20

Report to: DEVELOPMENT & REGULATION (22 May 2020)
Proposal: MINERALS AND WASTE DEVELOPMENT Temporary Relaxation of Hours of Opening for a 12 week period at Essex Recycling Centres for Household Waste (RCHW) and Waste Transfer Stations - COVID 19 Recovery Plan
Applicant: ECC as Waste Disposal Authority
Location: Essex wide
Report author: Chief Planning Officer (County Planning and Major Development)
Enquiries to: Richard Greaves Tel: 03330 136817 The full application can be viewed at https://planning.essex.gov.uk

1. BACKGROUND

In mid-May 2020, the Waste Planning Authority (WPA) was approached by the Waste Disposal Authority (WDA) seeking a general relaxation of the need for planning permission to provide operational flexibility to temporarily extend the opening hours at select Recycling Centres for Household Waste (RCHW) and two (of five) Waste Transfer Stations in Essex to cope with a potential high demand as required, once the RCHW are re-opened as the Covid-19 lockdown is eased.

Essex County Council's Recycling Centre for Household Waste (RCHW) service has been suspended since the 24 March 2020, when all 21 of the county's operational RCHWs closed to the public. This action was taken following the Government's decision on the 23 March 2020 to introduce lockdown measures to slow the spread of the coronavirus.

In April, the Government asked councils to plan for the organised opening of household waste collection sites to allow for the disposal of waste which, if stored, would be detrimental to health or pose risk of injury. ECC intends to re-open the majority of the RCHWs on 18 May 2020. Despite the restrictions on essential use it is expected that demand for the service will be high and may exceed current user handling capacity.

The WDA has therefore prepared a Recovery Plan that details the level of RCHW service that could be provided whilst maintaining the necessary social distancing measures to ensure the safety of site staff, customers and the wider community.

2. CURRENT POSITION AND PROPOSAL

Considerable measures have been put in place by the WDA, including guidance and a communication plan for a partial reopening of the RCHW service in line with social distancing protocols.

The proposed operating model is one that maintains effective and appropriate social distancing on all re-opened sites while providing RCHW service coverage that maximise user capacity.

The rationale that has been used to identify which sites are suitable for reopening is that the site:

1. must be capable of managing at least 4 vehicles on site at any one time, whilst maintaining social distancing;
2. provides adequate queuing capacity to minimise adverse impact on the local neighbourhood from an expected increased usage and queuing;
3. meets a local need which cannot be served adequately by another site;
4. staff are not better deployed to a neighbouring larger site to provide greater service resilience, or handle more users under an increased opening hours operating model.
5. Service vehicles will be able to access sites to service waste containers and not be unnecessarily delayed.

Using this approach, it is proposed that 15 (out of 21) Essex RCHWs are remobilised and re-opened to the public from the 18th May. As a minimum these sites are expected to operate in line with current operating hours. However, there is a risk that significant demands are placed on the RCHWs and, as a contingency, the WDA is seeking flexibility to temporarily extend the opening hours of sites to better cope with additional demand.

Given the time constraints it would not be possible to deal with a number of planning applications that would normally be required to formally vary the opening hours at the sites that have permissions restricting operating hours.

TABLE 1: RCHW sites to be reopened

Site	District Location	Potential for Additional Operational Hours (Maximum) *
Braintree	Braintree	3hrs extra a day
Canvey Island	Castle Point	2hrs extra a day
Chelmsford	Chelmsford	2hrs extra a day
Chigwell	Epping Forest	None
Clacton	Tendring	3hrs extra a day
Coxtie Green	Brentwood	3hrs extra a day
Harlow	Harlow	3hrs extra a day
Maldon	Maldon	2hrs extra a day
Mountnessing	Brentwood	None
Pitsea	Basildon	3hrs extra a day
Rayleigh	Rochford	1hr extra a day
Saffron Walden	Uttlesford	1hr extra a day
Shrub End	Colchester	2hrs extra a day
S. Woodham Ferrers	Chelmsford	3hrs extra a day
Witham	Braintree	None

*The additional operating hours highlighted are subject to staff availability and operational need.

