

Development and Regulation Committee

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| 10:30 | Friday, 26 September 2014 | Committee Room 1, County Hall, Chelmsford, Essex |
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Quorum: 3

Membership:

| | |
|--------------------------|----------|
| Councillor R Boyce | Chairman |
| Councillor J Abbott | |
| Councillor J Aldridge | |
| Councillor K Bobbin | |
| Councillor P Channer | |
| Councillor M Ellis | |
| Councillor C Guglielmi | |
| Councillor J Lodge | |
| Councillor M Mackrory | |
| Councillor Lady P Newton | |
| Councillor J Reeves | |
| Councillor S Walsh | |

For information about the meeting please ask for:

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Essex County Council

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Part 1

(During consideration of these items the meeting is likely to be open to the press and public)

| | | Pages |
|----|--|---------|
| 1 | Apologies and Substitution Notices The Committee Officer to report receipt (if any) | |
| 2 | Declarations of Interest To note any declarations of interest to be made by Members | |
| 3 | Minutes To approve the minutes of the meeting held on 22 August 2014. | 6 - 17 |
| 4 | Identification of Items Involving Public Speaking To note where members of the public are speaking on an agenda item. These items may be brought forward on the agenda. | |
| 5 | Minerals and Waste | |
| 5a | Bradwell Quarry To consider Report DR/35/14 relating to Bradwell Quarry, Church Road, Bradwell, CM77 8EP and land south of Cuthedge Lane. Reference: ESS/24/14/BTE | 18 - 54 |
| 5b | Colchester Quarry To consider Report DR/36/14 , relating to Colchester Quarry(Stanway) and Five Ways Fruit Farm, Warren Lane, Stanway,Colchester, CO3 0NN. Ref: ESS/23/14/COL. | 55 - 99 |

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| 5c | Terminus Drive, Pitsea | 100 - 177 |
| | To consider Report DR/37/14 , relating to land to the south of Terminus Drive, Pitsea Hall Lane, Pitsea, SS16 4UH. | |
| | Reference: ESS/69/12/BAS. | |
| 5d | Park Farm, Chelmsford | 178 - 240 |
| | To consider Report DR/38/14 , relating to land to the south of Park Farm, Springfield, Chelmsford. | |
| | Reference: ESS/21/12/CHL. | |
| 6 | County Council Development | |
| 6a | New Braiswick School, Colchester | 241 - 312 |
| | To consider Report DR/39/14 , relating to the construction of a school on land north of Apprentice Drive, New Braiswick Park, Colchester. | |
| | Reference: CC/COL/34/14 | |
| 7 | Information Item | |
| 7a | Applications, Enforcement and Appeals Statistics | 313 - 315 |
| | To update Members with relevant information on planning applications, appeals and enforcements, as at the end of the previous month, plus other background information as may be requested by the Committee. | |
| 8 | Committee Protocol and Public Speaking Policy | 316 - 318 |
| | To update and rationalise the Committee Protocol relating to document publication date and public speaking. (DR/41/14) | |
| 9 | Date of Next Meeting | |
| | To note that the next meeting will be held on Friday 24 October 2014 at 10.30am. | |

10 Urgent Business

To consider any matter which in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

Exempt Items

(During consideration of these items the meeting is not likely to be open to the press and public)

To consider whether the press and public should be excluded from the meeting during consideration of an agenda item on the grounds that it involves the likely disclosure of exempt information as specified in Part I of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

In each case, Members are asked to decide whether, in all the circumstances, the public interest in maintaining the exemption (and discussing the matter in private) outweighs the public interest in disclosing the information.

11 Urgent Exempt Business

To consider in private any other matter which in the opinion of the Chairman should be considered by reason of special circumstances (to be specified) as a matter of urgency.

All letters of representation referred to in the reports attached to this agenda are available for inspection. Anyone wishing to see these documents should contact the Officer identified on the front page of the report prior to the date of the meeting.

MINUTES OF A MEETING OF THE DEVELOPMENT AND REGULATION COMMITTEE HELD AT COUNTY HALL, CHELMSFORD ON 22 AUGUST 2014

Present

Cllr R Boyce (Chairman)

Cllr J Abbott

Cllr K Bobbin

Cllr P Channer

Cllr M Ellis

Cllr I Grundy

Cllr J Lodge

Cllr J Reeves

Cllr S Walsh

Cllr A Wood

The Chairman opened the meeting by welcoming Mr Graham Thomas, who has just taken over as the Head of Service: Planning & Environment.

1. Apologies and Substitution Notices

Apologies were received from Cllr J Aldridge (substituted by Cllr Grundy), Cllr M Mackrory and Cllr Lady P Newton (substituted by Cllr Wood).

2. Declarations of Interest

Cllr Seagers declared a personal interest in agenda item 5a, Brickfields Way, Rochford, as a local District Councillor, and as local Member.

Cllr Abbott pointed out that, for agenda item 6a, John Ray Infant and Junior School, Braintree, he was listed as local member however this was not geographically within his division.

3. Minutes

The Minutes and Addendum of the Committee held on 25 July 2014 were agreed and signed by the Chairman.

4. Identification of Items Involving Public Speaking

There were none identified.

5. Brickfields Way, Rochford

The Committee considered report DR/32/14 by the Director for Operations, Environment and Economy.

The Members of the Committee noted the contents of the Addendum attached to these minutes.

The Committee was reminded that this was an application seeking outline planning permission with some reserved matters. Policies relevant to the application and details of consultation and representations received were set out in the report.

The Committee noted the key issues that were:

- Need and justification
- Site suitability
- Potential impacts and reserved matters.

A number of concerns were raised by Members including:

- The proposed 24 hour operation;
- Access to the site, from Sutton Road, which is provided by a mini-roundabout and can present problems to large vehicles; and
- That there is a suggestion that the existing hedgerow would be removed, without replacement.

In response to questions raised by Members, it was noted:

- That between 18:00 and 6:00 it has been predicted that the use would result in 26 vehicle movements.
- With regard to the actual 24 hour operation, this is an existing employment area from which many other sites operate such hours. In view of the concerns raised, suggested condition 6 nevertheless attempts to give the Waste Planning Authority the ability to control and monitor the number of vehicle movements associated with the use. Following on from the discussion it was suggested that this condition could be suitably amended to ensure the operator, should planning permission be granted, be required to keep records of vehicle movements to ensure the enforceability of any such details approved.
- There are no restrictions on the direction from which vehicles will come. Routeing plans are difficult to enforce and generally go beyond that considered reasonable in context of vehicles being on the public highway.
- In this case, it is not considered that a requirement for a monetary highway contribution, in consideration of the existing site use and the proposed number of vehicle movements, could be justified. Members were also reminded that the Highway Authority are restricted by the number of financial contributions which they could seek in respect of one project.
- The road within the site would be hardsurfaced; the Environment Agency has asked for a Phase 2 contamination survey, which will almost certainly lead to this requirement. Details of which would be confirmed at the reserved matters stage.

After further discussion, the original resolution with a re-wording of condition 6 was proposed and seconded.

Following a vote of nine in favour and one against, with Cllr Seagers abstaining, it was

Resolved

That planning permission be granted subject to the following conditions:

1. No development shall take place until details of the scale, layout and appearance of the building, the means of access thereto and the landscaping of the site (hereinafter called the 'reserved matters') have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved details.
2. An application for the approval of reserved matters, referred to in condition 1, shall be made to the Waste Planning Authority before the expiration of 3 years from the date of this permission.
3. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission or before the expiration of 2 years from the date of approval of the last of the reserved matters referred to in condition 1 to be approved, whichever is the later.
4. No development shall take place until details of wheel and underside chassis cleaning facilities have been submitted to and approved in writing by the Waste Planning Authority. The approved facilities shall be installed in accordance with the approved details and implemented and maintained for the duration of the development hereby permitted. Without prejudice to the foregoing, no commercial vehicle shall leave the site unless the wheels and the underside chassis are clean to prevent materials, including mud and debris, being deposited on the public highway.
5. The total number of vehicle movements associated with the development hereby permitted shall not exceed 145 movements per day.
6. No development shall take place until a breakdown of vehicle movements associated with the use and the number of movements at different periods of the day have been submitted to and approved in writing by the Waste Planning Authority. A written record shall be maintained at the site office of all movements to and from the site, by heavy goods vehicles. Such records shall contain the vehicles' weight, registration number and the time and date of the movement and shall be made available for inspection by the Waste Planning Authority on demand at any time. The development shall be implemented in accordance with the approved details.
7. No beneficial occupation of the development hereby permitted shall take place until the parking areas, as subsequently approved as part of the reserved matters, have been laid out and clearly marked for the parking of cars, lorries and any other vehicles that may use the site, including motorcycles, bicycles and provision for the mobility impaired. The parking areas shall be permanently retained and maintained for parking and shall be used for no other purpose.
8. No development shall take place until a construction management plan including details of the areas to be used within the site for the purpose of loading/unloading and manoeuvring of vehicles; parking of vehicles; the storage of plant and materials; and wheel and underbody washing facilities have been submitted to and approved in writing by the Waste Planning

Authority. The development shall be implemented in accordance with the approved details.

9. No development shall take place until an updated Noise Impact Assessment, under taken in accordance with BS4142, has been submitted to and approved in writing by the Waste Planning Authority. The Assessment shall include the noise rating of the exact type of plant and equipment proposed in context of its position, the orientation and scale of the building and the proposed hours of use. The assessment shall also include predicted noise ratings for other generic sources of noise associated with the use in comparison to the background environment. Any mitigation measures proposed to reduce the potential for noise impact shall be implemented and maintained for the life of the development as approved.
10. No development shall take place until details of a maximum free field equivalent continuous noise level (LAeq, 1 hr) at noise sensitive properties adjoining the site, for both day and night time periods of operation Monday to Friday and at weekends, have been submitted to and approved in writing by the Waste Planning Authority. The development shall be operated and managed in accordance with the approved details.
11. Noise levels shall be monitored at six monthly intervals, at noise sensitive properties to be agreed in advance in writing by the Waste Planning Authority, from the date of beneficial occupation of development hereby permitted. The results of the monitoring shall include LA90 and LAeq noise levels, the prevailing weather conditions, details and calibration of the equipment used for measurement and comments on other sources of noise which affect the noise climate. The monitoring shall be carried out for at least 2 separate durations during the working day and the results shall be submitted to the Waste Planning Authority within 1 month of the monitoring being carried out. The frequency of monitoring shall not be reduced, unless otherwise approved in writing by the Waste Planning Authority.
12. No fixed lighting shall be erected or installed until details of the location, height, design, sensors, and luminance have been submitted to and approved in writing by the Waste Planning Authority. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage on adjoining properties and highways. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.
13. No development shall take place until a scheme to minimise dust emissions has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The development shall be implemented in accordance with the approved scheme with the approved dust suppression measures being retained and maintained in a fully functional condition for the duration of the development hereby permitted.

14. No development shall take place until details of measures to prevent odour nuisance have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved details which shall thereafter be retained and maintained in a fully functional condition for the duration of the development hereby permitted.
15. No development shall take place until a scheme for the protection of trees to be retained has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include:
- a. A plan that shows the position, crown spread and root protection area in accordance with paragraph 5.2.2 of BS5837 of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on the plan.
 - b. Details of each retained tree in a separate schedule in accordance with paragraph 4.2.6 of BS5837.
 - c. A schedule of tree works for all the retained trees specifying pruning and other remedial or preventative work. All tree works shall be carried out in accordance with BS3998, 1989, 'Recommendations for Tree Work'.
 - d. Details and positions of the Ground Protection Zones in accordance with section 9.3 of BS5837.
 - e. Details and positions of Tree Protection Barriers identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping) in accordance with section 9.2 of BS5837. The Tree Protection Barriers shall be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.
 - f. Details and positions of the Construction Exclusion Zones in accordance with section 9 of BS5837.
 - g. Details and positions of the underground service runs in accordance with section 1 1.7 of BS5837.
 - h. Details of any changes in levels or the position of any proposed excavations within 5 metres of the Root Protection Area of any retained tree, including those on neighbouring or nearby ground in accordance with paragraph. 5.2.2 of BS5837.
 - i. Details of any special engineering required to accommodate the protection of retained trees (e.g. in connection with foundations, bridging, water features, surfacing) in accordance with section 10 of BS5837.
 - j. Details of the working methods to be employed for the installation of drives and paths within the RPAs of retained trees in accordance with the principles of "No-Dig" construction.
 - k. Details of the working methods to be employed for the access and use of heavy, large, difficult to manoeuvre plant (including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc) on site.
 - l. Details of the working methods to be employed for site logistics and storage, including an allowance for slopes, water courses and

- enclosures, with particular regard to ground compaction and phytotoxicity.
- m. Details of the method to be employed for the stationing, use and removal of site cabins within any root protection areas in accordance with paragraph 9.2.3 of BS5837.
 - n. Details of tree protection measures for the hard landscaping phase in accordance with sections 13 and 14 of BS5837.
 - o. The timing of the various phases of the works or development in the context of the tree protection measures.
16. No construction, demolition, excavation works or/and removal of trees, hedgerows or shrubs that may impact upon breeding birds shall take place between 1st March and 31st August inclusive in any year, unless an ecological assessment has been undertaken, submitted and approved in writing by the Waste Planning Authority which confirms that no species would be adversely affected by the construction, demolition, excavation works or/and removal of trees, hedgerows or shrubs.
17. No development shall take place until a bird management plan has been submitted to and approved in writing by the Waste Planning Authority. The development shall be operated and managed in accordance with the approved details.
18. No development shall take place until details of measures for litter control have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved details and thereafter shall be maintained for the duration of the development hereby permitted.
19. No deposition, storage, processing, handling or transfer of waste shall take place outside of the confines of the building, details of which will be approved as part of the reserved matters.
20. No development shall take place until a Phase 2 Contamination Assessment has been submitted and agreed in writing by the Waste Planning Authority. The assessment shall include an intrusive (soil sampling) investigation of the site and provide a detailed assessment of risk for all potential receptors. Any recommendations for remediation works shall be presented in a remediation statement and implemented as approved.

6. John Ray Infant & Junior School, Braintree

The Committee considered report DR/33/14 by the Director of Operations: Environment and Economy.

The Members of the Committee noted the contents of the Addendum attached to these minutes.

The Committee was advised that the proposal has 3 elements: the rebuilding of the infant school (following fire damage in August 2013); an extension to the junior school; and the removal of mobile temporary classbases.

Policies relevant to the application were detailed in the report.

Details of consultation and representations received were set out in the report.

The Committee noted the key issues that were:

- Need and justification
- Design quality
- Impact on landscape, amenity and traffic

A number of concerns were raised by Members including:

- There seems to be an excess of exterior lighting, which is not necessary, is not environmentally suitable, and is likely to have an adverse impact on neighbouring residences.
- 26 trees would be lost as part of this development and there appears no specific requirement to replace these.
- There is a suggestion that a sprinkler system may not be installed.

A resolution was proposed and seconded, with:

- An amendment to the condition in respect of landscaping to include specific reference to replacement planting;
- A condition requiring the re-submission of the external lighting scheme; and
- An additional informative relating to the installation of a sprinkler system.

Following a unanimous vote in favour, it was

Resolved:

That pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992, planning permission be granted subject to the following conditions:

1. The development hereby permitted shall be begun before the expiry of 5 years from the date of this permission. Written notification of the date of commencement shall be sent to the County Planning Authority within 7 days of such commencement.

Reason: To comply with section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the details of the application dated 30/05/2014 together with drawing titled 'Site Location Plan – Proposed Junior + Infant Schools', drawing no. 096 (Revision P02), dated 03/06/14; drawing titled 'Site Layout – Proposed Infant School', drawing no. 097 (Revision P01), dated 27/05/14; drawing titled 'Ground Floor

Plan – Proposed’, drawing no. 050 (Revision A15), dated 17/04/14; drawing titled ‘First Floor Plan – Proposed’, drawing no. 051 (Revision A14), dated 17/04/14; drawing titled ‘Roof Plan’, drawing no. 206 (Revision E02), dated 23/07/14; drawing titled ‘Elevations – Proposed’, drawing no. 010 (Revision A04), dated 17/04/14; drawing titled ‘Junior School Extension Floor Plan & Elevations – Proposed’, drawing no. 052 (Revision A05), dated 17/04/14; drawing titled ‘Sketch Proposals for Extension to Hall’, drawing no. 098 (Rev P00), dated 22/05/14; drawing titled ‘Concept Landscape Masterplan’, drawing no. JBA 14/133-sk01 Rev A, dated 20/05/14; lighting drawing titled ‘John Ray Infants School, Braintree, Essex’, drawing no: D24317/PY/A, dated 30/05/14; drainage drawing titled ‘Drainage Strategy’, drawing no. 665313/100 (Revision P1), dated 13/05/14; the contents of the accompanying ‘Planning Design and Access Statement’, dated May 2014; ‘Preliminary Ecological Appraisal’, document reference: 771866-REP-ENV-003-ECO, dated 27 May 2014; ‘Arboricultural Impact Assessment’, prepared by A. T. Coombes Associates, dated 27 May 2014; ‘Transport Statement’, document reference: TC/616074/LAB (Revision VO), dated 28 May 2014; ‘Phase 1 Preliminary Contamination Assessment Report’, document reference: 771886-REP-ENV-001, dated May 2014; ‘Phase II Geo-environmental Assessment Report’, document reference: 771886-REP-ENV-R2, dated May 2014; ‘Memorandum of Understanding’ from Essex County Council – Infrastructure Delivery, received via email dated 11/08/14 (15:20) and in accordance with any non-material amendment(s) as may be subsequently approved in writing by the County Planning Authority, except as varied by the following conditions:

Reason: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure the development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment and in accordance with Braintree District Council Local Development Framework Core Strategy (2011) policies CS7, CS8 and CS9 and Braintree District Local Plan Review (2005) policies RLP 54, RLP 55, RLP 56, RLP 65, RLP 77, RLP 80, RLP 81, RLP 90 and RLP 92.

3. No development beyond installation of the damp proof membrane of the building hereby approved shall take until samples of the materials to be used for the external appearance of the building have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In the interest of the visual amenity of the local area and to comply with Braintree District Council Local Development Framework Core Strategy (2011) policy CS9 and Braintree District Local Plan Review (2005) policy RLP 90.

4. No development beyond installation of the damp proof membrane of the building hereby approved shall take place until details of the type, size and position of the proposed signage at the school have been submitted to and

approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In the interest of the visual amenity of the local area and to comply with Braintree District Council Local Development Framework Core Strategy (2011) policy CS9 and Braintree District Local Plan Review (2005) policy RLP 90.

5. No development beyond installation of the damp proof membrane of the building hereby approved shall take place until details of a scheme to install a length of frosted glass along the windows on the eastern elevation (Notley Road facing) of the building have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In the interest of the visual amenity of the local area and to comply with Braintree District Council Local Development Framework Core Strategy (2011) policy CS9 and Braintree District Local Plan Review (2005) policy RLP 90.

6. No development beyond installation of the damp proof membrane of the building hereby approved shall take place until a landscape scheme has been submitted to and approved in writing by the County Planning Authority. The scheme shall include details of areas to be planted with species, sizes, spacing, protection and programme of implementation. The scheme shall also include details of any existing trees and hedgerows on site with details of any trees and/or hedgerows to be retained and measures for their protection during the period of construction of the development. The landscape scheme shall, without prejudice, seek to provide replacement planting for the trees that will be lost as a result of implementation of the proposal. The scheme shall be implemented within the first available planting season (October to March inclusive) following completion of the development hereby permitted in accordance with the approved details and maintained thereafter in accordance with condition 7 of this permission.

Reason: To comply with section 197 of the Town and Country Planning Act 1990 (as amended), to improve the appearance of the site, in the interest of visual amenity and to comply with Braintree District Council Local Development Framework Core Strategy (2011) policies CS8 and CS9 and Braintree District Local Plan Review (2005) policies RLP 80, RLP 81, RLP 90 and RLP 92.

7. Any tree or shrub forming part of a landscaping scheme approved in connection with the development (under condition 6 of this permission) that dies, is damaged, diseased or removed within the duration of 5 years during and after the completion of the development shall be replaced during the next available planting season (October to March inclusive) with a tree or shrub to be agreed in advance in writing by the County Planning Authority

Reason: In the interest of the amenity of the local area, to ensure development is adequately screened and to comply with Braintree District Council Local Development Framework Core Strategy (2011) policies CS8 and CS9 and Braintree District Local Plan Review (2005) policies RLP 80, RLP 81, RLP 90 and RLP 92.

8. No development beyond installation of the damp proof membrane of the building hereby approved shall take place until details of all ground surface finishes, walling and fencing have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In the interest of the amenity of the local area and to comply with Braintree District Council Local Development Framework Core Strategy (2011) policies CS7 and CS9 and Braintree District Local Plan Review (2005) policies RLP 90 and RLP 92.

9. No development or any preliminary groundwork's shall take place until:
 - a) All trees to be retained during the construction works have been protected by fencing of the 'HERAS' type. The fencing shall be erected around the trees and positioned from the trees in accordance with British Standard 5837 "Trees in Relation to Construction", and;
 - b) Notices have been erected on the fencing stating "Protected Area (no operations within fenced area)".

Notwithstanding the above, no materials shall be stored or activity shall take place within the area enclosed by the fencing. No alteration, removal or repositioning of the fencing shall take place during the construction period without the prior written consent of the County Planning Authority.

Reason: In the interest of visual amenity and to ensure protection for the existing natural environment and to comply with Braintree District Council Local Development Framework Core Strategy (2011) policy CS8 and Braintree District Local Plan Review (2005) policies RLP 80 and RLP 81.

10. No construction, demolition, excavation works or/and removal of trees, hedgerows or shrubs that may impact upon breeding birds shall take place between 1st March and 31st August inclusive in any year, unless an ecological assessment has been undertaken, submitted and approved in writing by the County Planning Authority which confirms that no species would be adversely affected by the construction, demolition, excavation works or/and removal of trees, hedgerows or shrubs.

Reason: To make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity and in accordance with Braintree District Council Local

Development Framework Core Strategy (2011) policy CS8 and Braintree District Local Plan Review (2005) policies RLP 80 and RLP 81.

11. No beneficial occupation of the development hereby permitted shall take place until details of the proposed disabled car parking and cycle parking provision have been submitted to and approved in writing by the County Planning Authority. The details shall include the design, location and number of spaces to be provided prior to the beneficial occupation of the development hereby permitted. The development hereby permitted shall be carried out in accordance with the approved details and shall thereafter be retained and maintained for the duration of the development hereby permitted.

Reason: In the interest of the amenity of the local area and to comply with Braintree District Council Local Development Framework Core Strategy (2011) policies CS7 and CS9 and Braintree District Local Plan Review (2005) policies RLP 54, RLP 55, RLP 56, RLP 90 and RLP 92.

12. No development beyond installation of the damp proof membrane of the building hereby approved shall take place until a revised lighting scheme has been submitted to and approved in writing by the County Planning Authority. The details shall include the location, height, design, sensors and luminance of all external fixed lighting proposed together with information on the proposed hours of use. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage on adjoining properties and highways. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

Reason: To minimise the nuisance and disturbances to neighbours and to comply with Braintree District Council Local Development Framework Core Strategy (2011) policies CS8 and CS9 and Braintree District Local Plan Review (2005) policies RLP 65, RLP 77, RLP 80 and RLP 90.

13. No development shall take place until a construction management plan including details of the areas to be used within the site for the purpose of loading/unloading and manoeuvring of vehicles; parking of vehicles; the storage of plant and materials; and wheel and underbody washing facilities have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In the interests of highway safety, amenity and to comply with Braintree District Council Local Development Framework Core Strategy (2011) policies CS7 and CS9 and Braintree District Local Plan Review (2005) policies RLP 54, RLP 55, RLP 56, RLP 90 and RLP 92.

Informative

1. Prior to the beneficial occupation of the development it is advised that a School Travel Plan including monitoring arrangements is prepared or the

existing School Travel Plan updated, in liaison with the Highway Authority, and subsequently implemented in full.

2. All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority. An application for the necessary works should be made to development.management@essexhighways.org or SMO1 – Essex Highways, Colchester Highways Depot, 910 The Crescent, Colchester. CO4 9QQ.
3. There is clear evidence that the installation of Automatic Water Suppressions Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. Even where not required under Building Regulations, ECFRS would strongly recommend a risk based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. The inclusion of AWSS, in this development, was supported by Members of Essex County Council's Development & Regulation Committee.

7. Statistics

The Committee considered report DR/34/14, Applications, Enforcement and Appeals Statistics, as at end of the previous month, by the Head of Planning, Environment and Economic Growth.

The Committee **NOTED** the report.

8. Date and time of Next Meeting

The Committee noted that the next meeting will be held on Friday 26 September 2014 at 10.30am in Committee Room 1.

There being no further business the meeting closed at 11.30 am.