The WDA has clarified that all sites will be closely monitored once reopened, so actions could be taken to mitigate any adverse impacts and protect safety. In the first instance the additional steps taken would include public communication and the use of available extra operating hours as permitted under the current planning consents. All available measures are being explored with Essex Highways and external agencies, including Essex Police, to develop suitable approaches to minimise the off-site impacts of the RCHW service through a combination of advice and guidance or enforcement.

The request for further flexibility in RCHW opening hours is required in the scenario that, despite the adoption of the measures detailed above, service demand outstrips operational capacity leading to off-site impacts and the potential for local environmental harm or safety implications. Further, to cope with a potential increase in waste arising from the RCHWs, the WDA has also requested that the operating hours at both Cordons Farm (Braintree) and the A120 (Tendring) Waste Transfer Stations are extended temporarily.

For clarity, the WDA has approached the WPA to have the option to provide additional opening at 12 of the 15 RCHWs and two (of five) Waste Transfer Stations for a temporary 12 week period following the reopening of the sites on the 18 May 2020.

The plan is to build in additional capacity across the RCHW network and utilise it where and when required operating within the extended hours. Extended RCHW opening times will not be advertised and indeed may not be required, however, the ability to keep sites open longer, as a contingency measure, is considered necessary by the WDA, especially if the expected demand by users can be managed effectively.

A full table of the permitted and proposed opening hours is set out at Appendix 1.

The WDA has confirmed it will not be opening all of the sites for all of the additional hours requested. Operationally this isn't possible because there are not enough resources to staff all the sites for all of the hours requested. The allocation of additional hours will be based on an operational assessment of service demands and the availability of operational resources. If sites are operating with extended opening hours these will be communicated on site and via existing communication channels.

The WDA has also confirmed that the operation of the recycling centres will be closely monitored, and should any issues arise as a direct result of additional operating hours, the WDA will immediately discontinue and revert to the hours as stated in the relevant Planning Permissions/Certificates of Lawful use.

The Braintree and A120 waste transfer stations (WTS) request for additional hours is required so the WDA can co-align RCHW opening times with suitable WTS tipping points, including contractor travel times to/from the RCHWs.

Enforcement protocol: The County Council's Local Enforcement and Site Monitoring Plan sets out principles and procedures for enforcement action relating to unlawful development. Enforcement is a discretionary power as the Town and

Country Planning Act 1990 (as amended) which does not impose a general duty to ensure compliance with planning control.

The National Planning Policy Framework (The Framework) states that '*effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so*'.

In considering any enforcement action, the CPA is required to act proportionately, which involves assessing whether a breach of control would unacceptably affect public amenity or the existing use of land meriting protection in the public interest.

Furthermore, in March 2020 the Secretary of State issued a written Ministerial Statement which urged local planning authorities to apply pragmatism to the enforcement of restrictions on food and other essential deliveries at this time. It was also advised that local planning authorities should also use their discretion on the enforcement of other planning conditions which hinder the effective response to COVID-19¹.

As stated, there is insufficient time to properly consider any formal planning applications to vary the operating hours. The WDA has committed to monitor the position and also committed to manage the opening hours properly to ensure that sites do not stay open longer than necessary. Taking into account Government advice that planning authorities should be pragmatic during the Covid-19 pandemic, it is not considered expedient to take enforcement action to restrict opening hours at the RCHW for a period of 12 weeks. ECC is a responsible authority and the WDA has committed to manage the situation responsibly. As such the Waste Planning Authority should not hinder the WDA's response to the Covid-19 outbreak.

3. RECOMMENDED

That it is not considered expedient to take enforcement action preventing the RCHW and WTS sites, listed in Appendix 1, from operating extending hours until 9 August 2020.

4. LOCAL MEMBER NOTIFICATION

Countywide.

1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875045/Chief_Planners_Newsletter_-_March_2020.pdf