Chairman

committee DEVELOPMENT & REGULATION

date 26 September 2014

MINERALS AND WASTE DEVELOPMENT

Proposal: **Extraction of an estimated reserve of 3 million tonnes of sand and gravel (from Sites A3 and A4 as identified in the Minerals Local Plan 2014) and retention of existing access onto the A120, private haul road, sand and gravel processing plant, ready mixed concrete plant, bagging plant, dry silo mortar plant and water management system, internal haul roads and re-contouring of restoration levels of extraction areas (Sites R and A2) with restoration to a combination of agriculture, woodland, biodiversity, water lagoons and to levels appropriate to safeguard implementation of planning permission ESS/37/08/BTE (Integrated Waste Management Facility)**

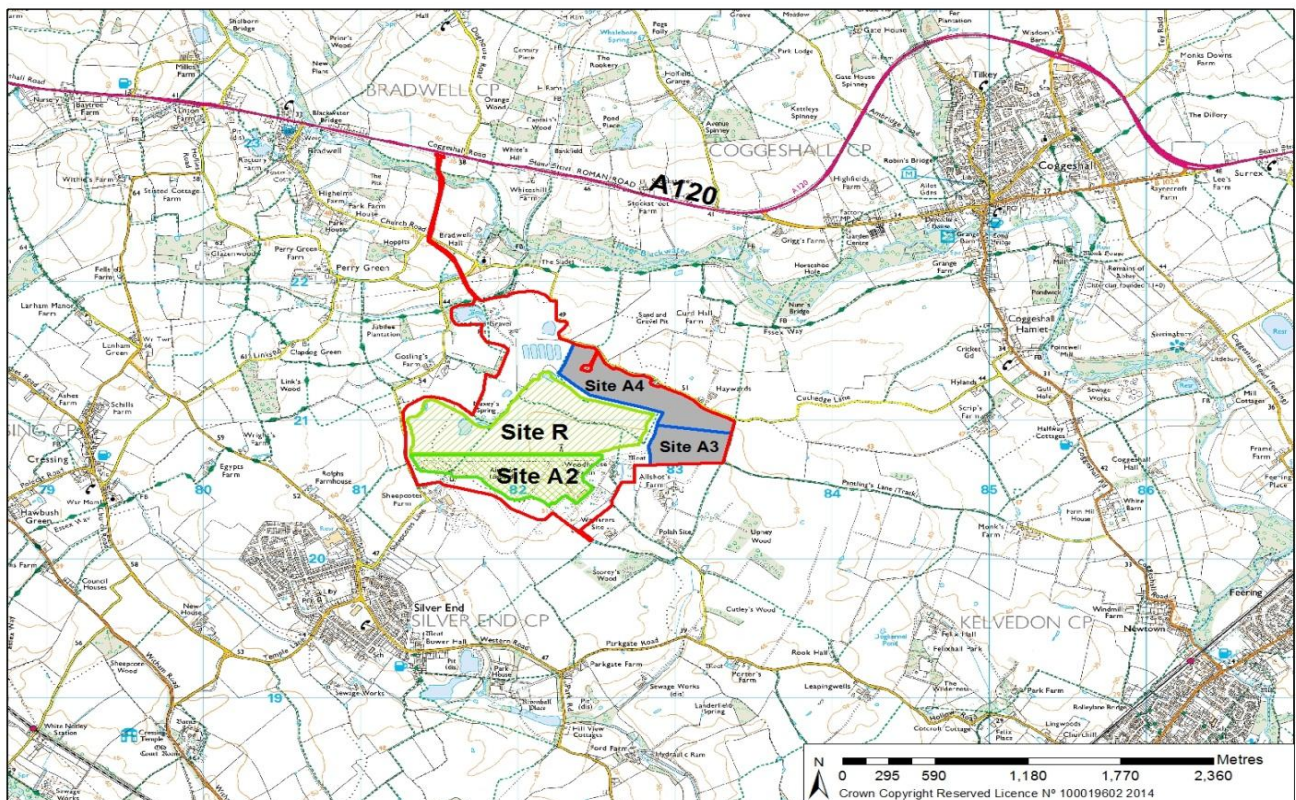
Location: **Bradwell Quarry, Church Road, Bradwell, CM77 8EP and land south of Cuthedge Lane Ref: ESS/24/14/BTE**

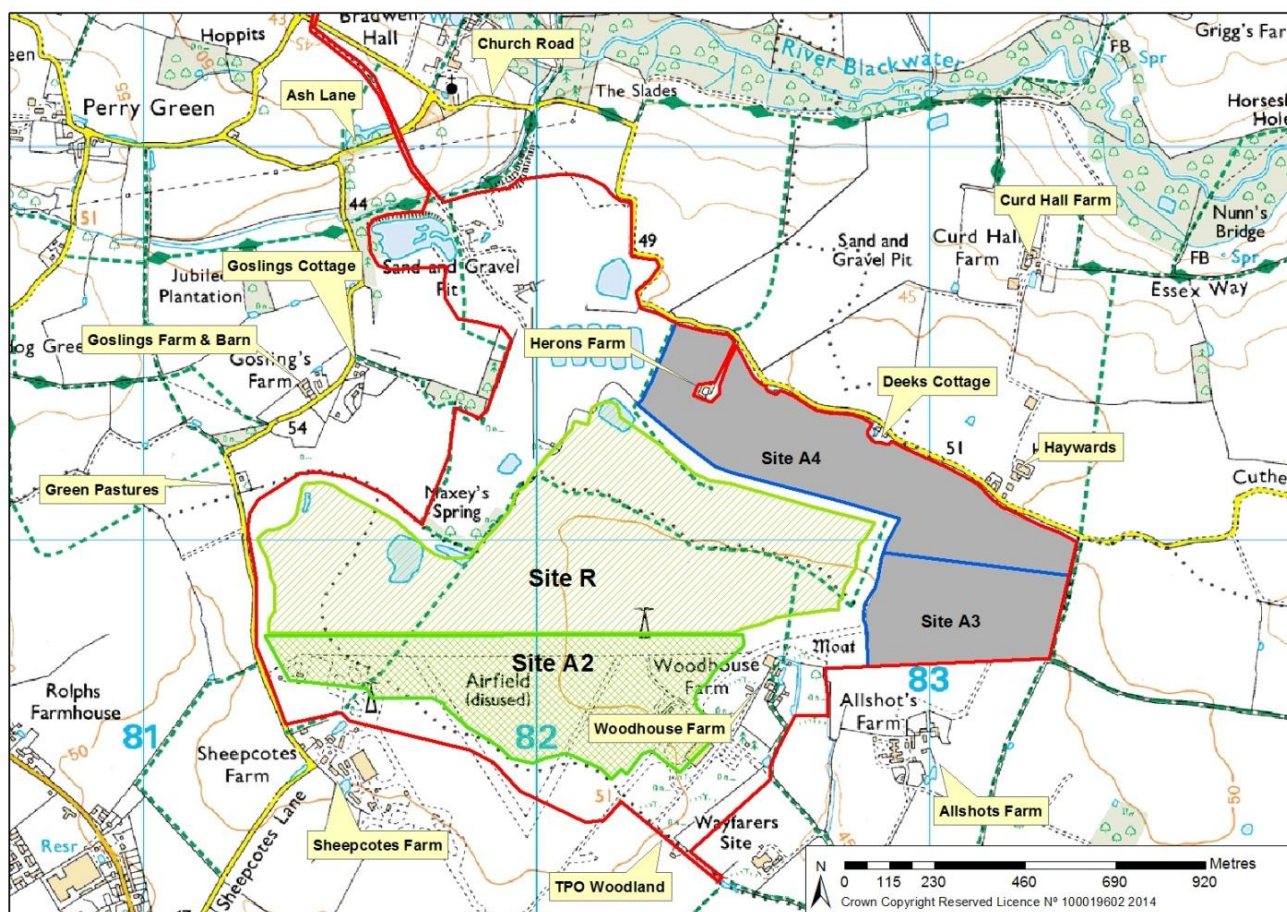
Applicant: **Blackwater Aggregates**

Report by Director of Operations, Environment and Economy

Enquiries to: Claire Tomalin Tel: 03330 136821

The full application can be viewed at www.essex.gov.uk/viewplanning





1. BACKGROUND

There has been a quarry at Bradwell since the 1940s; however, the quarry with its existing access and processing plant has been operational since 2000. The site has been the subject of various planning permissions. Planning permission ESS/07/98/BTE was granted in 1999. This granted permission for sand and gravel extraction within site R (71.6ha) a preferred site with the Minerals Local Plan 1996 as well as the private access road to the A120 and the processing area and other supporting infrastructure including internal haul roads and silt lagoons.

Subsequently there were various applications for additional secondary plant including a bagging plant and dry silo mortar plant.

In 2011 planning permission ESS/32/11/BE was granted for an extension to the site to the south (site A2 in the then emerging replacement Minerals Local Plan). This application included the majority of the area of mineral extraction already permitted under planning permission ESS/37/08/BTE (PINS Ref. APP/Z1585/V/09/2104804) as part of the Integrated Waste Management Facility, which has not to date been implemented. ESS/32/11/BTE permitted extraction until 20 March 2016 and included retention of the existing access onto the A120, haul roads and supporting infrastructure including, weighbridge, offices, processing plant, bagging plant, dry silo mortar plant (DSM) and ready mix concrete plant.

An amendment to this application was made in 2012 allowing the DSM to allow

operating hours the same standards as the rest of the quarry.

2. SITE

The application site lies 6km east of Braintree. The application site is located between the villages of Bradwell (approx. 1km northwest), Silver End (approx. 0.5km to the southeast), Kelvedon (3.5km to the southeast) and Coggeshall (2.5 km to the north east). The “application site” consists of all of the existing Bradwell Quarry, including the site access, plant area and previously worked and existing extraction areas as well as the proposed extraction area. The application site area is 191ha. The area of proposed new extraction includes Preferred sites A3 and A4 of the Minerals Local Plan 2014 which has an area of 34.5ha (of which 30ha would be quarried) (hereafter referred to as site A3 & A4). A4 is bounded on its north side by Cuthedge Lane (A Protected Lane as defined in the Braintree District Local Plan Review [BDLPR]), site and lies north and east of site R, which is this area is under restoration. Site A3 lies to the south of site A4 and east of the existing quarry.

The quarry access is onto the A120 approximately 1km east of Bradwell village. There is an existing private access road approximately 1km long that heads south to the processing area, crossing the River Blackwater by two bailey bridges and then crossing two minor public roads; Church Road and Ash Lane (a Protected Lane). The access road is two way from the A120 to Church Road, crossing the River Blackwater, then single lane with passing bays between Church Road and Ash Lane and then two way south of Ash Lane. The crossing points on Church Road and Ash Lane are both single width only.

The processing area is linked to the current extraction area by an unmade haul road which heads due south from the plant area approximately 1km to the current extraction area.

The nearest residential properties to sites A3 and A4 are on Cuthedge Lane and include: Herons Farm, which lies within the western end of site A4 (but does not form part of Preferred site A4) and 100m west of the proposed extraction area; Deeks Cottage lies immediately adjacent to site A4 and Haywards on the north side of Cuthedge Lane opposite site A4. Allshots Farm (Grade II Listed Building) lies approximately 150m to the south; a scrap yard lies between the extraction area and the residential properties of Allshots Farm. Approximately 500m north of site A4 lies Curd Hall (Grade II Listed Building). Approximately 1.5Km to the east lies Scrip’s Farm.

The larger application site area includes the infrastructure for the site, including plant, haul roads and previously/currently worked areas, the closest residential properties to this larger application site are along Sheepcotes Lane to the west including Sheepcotes Farm (Listed Building), Green Pastures bungalow, Goslings Barn, Farm and Cottages, all greater than 1km from the proposed extraction area. Bradwell Hall (Listed Building) lies 150m east of the existing access road.

Woodhouse Farm and buildings (Grade II Listed) are within the application site, but approximately 250m from the proposed extraction areas. The house is currently

unoccupied, weather proofing was required as part of ESS/32/11/BTE. The Silver End Conservation Area lies 1.5km to the southwest of the proposed extraction area.

There are 5 Local Wildlife Sites within 2 km of the application site at Storeys Wood (southwest of the site) and Blackwater Plantation West (north of the main site), Upney Wood (south east of the site), Rivenhall Thicks (southwest of the site), Links Wood (west of the site) and Park House Meadow (north west of the site). Maxey Spring is area of woodland northwest of the Site R which has been extended with restoration planting.

Footpaths within sites A3 and A4 include Bradwell 24 which heads south from Cuthedge Lane east of Herons Farm but ends in a dead end. Footpath 53 crosses site A4 from Cuthedge Lane in a southwest direction and Footpath 68 also heads south across site A4 east of Deeks Cottage, in addition Bridleway 81 links Cuthedge Lane to Pantlings Lane. Three footpaths Bradwell 19, 57 (The Essex Way) and 58, cross the existing quarry access road.

Sites A3 and A4 include land within agricultural use as well parts of the runway of the redundant Rivenhall Airfield and a tower and wooden building at the eastern end of the runway which was actually constructed by Marconi's when the airfield was leased by them. Site A3 and A4 contains approximately 31ha of agricultural land graded 3a.

The airfield and surrounding land is situated on a plateau approx. 50m AOD with a very slight fall from northeast to southwest. There are limited elevated viewpoints from which to oversee the site, but there are some views from higher ground to the north east.

Restoration to agriculture is largely complete within the western area of site R and the eastern end of site R is partly restored to arable farmland. Extraction is currently taking place within phase 3 of site A2, which is likely to be completed by the end of 2014.

The geology of the site comprises boulder clay varying between 2.5m and 13m thick (average 7.5m), Kesgrave sands and gravels varying between 2m to 13m thick (average 6m) overlying more than 70m of London clay.

The application site includes Waste Local Plan Preferred Location for Waste Management WM1 (Rivenhall Airfield, 6ha). Planning permission ESS/38/06/BTE for an Integrated Waste Management Facility (IWMF) was granted in 2009, but was not implemented and now has expired. A further planning permission (ESS/37/08/BTE) for an IWMF was granted on 2 March 2010 following a public inquiry. This planning permission has not been implemented but remains extant. The IWMF included mineral extraction. The mineral permitted for extraction as part of the IWMF permission has largely been worked out as part of mineral extraction permitted by ESS/32/11/BTE, but an area under TPO woodland remains.

3. PROPOSAL

The application is for the extraction of 3 million tonnes of sand and gravel, 1 million tonnes from site A3 and 2 million tonnes from site A4, over a 3 year period, with progressive restoration, such that total period applied for is 4 years.

The application is supported by an Environmental Statement submitted in accordance with the EIA Regulations 2011.

The application includes the retention of the existing infrastructure, including the haul road to the A120, and all existing primary and secondary processing plant, including offices and weighbridge, sand and gravel washing plant, ready mix concrete plant, bagging plant, dry silo mortar plant and existing silt and water management systems.

The extraction would be undertaken in 6 phases, of approximately 500,000 tonnes each. The phases would be worked in clockwise direction, working east from Herons Farm in 4 phases through site A4 and then south and finally west to complete site A3. The application does not include the extraction of mineral (1 million tonnes) surrounding Heron's Farm which forms part of Preferred Site A4; these reserves are to be worked at a later date, subject to planning permission.

The overburden varies between 2.5m to 13m thick average of 7.5m thick. The sand and gravel is found in a layer 2m to 13m thick average of 6m thick and below this lies 70m thick of London clay. Working would be progressive such that after the initial phases, stripped materials would be used in the restoration of earlier phases, where there is a surplus of materials these would temporarily stored south of the workings on the unrestored areas of Site R.

Topsoil and subsoil stripped from the first phase would be used to form the screening bunds proposed between the site and Heron's Farm, within the site adjacent to Cuthedge Lane and along the eastern and southern boundary of the site. The bunds would be 3m in height.

Sand and gravel would be extracted and transported by dump trucks on an internal haul road, linking to the existing haul road used to transport mineral to the processing area. Mineral would be processed through the on-site facilities. The extended haul road in the vicinity of Heron's Farm would be below natural ground levels.

There are 3 properties on Cuthedge Lane. A minimum 100m stand-off would be maintained from Heron's Farm, throughout the development. Deeks Cottage lies adjacent to the site and Haywards (currently vacant) on the north side of Cuthedge Lane, the screening bunds/extraction would be within 100m of these properties. These later two properties are within the ownership of the applicant; both properties would be vacant during the period that extraction operations are within 100m of these two properties.

The maximum extraction per year would be around 1 million tonnes.

The restoration of sites A3 and A4 would be back to agriculture. The application includes proposals for revised restoration levels for parts of site R, to create a bowl

shape, removing the previously approved plateau feature within the site and also includes enlarging the water body known as New Field Lagoon. The water body would increase in size from 250,000m³ to 700,000m³. The surplus materials from extending this lagoon (1.25 million m³) would facilitate the restoration of the proposed extraction areas back to pre-existing land levels.

The restoration scheme would deliver 9.4ha of priority species habitat, including 3.5ha of reedbed and wet grasslands around New Field Lagoon, 1.5ha open mosaic habitat, utilising crushed concrete substrate and 4.4 of species rich grassland to the north and east of New Field Lagoon. The lagoon margins have been designed to create marginal water features not subject to seasonal falls in levels of main water body. The restoration also includes areas of woodland.

The proposed hours of operation for both the plant area and extraction operations and vehicles leaving and arriving at the site would be Monday to Friday 7am to 6:30pm and Saturday mornings 7am to 1pm with no operations on Sundays or Public Holidays, which are the same as those for the existing operation. There are currently extended hours of operation for the bagging plant until 10pm, but this only permits bagging of the material, not its export.

The proposed HGV traffic movements are a maximum of 590 movements (295 in and 295 out) per day Monday to Friday and 294 movements (147 in and 147 out) per day Saturdays, with an average of 458 per day (Monday to Friday averaged over a calendar year). This is the same as the current approved HGV traffic for the existing quarry.

The application would require the temporary diversion of Public Rights Of Way (PRoW) which cross sites A3 and A4; alternative routes have been proposed to maintain north-south and east-west links that these PRoWs provide. An additional section of bridleway would be provided making a direct link from Sheepcotes Lane to Pantlings Lane. A PRoW Bradwell 24 from Cuthedge Lane that currently is a dead end would be extended south to link to other existing paths.

In line with the requirements of the MLP the application also provides indicative phasing for Preferred and Reserve Mineral site A5, A6 and A7, indicating that the next area for extraction would be site A5, subject to permission being granted. The coming forward of sites A6 and A7 would be dependent on the County's landbank falling below 7 years, but would be in the order A6 then A7. The applicant has also provided an indicative restoration master plan for the whole site (A5, A6 and A7), providing 50ha of restoration to priority bio-diversity habitats.

4. POLICIES

The following policies of the Mineral Local Plan adopted 2014, the Braintree District Council Local Development Framework Core Strategy 2011 (BCS) and Braintree District Local Plan Review 2005 (BDLP) provide the development framework for this application. The following policies are of relevance to this application:

MLP BCS BDLP

| | | |
|---|-----|---------|
| Preferred and reserve sites for sand and gravel extraction | P1 | |
| Presumption in favour of sustainable development/ Sustainable development locations | S1 | |
| Protecting and enhancing the environment and local amenity | S10 | |
| Access and transportation | S11 | |
| Mineral site restoration and afteruse | S12 | |
| Development management criteria | DM1 | |
| Planning conditions and legal agreements | DM2 | |
| Primary processing plant | DM3 | |
| Secondary processing plant | DM4 | |
| Countryside | | CS5 |
| Promoting accessibility for all | | CS6 |
| Natural Environment and Biodiversity | | CS8 |
| Built and Historic Environment | | CS9 |
| Industrial & Environmental Standards | | RLP 36 |
| Pedestrian Networks | | RLP 49 |
| Transport Assessments | | RLP 54 |
| Pollution control | | RLP 62 |
| Air quality | | RLP 63 |
| External Lighting | | RLP 65 |
| Sustainable drainage | | RLP 69 |
| Water supply and land drainage | | RLP 71 |
| Water quality | | RLP 72 |
| Landscape Features and Habitats | | RLP 80 |
| Trees, Woodland, Grasslands and Hedgerows | | RLP 81 |
| Protected species | | RLP 84 |
| Rivers corridors | | RLP 86 |
| Protected Lanes | | RLP87 |
| Archaeological Evaluation | | RLP 105 |
| Archaeological Excavation and Monitoring | | RLP 106 |

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 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 Framework (Annex 1, paragraph 216) states 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).

Braintree District Council originally intended to create a Local Development Framework which it was envisaged would supersede the Local Plan Review in its entirety. In this regard, the BCS was adopted on 19 September 2011 and it was anticipated that the remaining BLP policies would be replaced by those to be contained in a Site Allocations and Development Management Plan. During a meeting on 30 June 2014 it was however resolved not to proceed with the Draft Site Allocation and Development Management Plan. Work has now instead commenced on a new Local Plan, which will set out the Council's strategy for future development and growth up to 2033. This includes building the right number and types of houses, developing the appropriate type of retail and recreational facilities, getting the right office and industrial spaces, creating opportunities for local jobs and protecting our wildlife, landscapes and heritage. The new Local Plan will ultimately replace the BLP and BCS however at the current time it is not considered is at a sufficient stage to have significant weight in the determination of this application.

5. CONSULTATIONS

The application has been subject to two periods of consultation, following the submission of amendments and additional information to support the application. The following provide the responses from both consultations.

BRAINTREE DISTRICT COUNCIL – No objection – However, remain concerned that the overall development (sites A3, A4, A5, A6 and A7) should be carried out in a way that minimises impacts on the landscape and on the local residents by for example ensuring that restoration is carried out on an ongoing basis as soon as possible. Also wish to ensure that a condition is imposed on any subsequent

planning consent limiting HGV movements on the site to that currently permitted.

ENVIRONMENT AGENCY: No objection. The following matters were raised
Flood risk- Would seek clarification that the capacity of New Field Lagoon is adequate to accommodate all surface water within the site

Comment: Additional information has been submitted to confirm New Field Lagoon has adequate capacity

Water abstraction – If more than 20m³ of water is to be required from ground or surface water an abstraction licence would be required.

Groundwater – Noted that the proposals include monitoring and investigation of potential impact on water levels at Curd Hall Pond, such monitoring and investigation should be secured through the planning process.

Pollution prevention and control – Impacts on nearby water courses during extension and operational phases should be considered. Condition required with respect to storage of fuels and chemicals. Other advisory information.

Environmental Permitting – an Environmental permit would be required and prior agreement required with respect to discharging of water

HIGHWAYS AGENCY: No objection. There would be minimal impact on the A120, however all existing conditions and obligations shall remain in place.

ENGLISH HERITAGE: The application should be determined in accordance with national and local policy guidance, and on the basis of local specialist conservation advice.

DEPARTMENT OF LOCAL GOVERNMENT & COMMUNITIES (National Planning Casework Unit): No comments.

NATURAL ENGLAND: No objection. The site is 5km from nearest SSSI (Belcher's & Broadfield Woods) and as proposed the SSSI would not be affected. Standing advice should be followed with respect to protected species. It is noted that the proposals include the creation of priority habitats, which is in conformity with the MLP and emerging ECC Biodiversity Restoration Supplementary Planning Document.

ESSEX WILDLIFE TRUST: No comments received

RSPB: No comments received

CPRE: No comments received

ESSEX RAMBLERS ASSOCIATION (ERA): No comments received

HIGHWAY AUTHORITY: No objection subject to conditions/obligations requiring;

- No vehicular access for mineral traffic except by way of the A120 and existing access road;
- Maintenance of signage and measures to deter vehicular access/egress from and to Ash Lane and Church Road from the private access road.

HIGHWAY AUTHORITY (Public Rights of Way): No objection. Diversions would be required under the Town & Country Planning Act.

COUNTY COUNCIL'S NOISE CONSULTANT – No objection, subject to conditions setting maximum noise limits at noise sensitive locations and for temporary operations, with monitoring to show compliance. The applicant has demonstrated that the quarry during normal operation and temporary noisier operations could work within existing permitted maximum noise limits. Conditions would be required to secure reduced plant operation adjacent to Heron's Farm, Deeks Cottage, Haywards to ensure maximum noise levels would not be exceeded.

PLACES SERVICES (Ecology): No objection, welcome commitment to areas of priority habitats and for Construction and Environment Management Plans, which should include buffer zones with respect to protection of birds. Open mosaic areas should be located on south facing slopes.

PLACE SERVICES (Landscape): No objection, subject to conditions with respect to planting.

PLACE SERVICES (Archaeology): No objection, subject to conditions. Adequate archaeological evaluation provided identifying discrete areas of archaeological remains which would require preservation by recordings.

BRADWELL PARISH COUNCIL – Made the following comments:

- Consider the application should be accompanied by a new transport and traffic survey
- Consider the A120 requires considerable infrastructure improvement before further traffic uses the road.

Comment: An EIA Scoping Opinion was requested and provided and included consultation with the Highways Agency and Highways Authority and a Transport Impact Assessment was not required, only a Transport Statement.

- Concern with respect to the impact of further mineral extraction on the countryside, wildlife habitats and PRow access

KELVEDON PARISH COUNCIL: No objection. The site is a good neighbour to the parish.

SILVER END PARISH COUNCIL: No comments received.

RIVENHALL PARISH COUNCIL (adjacent): Object on the following grounds:

- The Parish were not notified formally of the application.

Comment: This was an error. Fortunately the Local Member altered the PC to the application and the PC was notified in the 2nd round of consultation.

- Comments re the fact that MLP not adopted at the date of submission in May 2014.

Comment: MLP adopted July 2014 resolving these issues.

- Concern that the use of terminology within the application particularly with reference to areas and relationship with IWMF are confusing.
- The application states it is for the whole of the quarry when it is only for sites A3 and A4 previous areas excavation and restoration having been approved under previous consents.

Comment: While the application is only for new extraction in sites A3 and A4, changes are proposed to the restoration of previously worked or areas being worked, including level changes and an increase to the size of New Field Lagoon.

- Concern that the minerals permission should not be seen as justification for the IWMF, there remains outstanding reserves of mineral under TPO trees permitted to be removed only if the IWMF were commenced, which is not clear within the application documentation.

Comment: The application does not propose extraction of mineral outside of the Preferred areas of site A3 and A4.

- It is noted that the proposals see no increase in traffic and use existing processing facilities. The restoration is to agriculture and habitat creation.
- PRoW should be maintained or temporarily diverted with safe and usable routes well-signed.
- The application implies the use of public rights of way are little used, local view is that the airfield is often walked and there is interest in the previous WWII use.

Comment: Public access is only permitted on PRoW and linkages these provide would be maintained by temporary diversions, should permission be granted.

- The parish would wish to see greater habitat creation and at an earlier stage, particularly in relation to species known to be on the site currently.

COGGESHALL PARISH COUNCIL (adjacent): No comments received

LOCAL MEMBER – BRAINTREE – Witham North – Requests the application be determined at committee as it was premature to the adoption of the MLP.

Comment: Since submission of the application the Minerals Local Plan has been adopted. In any event all applications accompanied by an EIA are considered by committee.

BRAINTREE – Braintree Eastern – any comments received will be reported.

6. REPRESENTATIONS

13 properties were directly notified of the application. No letters of representation have been received.

7. APPRAISAL

The key issues for consideration are:

- A. Policy considerations & Need
- B. Landscape and Visual Impact;
- C. Water Environment
- D. Noise and dust;
- E. Traffic, Highways & Public Rights Of Way;
- F. Heritage Impact
- G. Ecology;
- H. Agriculture & Soil;
- I. Restoration & Afteruse;
- J. Social & Economic.

A POLICY CONSIDERATIONS & NEED

MLP Policy P1 (Preferred and reserve sites for sand and gravel extraction) states, in summary, that, on preferred sites, the principle of extraction has been accepted and the need for the release of mineral has been proven.

Bradwell Quarry's position on the A120 makes it well placed to serve both growth in Braintree and Colchester. Braintree District Council has recently made the decision not to progress its Site Allocations and Development Management Plan, recognising there a greater number of houses are required to be planned for than had been identified in the plan, but the new local plan would seek to allocate land for development.

The MLP identifies Site A3 and A4 Bradwell as preferred sites for mineral extraction. It sets out the following requirements

With respect to all the Bradwell Sites:

- 1. Mineral from the site would be processed through the existing processing plant.*
- 2. Mineral traffic would use the existing main site access, and HGV movements would be restricted in line with current levels of working to avoid adverse impacts to the A120. The phasing of site working would need to reflect HGV movement limitations. A Transport Assessment would be required.*

3. Improvements to the crossing points at Ash Lane and Church Road would be required.

4. There has been a long history of settlement and occupation within this landscape. A historic environment assessment would be required with any application/ EIA.

5. The sites comprise the best quality Grade 2 agricultural soils and it is expected that these would be retained on site during restoration.

6. A Masterplan would be required covering the Bradwell Quarry in its entirety. This would ensure all pre-extraction activity, site working and restoration is considered as a whole and restoration potential is maximised including the opportunity for significant biodiversity enhancement and habitat creation on site. The first site for Bradwell Quarry for which there is an application (e.g., from the sites A3-A7) should provide indicative phasing/restoration levels/after-uses for all the Bradwell Quarry Preferred and Reserve Sites as part of the Masterplan. The developer shall be expected to enter into a legal agreement to ensure that any subsequent applications for Preferred or Reserve Sites at Bradwell Quarry shall be in accordance with the Masterplan and indicative phasing/restoration levels/ after-uses. Careful consideration must be given to the final low-level restoration contours to ensure the final landform blends with the surrounding topography and could blend with the levels and planting of the strategic waste management development (Ref ESS/37/08/BTE) if implemented.

Issues identified specific to Site A3:

1. The working and restoration of site A3 and any other Bradwell extension sites, would need to be integrated with and not compromise the permitted strategic waste management facilities at Rivenhall.

2. PROW bridleway Kelvedon 40 crosses the site and would require temporary diversion during operations.

Issues identified specific to Site A4:

1. Rivenhall Airfield received planning permissions in 2009 & 2010 for the development of a strategic waste management facility. The working and restoration of site A4 and any other Bradwell extension sites would need to be integrated with and not compromise permitted waste development.

2. Adequate stand-off distances/bunding/screening would be required to protect Herons Farm and Deeks Cottage on the northern boundary of the site and Haywards Cottage.

3. Appropriate bunding would be required to reduce the impact on the Protected Lane on the northern boundary (Cuthedge Lane).

4. PROW footpaths Bradwell 53 and 68 and Bridleways Bradwell 24, 70 and 81

cross the site and would require temporary diversion during operations. It is envisaged that footpaths would be upgraded to Bridleways (i.e., east to west across the site).

These criteria will be considered throughout the report.

Other infrastructure

MLP Policy DM3 (Primary processing plant), in summary, permits proposals for primary processing plant where it would be located within the mineral site's boundary and would not have impact on the surroundings. It also states that imported minerals will only be acceptable where there are exceptional circumstances.

It is noted that the processing plant is already in place and is within the mineral site's boundary and would be used for the processing of minerals extraction from the site in line with specific requirements of the MLP in relation to sites A3 and A4. There is no importation of primary aggregate to the primary processing plant and is considered to comply with MLP Policy DM3.

MLP Policy DM4 (Secondary processing plant) in summary states, inter-alia, that proposals for the secondary processing and/or treatment of minerals will only be permitted where there would be no unacceptable impact on amenity, the environment, or the road network. Non-indigenous sources of minerals will only be allowable in exceptional circumstances and permission will only be granted for a temporary duration.

Three types of secondary processing plant are proposed to remain at the site, namely the dry silo mortar (DSM) plant, the concrete batching plant and the bagging plant. The importation of cement, additives and crushed and non-indigenous material is already permitted, however the quantities are relatively small and are currently limited by condition. The importation allows the secondary processing plant to provide a full range of products to customers. It is considered that the plant and importation of materials has been to date undertaken without adverse impact and therefore there is no reason to withhold their retention or prevent importation at the same level for the life of the mineral operation. The secondary plant is considered to be in accordance with MLP policy DM4.

The retention of both primary and secondary plant is considered acceptable subject to imposition of existing conditions controlling the plant.

The use of the existing on site plant for processing of materials from Sites A3 and A4 meets the identified requirements of the MLP with respect to Bradwell Quarry.

Sustainable development

MLP Policy S1 (Presumption in favour of sustainable development) and CFR Policy SD1 (Sustainable development locations) reflect the presumption in favour of sustainable development put forward by the NPPF.

The NPPF states that there are 3 dimensions to sustainable development:

economic, social and environmental. It goes on to state, in summary, that these roles should not be undertaken in isolation but should be sought jointly and simultaneously through the planning system.

The applicant has stated that the application site provides an integrated facility supplying a wide range of construction materials from a single sustainable location. The site contains a particularly high stone content, such that stone is not required to be imported for the ready mix concrete plant. In addition the reserve is low in silt.

The site provides direct employment for 45 people and indirectly through its sales, maintenance and support contracts.

The continuation of the existing operations and extension of the quarry would secure these employment opportunities and wider socio-economic benefits into the future.

The site would be well placed to provide aggregate for both growth in Braintree and Colchester. This would assist with the provision of a supply of housing required to meet the needs of the present and future generations, as well as the creation of a high quality built environment, all of which have economic and social benefits.

Bradwell Quarry currently has permitted reserves to last until the end of 2014, the current proposals would ensure the continued operation of the quarry for a further 3 years, ensuring supply of existing customers and employment of quarry staff.

It is therefore considered that the proposal would fulfil the economic and social dimensions of the NPPF. The environmental dimension will be considered further throughout the report.

B LANDSCAPE AND VISUAL IMPACT

MLP Policy DM1 (Development Management criteria), in summary, requires no unacceptable impact on public open space and the appearance, quality and character of the landscape, countryside and visual environment.

BCS policy CS5 seeks to protect the countryside, by locating development within town boundaries except uses appropriate to the countryside, in order to protect and enhance the landscape character of the countryside.

BDLP policy RLP 80 seeks amongst other matters to require assessment the impact of development on landscape including trees, hedges, woodlands, grassland, ponds and rivers. In addition all development is expected to provide mitigation and provide planting to maintain and enhance the landscape.

BDLP policy RLP 81 seeks to retain and maintain trees, woodlands, grassland and hedgerows.

MLP Policy S12 (Mineral site restoration and afteruse), in summary, permits

mineral development if it can be demonstrated that the land is capable of being restored at the earliest opportunity to a beneficial afteruse. It requires progressive restoration, restoration at low level as a first preference, and an aftercare period of not less than 5 years.

The existing plant area is contained within established screening bunds and vegetation such that the site is only visible from users of the public right of way, but this view is only transient and the impact would not be increased by the proposals, but extended for a longer period.

Site A3 and site A4 include existing hedgerows and hedgerow trees and these would be lost as part of the proposals. However the restoration proposals include replacement hedgerows and hedgerow trees as well as additional copses of woods in the corner of the restored agricultural fields. Vegetation along Cuthedge Lane on the northern boundary of the site would be retained and protected and screening bunds are proposed around the boundary of the site to screen views from Cuthedge Lane and properties along this lane. The County's landscape officer has requested conditions with respect to landscaping and conditions could be imposed to require submission of planting details with respect to planting details and maintenance of proposed hedgerows, hedgerow trees and woodland planting

Sites A3 and A4 would be worked progressively and would be restored to original levels back to agriculture, with public rights of way re-established. The original levels would be achieved, by utilising surplus overburden from creating an enlarged New Field Lagoon and softening a plateau which was previously to be retained. Steeper slopes would be planted with woodland, with other areas restored to grassland and open mosaic habitat.

The EIA assessment concludes that the proposals would have low adverse impact on the landscape during the operations and negligible to positive impacts upon restoration.

In terms of visual impact, the views most affected are those from Herons Farm, although the buildings themselves are surrounded by existing vegetation and trees. Nonetheless a screening bund is proposed approximately 75m from the property and is proposed with a visible outer slope of 1 in 5 to minimise the impact of the bund itself. The bund would be grass-seeded. This addresses the requirements of the MLP with respect to Bradwell Quarry. In addition the haul road to the extraction would be located below natural ground levels to minimise impacts from the movements of vehicles.

The proposed screening bund along the north edge of Site A4, would screen views from Cuthedge Lane, it is likely there would be distance intermittent views of these bunds from the A120 to the north east, but the impact would be minimal. This again addresses the requirements of the MLP with respect to Bradwell Quarry. There would be some views of the extraction operations from the diverted PRoW, but these are only transient and temporary for the life of the development.

A screening bund remains adjacent to Green Pastures Bungalow on Sheepcotes

Lane, the bund has been retained for screening purposes, but once restoration operations in site A2 and R are complete, the bund would no longer be required, unless the IWMF permission is implemented. It is therefore suggested that a condition could be imposed, subject to permission being granted, requiring its removal when no longer required with respect to site A2 and R, but allowing its retention if the IWMF permission has been implemented.

If planning permission was granted the seeding and maintenance of screening bunds could also be secured by condition.

It is therefore considered, subject to the conditions above the proposals would comply with, MLP Policies DM1 and S12, the requirements of the MLP in relation to the Bradwell sites and BCS policy CS5 and BDLP policies RLP80 and 81

C WATER ENVIRONMENT

MLP Policy DM1 (Development Management criteria), in summary, requires no unacceptable impact on quality and quantity of water within water courses, groundwater and surface as well as no impact upon drainage systems.

BDLP policy RLP 36 seeks to ensure there is no unacceptable impact from development on the water environment.

BDLP policy RLP 62 seeks to ensure sites do not give rise to pollution or the risk of pollution.

The management of both ground and surface water would continue in line with existing practices. No ground or surface water is currently discharged from the site and this would continue.

Ground water encountered within the excavation and surface water would be temporarily stored within sumps within the excavation or pumped to New Field Lagoon, where it would be used in the sand and gravel washing plant and recirculated via settlement lagoons or allowed to soak away into the ground.

New Field Lagoon, a restoration water feature of the permitted restoration scheme for the quarry, would be extended in capacity from 250,000m³ to 700,000m³. The enlarged lagoon would ensure security of supply of water to the quarry in the medium-term as well as creating biodiversity habitats in the long-term.

The Environment Agency has not objected to the application. It notes the application proposes monitoring and investigation of the potential for the workings to impact upon water levels within Curd Hall (Listed Building) pond. Groundwater monitoring within the site could be required by condition and investigation and mitigation (if necessary) at Curd Hall could be secured through a planning obligation.

In addition conditions could be imposed with respect to the control of storage of oils, chemicals and fuels and a watching brief for any contamination on the site,

which might have been left by its previous airfield use, with requirement for investigation and mitigation if necessary.

No flooding issues have been identified as part of the assessment of the proposals.

Subject to the imposition of the above conditions and legal obligation as described above it is considered that the proposed development would comply with MLP policy DM1 and BDLP policies RLP 36 and RLP 62.

NOISE AND DUST

MLP Policy S10 (Protecting and enhancing the environment and local amenity), in summary, requires that consideration is given to public health and safety, amenity and quality of life of nearby communities (among other requirements), that appropriate mitigation measures are included, that no unacceptable impacts would arise and that opportunities have been taken to improve/enhance the environment and amenity.

MLP Policy DM1, in summary, requires there should be no unacceptable impact on local amenity.

BDLP policy RLP 36 seeks to ensure there is no unacceptable impact resulting from noise and dust, policy and RLP 62 protects the environment from pollution with respect to air, water and land and requiring preventative measures.

Noise: The application is accompanied by a noise assessment that demonstrates that the proposals could be operated in accordance with the existing maximum noise levels set for surrounding properties. Additional clarification was required by the County's noise consultant with respect to noise levels in close proximity to the properties on Cuthedge Lane and this additional information has been provided.

In order to remain within existing noise limits, it is proposed within the application to form a screen bund between the extraction and Heron's Farm and it also proposed that when operations are within 100 and 150m it would be necessary to minimise the amount of plant operating in this zone to ensure maximum noise levels are complied with. Such restrictions could be controlled by condition and monitoring required to ensure compliance.

With respect to Deeks Cottage and Haywards (unoccupied), these properties are in the control of the applicant and the occupants of Deeks Cottage have chosen to vacate the property when the extraction is in close proximity. In order to minimise the period the occupiers are required to be away from their home, in the same way limited plant would be used in close proximity to Heron's Farm similar restrictions would be required when operations are close to Deeks Cottage, likely to be necessary when operations are between 100 and 300m from the property. Subject to a legal obligation requiring Deeks Cottage and Haywards to be vacated when maximum noise levels cannot be achieved and conditions setting maximum noise limits for operations and temporary operations and regular site monitoring to show compliance, and conditions to limit the number and nature of plant working in close

proximity to Heron's Farm, Deeks Cottage and Haywards the County's noise consultant has no objection to the proposals.

Dust: There is potential for dust during soil stripping operations, but initial stripped soils would be used to form screening bunds to Heron's Farm and Cuthedge Lane. Dust tends to carry not more 100m and stand-offs of this distance are proposed to Heron's Farm, Deeks Cottage and Hayward when they are occupied. Best practice dust suppression measures are proposed, including damping of haul roads and conditions could be imposed to secure these controls.

It is considered subject to the conditions and obligation described above the proposals would not give rise to adverse impact from noise and dust and are in accordance with MLP Policies S10 and DM1 and BDLP policies RLP 36 and RLP 62.

E TRAFFIC, HIGHWAYS & PUBLIC RIGHTS OF WAY

Paragraph 32 of the NPPF states, in summary, that applications for development should be supported by a Transport Statement or Transport Assessment. Decisions should take account of whether opportunities for sustainable transport modes have been taken up, safe and suitable access to the site can be achieved for all people, and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

MLP Policy S11 (Access and transportation), in summary, permits minerals development where it would not have unacceptable impacts on the efficiency and effective operation of the road network. It permits transportation by HGVs where the road network is (or can be made) suitable.

BDLP policy RLP 36 seeks amongst other matter to prevent unacceptable impact from traffic congestion.

The access to the quarry is a purpose built junction onto the A120 Trunk Road with a right turning lane and it is proposed that traffic would utilise this access and the applicant was supported by a Transport Statement such that the specific requirements set out in the LP with respect to Bradwell Quarry have been addressed. The Highways Agency has raised no objection to the proposals and did not require a full Traffic Impact Assessment. Concern has been raised by consultees as to the congestion that would be caused on the A120, particularly from the combination of the proposed mineral traffic with the IWMF traffic. At the time of IWMF application the quarry was operational and traffic impacts were assessed based on the IWMF and the quarry being operational at the same time, the Highways Agency raised no objection to IWMF application.

Without out an objection from the Highways Agency there is no justification for refusal of the proposals on highway safety and capacity grounds.

However, it is considered appropriate to ensure that HGV movements do not rise above those on which the acceptability of the proposal has been assessed and therefore conditions limiting HGV movements could be imposed if planning permission is granted, controlling the maximum daily HGV movements to those proposed i.e. 590 per day and average daily HGV movements to 458 per day (when averaged over the year).

ECC as Highway Authority is responsible for the two crossings on Church Road and Ash Lane by the private access road. The Highway Authority has raised no objection to the proposals subject to conditions and obligations requiring that all access to the site is gained from the A120. Signage and measures, including bollards required as part of the development of site A2 are in place on Church Road and Ash Lane to prevent access from these two crossing points, the measures would prevent HGV's accessing from the crossing points.

There remains an issue, despite signage, that some public use the A120 access and private haul road route rather than the junction in Bradwell itself accessing/exiting the haul road at the crossing points. The provision of further constraints/bollards at the crossings is not possible without jeopardising the safety of users of Ash Lane and Church Road, and would detract from the visual appearance of Ash Lane which is a Protected Lane. It is considered that the operator has done all that is reasonable to prevent access by the public, but conditions/obligations could be imposed to ensure retention and maintenance of the signage and bollards, subject to such conditions to retain and maintain the existing measures it is considered the operator has satisfied the requirements of the MLP for Bradwell Quarry with respect to these crossing points.

It is acknowledged that while the vast majority of all traffic accessing the site is via the A120 i.e. all traffic importing and exporting minerals and mineral products and staff and maintenance of the processing plant area, currently there are 28 movements (14 in and 14 out) of cars and vans and on average 2 HGV movements (1 in 1 out) every 3 to 4 weeks via Woodhouse Lane to the south of the site. Concern has been raised in respect of this use. The earth moving contractors' compound for the current extraction is located south of site A2 on an area of the old runway. Staff and maintenance vans associated with the earth moving contract access this compound from the south via Woodhouse Lane. The Highway Authority has considered these movements and requires that all movements associated with the quarry should be via the A120 access and internal haul roads. The operator has been advised to cease use of Woodhouse Lane for any traffic associated with the quarry upon implementation of the planning permission, if granted.

It is considered, subject to the conditions and obligations described above the application would not give rise to adverse highway impacts and would be in conformity with MLP policies S10 and DM1 and the NPPF and BDLP policy RLP 36.

Removal of the access onto the A120 and private haul road: The restoration proposals for the application site include the removal of the A120 access and

private haul road. However, the WLP envisaged access to the preferred site WM1 from the A120 via the existing access track and the IWMF planning permission permits the retention and use of the access and haul road. It is therefore considered that it would be appropriate to require by a legal obligation the removal and restoration of the junction onto the A120 and access road, only if no longer required in association with development at Preferred waste site WM1, the IWMF or any future mineral development. The applicant has indicated willingness to enter into such an obligation. Such an obligation would meet the specific issues identified in the MLP with respect to Bradwell Quarry.

Public Rights Of Way: MLP Policy S11 requires no unacceptable impact on the Public Rights of Way network.

Concern has been raised by local parishes as to the impact of the proposals on public right of ways that cross the quarry.

It is acknowledged that PRoWs would require diversion during extraction and restoration of site A3 and A4 and alternative routes around the edge of the extraction area have been proposed to maintain the north-south links that the existing PRoW provide. The proposals include reinstatement of these PRoWs onto their original routes and also proposes enhancements including the extension of PRoW Bradwell 24 which currently has a dead end, which would be extended to link with PRoW Bradwell 55. A bridleway link from Sheepcotes Lane to Pantlings was provided as part of Site A2 planning permission, but currently requires a detour north to make the link; the current application proposes a new section of bridleway to avoid the need for this northern detour. There are also some anomalies with respect to the public rights of way crossing the haul road, namely the definitive routes are not the routes on the ground used by the public and these would also be addressed. All necessary temporary diversions and permanent enhancements could be secured through a planning obligation if planning permission was granted.

It is considered the provision of the alternative routes and enhancements ensure the proposals meet with the specific issues identified in the MLP for Bradwell sites A3 and A4 and that the proposals are in accordance with MLP policy S11 with respect to no adverse impact on PRoW.

F HISTORIC IMPACT

MLP Policy S10 (Protecting and enhancing the environment and local amenity), in summary, requires appropriate consideration of the historic environment.

MLP Policy DM1 (Development Management Criteria), in summary, requires that the development would not have unacceptable impact on the historic environment, including heritage and archaeological assets.

BDLP policy RLP 105 and RLP 106 require archaeological evaluation and excavation and recording to ensure heritage assets are not lost. Separate legislation and the NPPF seek to protect the settings of Listed Buildings.

Listed Buildings: There are listed buildings in the vicinity of the site; the closest being Allshots Farm, but the buildings are screened from direct views by existing vegetation and the existing scrap yard, such that the setting of the listed building would be unaffected by the proposals. Other listed buildings, such as Woodhouse Farm, and those along Sheepcotes Lane are either screened by existing vegetation or at such a distance from the extraction that there would be no adverse impact upon their settings. Curd Hall lies to the north and concern has in the past been raised as to the impact of the proposals on level of the pond adjacent to the building, which could detract from the setting of the listed building. This issue is discussed in more detail within the water environment section and investigation/mitigation has been proposed as part of the application which could be secured by condition/obligations. Subject to such conditions being imposed, the setting of Curd Hall would not be harmed.

Archaeology: The ES included an archaeological assessment, which set out the results of a desk based assessment and archaeological evaluation with results of trial trenching carried out across site A3 and A4. The trenching identified areas of interest including an area of early Iron Age to medieval periods. The County's Archaeologist has raised no objection to the proposals subject to a full archaeological condition, which would require full investigation and recording of the features above and a watching brief over the remainder of the site.

It should be noted that the operator requested to commence these archaeological investigations in August 2014 following the removal of the crop, when the soils could be stripped in a dry and friable state. Subject to prior agreement of a Written Scheme of Investigation it was not considered that these investigations constituted commencement of development and soils have been stripped with an archaeologist present. Concern has been raised that these works are unlawful.

The archaeological investigations are considered permitted development, but the formation of soil storage bunds depending on the timescale they are in place are not permitted development. However, as these bunds are in accordance with the details of the current application for consideration, it was not considered expedient to require replacement of the soils at this time, but the developer has been requested to suspend stripping of the soils pending determination of the application.

Subject to the conditions and obligation set out above, it is considered the development would comply with the provisions of the NPPF, MLP Policies S10 and DM1 and the specific issues raised in the MLP in relation to Bradwell Quarry no. 4 and BDLP policy RLP 105 and RLP 106.

G ECOLOGY

MLP Policy DM1 (Development Management criteria), in summary, permits minerals development subject to it having no unacceptable impact on the natural and geological environment, including biodiversity and ecological conditions for habitats and species.

BDLP policy RLP80 requires assessment of the impacts upon wildlife and

proposals to include mitigation, RLP81 seeks to protect existing trees and plant additional trees, and Policy RLP 84 seeks to protect “protected species” requiring full ecological assessment.

The MLP identifies specific issues to be addressed; Bradwell has been identified with the agreement of the developer to provide “significant biodiversity enhancement and habitat creation”. The developer has subsequently, as part of preparation of the Supplementary Planning Document on biodiversity, committed to provide 50 hectares restored to priority biodiversity habitats. The developer, as part of this application, has offered areas to be restored to priority habitats on a pro-rata basis for the area of extraction. This would be undertaken with further areas to be provided as part of future applications with respect to the remaining preferred and reserved sites within the MLP, which are set out within a Masterplan. Such future areas could be secured through planning obligations.

While areas of priority diversity have been offered as part of the restoration these areas have not been considered as providing mitigation or compensation for areas lost as a result of the development this has been addressed separately. Mitigation and compensation has been proposed, including such measures as avoiding bird nesting seasons with respect to removal of hedgerows and installation of bat boxes. Construction and Environmental Management and Habitat Management plans are proposed to be submitted and could be secured by condition/obligation. A licence would be required from Natural England prior to the removal of a building in A4 as it is known to contain bat roosts.

9.4 ha of priority habitats would be delivered as part of the restoration proposals including 3.5 hectares of reed bed and wet grassland around New Field Lagoon, 1.5 open mosaic habitat utilising crushed concrete substrate recovered from the broken up runways and 4.4 ha of species-rich neutral grassland. The county ecologist sort clarification of the areas where priority habitats would be delivered and additional information was submitted and addressed this matter. Details of the restoration to priority habitats could be required by condition.

The application has offered an extended period of aftercare and management of 25 years, and also if any of the new habitat areas have to be disturbed that replacement areas would also be subject to a further 25 years of management. In addition an obligation is offered to provide funding for the management either through an accruing fund or bond to ensure funds are available for the full 25 year period.

It is therefore considered that, subject to the imposition of suitable conditions and obligations to secure the proposed mitigation, compensation and enhancement and long-term mitigation, the proposed development would not have unacceptable impact on ecology and could provide a positive impact delivering areas of priority habitat, in compliance with MLP Policies DM1 and S10, the MLP specific requirements with respect to the Bradwell sites and BDLP policies RLP80, RLP81 and RLP84.

H AGRICULTURE & SOILS

MLP policy DM1 seeks to minimise impact upon soil resources and upon best and most versatile agricultural land. BDCS policy CS8 also seeks to protect best and most versatile land.

The extraction operations in A3 and A4 would result in the temporary loss of 31 ha of agricultural land. The majority of this land is owned by a farming company with the remainder farmed by the same company under a tenancy agreement but does not form the sole income of the farming company. Upon restoration 25ha would be restored to good quality agriculture land, a loss of 6 ha within sites A3 and A4. Therefore the temporary loss and permanent loss of a small area of the agricultural land would not result in significant hardship to the tenant farming company.

The surplus soils from enlarging New Field Lagoon means the extraction areas of sites A3 and A4 can be restored to levels similar to those prior to extraction.

The smaller area restored to agricultural land under tenancy would be reduced by just over 8 hectares, being restored to different habitats. The loss of this agricultural land was assessed by the applicant not to have a significant impact upon the tenant farming company, as it was not its sole source of income.

The removal of the redundant runways and hardstandings of the airfield would mean that the reinstated agricultural areas would be more cohesive and not dissected, creating more practical manageable fields. Best practice standards have been described by the applicant for the stripping, storage and spreading of soils and these would be secured through condition, along with a requirement for 5 years of agricultural aftercare, in line with those for site "A". The proposed restoration and protection of soils is considered to meet the specific requirements set out within the MLP with respect to Bradwell Quarry.

While the proposal would result in the loss agricultural land, the enhancements to biodiversity are considered to outweigh this loss and meet with environmental dimension of the NPPF. It is considered that subject to those conditions described above the proposal are in accordance with MLP policy DM1 and BCS policy CS8 protecting the soil resources and best and most versatile land and there would be no lasting unacceptable social or economic adverse impacts.

I RESTORATION & AFTERUSE

MLP policy S10 seeks to protect and enhance the environment and local amenity, while policy S12 seeks to ensure restoration to "beneficial after-uses, with positive benefits to the environment, biodiversity and/or local communities" and includes provision of biodiversity gains. BCS policy CS8 seeks to create and enhance areas of biodiversity to contribute to the Essex Biodiversity Action Plan.

The MLP sets out specific requirements with respect to the Bradwell site, including the requirement of the restoration scheme not to preclude the potential development of the WLP preferred site WM1 for waste uses or the implementation of the permitted IWMP. The restoration scheme for sites R and A2 has been modified, to enable a larger lagoon to be included and to accommodate 9.4

hectares of priority habitat within the restoration scheme and provide reed bed and wet grassland habitats. These changes do not impact upon the potential for the site to be developed for the IWMF, the proposed restoration levels would not preclude the development of the IWMF and none of the proposed priority habitats are within the site area of the IWMF.

The MLP requires the first application of any of the preferred sites at Bradwell to be accompanied by a Masterplan setting out the indicative phasing for all preferred and reserved sites and an overall scheme restoration scheme of restoration delivering areas of priority habitat. The application has been submitted with a master plan, setting out the future working would be such that A5 would follow first, and as required by the MLP the coming forward of the reserved sites A6 and A7 only if the Landbank in Essex falls below 7 years. The details indicate the likely phasing within site A5, which would be in a north to south direction. In addition the location and nature of future areas of priority habitat which would be provided up to a total of 50 hectares on pro-rata basis for areas of extraction permitted. Concern has been raised by Braintree DC that a greater level of detail within the Masterplan was expected such as an assessment of the impacts on the community, transport and landscape. Such consideration of impacts could only be considered when assessed through the EIA process, when and if applications for subsequent preferred and reserved MLP sites at Bradwell Quarry are submitted. The level of detail provided is considered to meet the requirements of the MLP and the future indicative phasing and restoration of sites A5 to A7 could be secured through an obligation.

It is considered the proposed combination of restoration to agriculture and biodiversity and proposed long-term management meet the requirements of MLP policies S10 and S12 and BCS policy CS8, as well as the specific requirements of the MLP for the Bradwell quarry with respect to restoration.

J SOCIAL & ECONOMIC IMPACTS

The impact upon the surrounding community and economic impacts were considered as part of the EIA process and included consideration of the points raised as part of the pre-application public consultation.

The overall conclusion was that the proposals would have a small positive economic impact as a result of the continuation of the 45 jobs provided by the quarry and the opportunities provided to local suppliers and contractors.

8. CONCLUSION

MLP Policy P1 identifies the proposed sites A3 and A4 areas as preferred sites and notes that the principle of extraction has been accepted and the need for the release of mineral has been proven. This does not, therefore, require debate.

However, policies of the MLP, BCS and BDLP require that the development does not result in unacceptable environmental impact. The various environmental issues have been considered and, subject to appropriate mitigation being secured through conditions and obligations, it is considered there would be no significant

adverse impacts that warrant refusal of the proposals. Therefore the proposals would be in accordance with the specific requirements of the MLP relating to Bradwell Quarry and in particular requirements for Preferred sites A3 and A4 following policies: with respect to landscape and visual impact matters, DM1, S12, CS5, RLP 80, and RLP 81; with respect to noise and dust S10, DM1, RLP 36 and RLP 62; with respect to highways and rights of way the NPPF, S11 and RLP 36; with respect to historic environment S10, DM1, RLP 105 and RLP 106; with respect to the water environment DM1, RLP 36 and RLP 62, with respect to ecology/biodiversity DM1, RLP 80, RLP 81 and RLP 84 and with respect to restoration and aftercare S10, S12, DM1, CS8,.

Overall, it is considered that the proposals comply with the development plan, taken as a whole. Additionally, it is considered that the economic, social and environmental roles of sustainable development would be fulfilled by the proposed development. Therefore, there is a presumption in favour of the sustainable development in accordance with the provisions of the NPPF and MLP Policy S1.

9. RECOMMENDED

That planning permission be **granted** subject to

- i. The prior completion, within 12 months, of Legal Agreements under the Planning and Highways Acts to secure: obligations covering the following matters
 - 25 year management period for 9.4 ha of priority habitat and in the event any of the priority habitats are relocated a further 25 years of aftercare to be provided
 - Commitment to adhere to Master Plan in term of phasing and restoration, delivering 41.6ha of priority biodiversity habitat on a prorated basis if sites A5, A6 and A7 are permitted.
 - Accruing of a fund or financial bond to cover the costs of management of the priority habitats. The developer to submit a schedule of the likely costs arising over the management period
 - Deeks Cottage and Haywards not be used as residential properties whilst machinery is within 100m of the properties
 - Retention and maintenance of existing measures in the highway to prevent/discourage access onto the private access road at the crossings with Ash Lane and Church Road
 - Disciplinary measures to be enforced by the company if drivers found using minor roads and the crossing points to access the access road
 - Removal of access road if the IWMF is not implemented, or not required with respect to Waste Local Plan preferred sites or future potential mineral permissions

- Extension of PRow Bradwell 24 to PRow Bradwell 55 upon restoration of the site, creation of bridleway section to provide direct route between Sheepcotes Lane and Pantlings Lane and upgrading of footpaths to bridleway status upon completion of restoration to create a bridleway route between Sheepcotes Lane and Pantlings Lane, regularising the routes of paths crossing the haul road.
- Continuation of site liaison group
- 3 monthly monitoring of boreholes, and pond level board installation at Curd Hall (subject to owners agreement) and further investigation of potential affects of quarrying on the pond at Curd Hall and if necessary provision of mitigation measures.

ii) And conditions relating to the following matters;

1. Comm 1 commencement
2. COMM3 Compliance with submitted details and addition all relevant plans/elevations and details with respect to planning permission for the processing plant, concrete batching plant, bagging plant, dry silo mortar plant, office, weighbridge, access road and other infrastructure.
3. CESS2 Cessation of development – extraction 3 years, restoration 4 years
4. CESS3 Removal of ancillary development
5. CESS7 Revised Restoration in Event of Suspension of Operations
6. HOUR2 Hours of working
7. Sand & gravel processing plant & dry silo mortar plant– Monday to Friday 7am to 6:30pm, Saturday 7am to 1pm
8. BESPOKE Bagging unit Monday to Friday 6am to 10pm, Saturday 7am to 1pm. No export of materials after 6:30pm
9. BESPOKE No earth moving on Saturdays and Sundays
10. BESPOKE With no working at all on Saturday afternoon, Sunday, Bank and Public Holidays.
11. BESPOKE The bagging plant shall not operate between 6am and 7am and between 6.30pm and 10.00pm unless the roller shutter doors are closed
12. PROD2 Records of output
13. HIGH 2 – Vehicular access
14. BESPOKE Maintenance of signage and measures to deter access and egress to the private access road by local traffic
15. HIGH3 Surfacing/maintenance of Access Road
16. HIGH 4 Prevention of mud and debris on highway
17. HIGH 5 Vehicle movements limits
18. HIGH 6 Lorry sheeting
19. HIGH7 Pedestrian/PROW Signage
20. HIGH8 Parking areas – particularly in relation to earth moving contractors
21. HIGH9 Vehicle routing – not using local roads to get to access road
22. NSE1 Noise Limits
23. NSE2 Temporary Operations
24. NSE3 Monitoring Noise Levels

25. NSE5 White noise alarms
26. NSE6 Silencing of Plant and Machinery
27. BESPOKE constraint on nature and number of plant operating within close proximity of Heron's Farm, Deeks Cottage and Haywards.
28. VIS2 Stockpile heights
29. LGHT1 Fixed Lighting Restriction – with respect to any additional lighting
30. LGHT2 Use of Lighting Restriction
31. DUST1 Dust Suppression scheme
32. DUST3 Spraying of Haul Road
33. LAND1 Landscape Scheme
34. LAND2 Replacement Landscaping
35. TREE1 Tree Protection
36. ECO2 Provision for Translocation of Protected Species
37. ECO3 Protection of Breeding Birds
38. ECO4 Habitat Creation/Habitat Restoration Scheme prior to commencement of restoration works
39. ECO5 Habitat Management Plan & Construction and Environmental Management Plan
40. ECO7 Update of Survey before Commencement of Development
41. LS1 Limits of Excavation
42. LS4 Stripping of Top and Subsoil
43. Topsoil and soil stripping in accordance with submitted details
44. LS5 Maintenance of Bunds
45. LS6 Retention of Soils
46. LS8 Soil Handled in a Dry and Friable Condition
47. LS10 Notification of Commencement of Soil Stripping
48. LS11 Notification of Soil Placement
49. LS12 Topsoil and Subsoil Storage
50. BESPOKE The screening bund adjacent to Green pastures shall be removed prior to restoration of the site, unless planning permission ESS/37/08/BTE has been commenced. If to be retained details shall be submitted for its reshaping and planting.
51. BESPOKE Micro scale level plans for the margins of the water body known as New Field Lagoon.
52. ARC1 Advance Archaeological Investigation
53. POLL1 Surface Water Drainage
54. POLL4 Fuel/Chemical Storage
55. POLL6 Groundwater monitoring
56. POLL8 Prevention of plant and machinery pollution
57. BESPOKE In the event that contamination is found submit details of mitigation and remediation for approval
58. RES1 Stones to be Picked
59. RES4 Final Landform
60. AFT1 Agricultural Aftercare Scheme to be approved
61. BESPOKE Agricultural access route across eastern side of Site R, route to be submitted for approval within 6 months
62. MIN1 No Importation except with respect to bagging and dry silo mortar plant
63. GPDO2 Removal of PD Rights – Specific
64. BESPOKE Not less 66% of materials for the bagging plant shall be

- supplied from indigenous materials excavated at Bradwell Quarry
65. BESPOKE Air emissions and stack height in relation to the dry silo mortar plant shall be in accordance with approved details
66. BESPOKE The colour of all buildings shall be maintained grey

BACKGROUND PAPERS

Consultation replies
Representations
Planning Application & EIA Ref ESS/24/14/BTE

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

The proposed development would not be located adjacent 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: 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.

STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER

The Minerals and Waste Planning Authority has engaged with the applicant over several months prior to submission of the application, advising on the validation requirements and likely issues.

Throughout the determination of the application, the applicant has been kept informed of comments made on the application and general progress. Additionally, the applicant has been given the opportunity to address any issues with the aim of providing a timely decision.

LOCAL MEMBER NOTIFICATION

BRAINTREE – Witham North

BRAINTREE – Braintree Eastern

ESS/32/11/BTE

**ENVIRONMENTAL IMPACT ASSESSMENT (EIA) FOR:
Bradwell Quarry, Coggeshall Road, Bradwell, Near Braintree Essex and land
south of Bradwell Quarry on part of Rivenhall Airfield and east of Sheepcotes
Lane (known as Site A2 in emerging MDD)
ESS/24/14/BTE**

An Environmental Statement (ES) has been submitted with the application and examines the potential impact of the proposal on the natural and built environment and considers, where necessary, ameliorative measures to reduce and minimise that potential impact. The EIA process has been undertaken with respect to that part of the site where there are proposed changes. The application site (area edged red) includes existing areas of the quarry such as the haul road and processing area and previously worked or currently being worked areas of extraction where there would be no or little change as a result of the proposals, i.e. the assessment has assessed the impacts of extraction with A3 and A4, the proposed additional area of extraction and the reference to 'site' in the following summary of the ES is to sites A3 and A4. The assessment has been undertaken according to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and through the consultation process the ES has been revised as required and mitigation measures introduced either by amendments to the proposal or as suggested planning conditions. The assessment covers the following:-

Land use, geology and ground conditions;
Groundwater;
Ecological Impact Assessment;
Archaeology;
Landscape and Visual Amenity;
Travel and Transportation;
Dust Impact Assessment;
Assessment of Environmental Noise;
Social and Community Issues;
Nuisance Impact Assessment;
Surface Water and Flood Risk.

A summary of the potential effects assessed in the ES are set out below.

Land Use, Geology and Ground conditions

Land Use: The site baseline groundwater and geological conditions were collated using a number of published information. The site's historical use was as a WWII RAF and USAF air base until 1946 and then as a testing centre for Marconi Radar. Since then the hanger only has been in industrial/commercial use, with the main land use for the area being agriculture.

The impacts on the land include the removal of topsoil and overburden and would result in the loss of agricultural areas. The proposals would also require the removal of

runways and taxiways. The restoration proposals would return areas back to agricultural with the advantage that fields would not be dissected by the old airfield features. However, overall less land would be restored to agricultural land. It was concluded that there would be a minor adverse impact on agriculture. However, it was noted that the area to be restored to biodiversity would be increased and the minor adverse impact on agriculture had to be balanced against this advantage

Geology and ground conditions: The geology of the area shows that extraction would come from the Kesgrave Sand and Gravel series, which is fairly widespread in North Essex. The deposit has a high stone to sand ratio and is known to produce good quality construction aggregates.

Ground conditions could be impacted upon as disturbance from the extractions and soil movements may uncover previously unidentified contamination from historical land use operations as an airfield. This was considered as a slight to adverse impact.

Mitigation measures: Measures for mitigation include the monitoring and management of the topsoil, subsoil and overburden storage, thus reducing the potential for contamination. Methods would include the limit of exposure of soils and regular checks with the protocol for all work to cease if evidence is found. In this event, the area would be assessed and all parties, including Environmental Agency and Local Planning Authority would be contacted and a decision would be made regarding the short and long term future of the site. Any spills or leaks from operations during the site activity would be mitigated. For example vehicle would be maintained and inspected, fuels stored correctly and materials labelled. Effluent would be recycled and sewages and waste would be appropriately disposed of or stored.

Comments

The loss of agricultural land is not considered significant, but conditions would be imposed with respect to soil handling, soil storage and agricultural aftercare to ensure areas restored to agriculture are restored in accordance with best practice. With respect to contamination, no evidence has been found of contamination with respect to previous uses of the land, but conditions would be imposed such that if contamination was found the matter would be addressed appropriately. A standard condition with respect to storage of fuels and oils would be imposed to minimise contamination from on site activities.

Groundwater

Existing evidence would indicate that ground water is on average at about 34M AOD and the quality is generally within drinking water standards. The majority of the sand and gravels lie above the water table, but some dewatering would be necessary to work all the deposit which could have an impact on groundwater levels. The radius of influence is likely to be 300m from site which is assessed as slight adverse. Such impact would only be temporary until restoration.

The impact of the development on water quality is likely to be slight adverse, being potentially caused by previous airfield use or arising from use of oils and fuels, but prevented measures would be taken and regular monitoring of groundwater quality undertaken throughout the life of the site. A watching brief approach would be taken

with respect to contamination from the airfield and if material identified further investigation undertake

Due to the thickness of superficial deposits it is unlikely there is hydraulic connectivity between groundwater and overlying surface water features. The amount of sand and gravel to be removed is unlikely to change the hydraulic conductivity significantly that it would affect recharge of rivers via base flow. Groundwater monitoring would be undertaken through the development

EA raised concern as to potential for connectivity of Curd Hall pond with groundwater, who's levels have varied since quarrying commenced at Bradwell Quarry, the ES comments that in view of past quarrying which has been closer it is unlikely that the quarry would have an impact, but monitoring would be undertaken and monitoring results used to establish whether there is any connectivity

Overall it is assessed there would be neutral or minor impact upon groundwater.

The cumulative impacts of quarrying at the quarry have been assessed and it is assessed that the impact upon groundwater, levels, flows and quality is slight to negligible.

Comments: Conditions would be imposed to protect groundwater from contamination from the operations and require on site groundwater monitoring and an obligation required to secure investigation and mitigation if necessary of any impact upon Curd Hall pond.

Ecological Impact assessment

The site contains no internationally, nationally or locally designated sites of nature conservation interest. However, six Local Wildlife Sites (LWS) do exist in the vicinity but only the access road passes through a LWS, the Blackwater Plantation West. This is in use currently and would not be changed and so there would be no additional impact.

Bradwell Quarry has an existing pond, woodland planting and grassland and these would not be affected by operational activities and restoration of sites A3 and A4. Site R has habitats of low nature conservation values the western end as been restored to arable and the rest is disturbed and in the process of restoration.

A3 and A4 are largely in arable use and include hedges and dry ditches. The ecological survey included assessment of all hedgerows on or adjacent to site A3 and A4 the vegetation/ecological habitats types within sites A3 and A4. Surveys were also undertaken for badger, bats, breeding bird survey, Great Crested Newts and terrestrial invertebrate.

3 features of ecological value were identified, species rich hedgerows, Farmland BAP species and Bats and Bat habitat all considered of local importance only. A construction and environmental management plan (CEMP) and Habitat Management Plan (HMP) are proposed. Mitigation includes undertaking certain operations outside bird nesting season and removal of the building will necessitate a licence from Natural England due to the presence of bats. Bat boxes outside the site would be put in place.

Consideration was also given to the cumulative impacts of previous mineral workings and if the IWMF were implemented. Taking account of compensation and enhancement measures associated with these developments, particularly the provision of areas of priority habitat the cumulative changes to the valued ecological features were concluded to be positive.

Comments

The proposed CEMP and HMP and long-term management and retention of priority habitats could be secured through condition and obligations.

Archaeology

There are no Schedule Monuments or other formally designated archaeological sites within, or adjacent to the site. Trial trenching of the site has identified areas of interest, with a particular area of interest in Phase 1 of early Iron Age and medieval periods.

The proposals would result in the unavoidable loss of the archaeological resources that are present, except certain margins.

The potential for general environmental remains has been assessed as low, with discrete features having a medium potential.

Mitigation Methods include 'Preservation by record', monitoring and recording all soils during soil movement and excavations and further investigation of areas of interest identified.

Comments

A condition requiring submission of a WSI and carrying out of investigations prior to extraction in each phase would be required.

Landscape and visual Impact

Landscape

The site lies within the Suffolk and North Essex Clayland landscape character area, as defined by Natural England. The site is part of the former Rivenhall airfield, the majority of the extraction area in agricultural use crossed in part by the redundant runways. The site is on top of a plateau that rises up from the Blackwater to the north, dominated by the existing quarry workings.

The proposals would result in the loss of hedgerow and trees, but none are subject of TPOs and a temporary change of land use. Some detracting features would be lost parts of the old runway and past infrastructure. Bunding would be required along the boundaries of site A3 and A4.

The scale of predicted landscape impact on the immediate surroundings was assessed as low adverse, during extraction and upon restoration negligible beneficial. Although trees and agricultural land would be lost, upon restoration, the overall area of native trees and shrubs would increase along with addition of new hedgerows and species rich neutral grassland. There would be a reduction in agricultural land.

Visual Impact

Nine receptors were identified as having views of site A3 and A4, these included listed buildings (LB) as follows: Woodhouse Farm (LB); Allshots Farm (LB) & scrap yard; Gosling's Farm, cottages, Barn; Heron's Farm; Deeks Cottage, Hayward;, Scrip's Farm; Monks Farm.. In addition views from PRow and further afield properties were considered. The properties on Cuthedge lane would be most impacted upon. The impact on Heron's Farm would be moderate adverse and this impact has been minimised by the proposed screening bund, while Deeks Cottage and Haywards would be vacated during the operations.

It was also assessed there would be moderate and substantial impact upon PRow s.

Overall the proposals were assessed to have slight adverse taking account of the screening bunds and that the site would be restored to near natural pre-existing levels. In addition the restoration includes restoration back to agriculture with additional areas of woodland planting, hedgerows and priority habitats, such that in time they would be a slight beneficial impact.

Cumulative impact has been assessed including Site R A2 and the former workings of Coggeshall Quarry. Due to the flat nature of the site, the proposed screening bunds would screen the extraction well, such that it is perceived as a single operation within the existing larger site. In the long term the development would result in agricultural land, but restoration would create new landscape features and areas of nature conservation value.

Transport Statement

The site would use the existing Access Road currently being used by the Bradwell Quarry. Vehicular traffic would not increase as a result of the proposals but a continuation of the existing traffic levels. The EIA included a Transport Statement. The statement looked at the following matters:-

- The existing infrastructure, including junction with A120, haul road and crossing points with Church Road and Ash Lane and its ability to cope with the proposed traffic.

The level of traffic is not proposed to increase but be a continuation of the existing permitted vehicle numbers. The A120 junction was constructed to appropriate standards in 2001 and improvements have been undertaken to the crossing since 2011 in accordance with the last minerals permission to further limit use of the crossing points as entry points to the haul road and signage to discourage the use of the private haul road by unauthorised vehicles.

- Accident data between 2006 and 2013 has been reviewed. One accident classed as serious occurred when an unauthorised private vehicle was turning from the haul road onto Church Road and it was recorded that the driver was driving carelessly/recklessly. No other accidents recorded in the vicinity were as a result of the quarry operations.

- Alternatives modes of transport. The nature of the business means alternative modes of transport for the mineral are not practical. There is a bus service that would enable staff to use public transport, but it is acknowledge staff are likely to prefer to come by private car. Current levels of staff mean that a Travel Plan is not required.
- Compliance with planning policy with respect to highways and transport, requirements of the MLP2014 are considered to be addressed by the proposals.
- The cumulative impact of the proposals at the same time as the implementation and operation of the IWMP, which would use the same access. It was demonstrated that the A120 access would operate acceptability in capacity terms. It was noted that the crossing points with Church Road and Ash Lane are subject to further improvements if the IWMP were implemented,
- It was noted that public rights of way would require temporary diversion.

The overall conclusion was that the proposals would not have an adverse impact on the highway or transportation.

Comments

Conditions would be imposed to ensure vehicle movements remain at the proposed level and for existing bollards and signage with respect to use of the haul road and constraining the unauthorised access/egress of the haul road from Church Road and Ash Lane being retained and maintained.

Air Quality (Dust)

Whilst dust is unlikely to be produced by the excavation itself or aggregate processing, there may be some airborne dust during soil stripping. The main likelihood of dust arising would be through the tracking of plant and equipment on unsurfaced areas, but subject to windspeed and direction this would be very localised.

Based on the prevailing winds (from the SW) and the proximity of properties it was considered the most likely properties to be affected would be Woodhouse Farm Cottage unoccupied, Deeks Cottage and Haywards. Deeks Cottage and Haywards would not be occupied when operations are closer than 100m. Heron's Farm has a stand-off 100m through the operation, with these stand-offs the impact from dust would be minimal.

Dust management is current implemented at the quarry and would continue including haul roads to be made from reject aggregates to reduce dust release from tyres after leaving the Site, vehicle speed restrictions, sheeting of vehicles, minimise stock pile surface areas and dampening of all dusty activities along haul roads and access roads especially.

Comments

Appropriate conditions could be imposed to secure the proposed mitigation.

Noise

Back ground noise levels were measured at five representative noise sensitive locations selected as they represent the closest properties to the proposed development Heron's Farm, Haywards, The Lodge (Allshots Farm). Noise level predictions have been made at these 5 noise sensitive locations around the quarry and are based on worst case scenarios, when operations are closest and at greatest height to sensitive properties. The predictions showed that the existing noise, limits would be exceeded at Heron's Farm and Haywards and Deeks Cottage. Predicted noise levels at Heron's indicated that the existing noise limits would be exceeded by 2 dB(A) and thus working within 150m of the house has been proposed subject to restrictions on the amount of plant operational near the house, which could be secured through condition. A similar condition would be required would be restricted Haywards and Deeks cottage are to be vacant when activities give rise to unacceptable noise levels likely to be when unrestricted noise operations are within 300m of the properties.

There is no intention of expanding, altering or modifying the current washing and screening plant capacity so potential impacts from noise would be largely unchanged. The predictions took into account the mitigating measures proposed, mineral plant operating below natural ground levels and creating bunds screening the site appropriately, and those that are currently in place for the Bradwell Quarry.

The cumulative impact of the construction and operation of the IWMMF has been considered. Assessment has demonstrated that the operation of sites A3 and A4 would be possible within the noise limit of 60dB_{L_{Aeq} 1h} set during construction for the IWMMF. While operation of the IWMMF at the same time as A3 and A4 is unlikely it has been considered, but as noise levels for the operation of the IWMMF are 10db(A) below the lowest quarry noise limit, therefore would be no cumulative impact of noise if both were to be operational at the same time. In addition a Construction and Environmental Management plan is required for the IWMMF.

Comments

Appropriate conditions could be imposed to secure the proposed mitigation, impose maximum noise levels and require noise monitoring to show compliance.

Social economic Impacts

A review of local and district priorities were undertaken, including review of local planning documents. The assessment also includes feedback from the pre-application public consultation. The Site is seen not to have significant impacts on the local community wellbeing from emissions, odours and other environmental nuisances. Health and safety issues for the employees and the public would be managed to a minimum through implementation of procedures and environmental monitoring. Extending the longevity of extraction on the Site would provide positive economic development with the continued employment of 45 people and continue to provide opportunities for local contractors and suppliers during the different stages of site development. Overall the site would provide a slight benefit to the area, and once restoration is completed would enhance the local environment by means of provisions for biodiversity, climate change (storage for surface water) and public rights of way.

Comments

None

Nuisance & Amenity Issues

Nuisance was assessed using the 'source-pathway-receptor' methodology and hypothesises that if any one of the stages were not considered significant then a nuisance would not be present. Only odours from topsoil/subsoil storage and debris and dust from vehicle movements were considered a nuisance. Both cases were not considered significant if mitigation methods were carried out as proposed. Light pollution is not considered a nuisance, as operation hours and the rural location greatly reduce the impacts.

Comments

None

Surface Water and Flood Risk

The site lies on a plateau surrounded by undulating topography and gentle valleys. The site resides in the watersheds between two 'main' rivers, the River Brain to the south west and the River Blackwater to the north. New Field Lagoon permitted as part of the current operations is to be enlarged (250,000 to 700,000m³ would be used to manage ground and surface water runoff, with no discharge to the local environment in either storage or filling. Flood risk is considered minimal (1 in 1000 year flood risk) due to the plateau character of the topography.

The impacts on the area from surface water are considered negligible due to the topography and the management of surface water to flow, by pumping, into the New Field Lagoon. Excess water would be allowed to drain and discharge naturally into the sand and gravel strata. Groundwater is present in the hollows between the sand and gravel and clay surface, but would not be replenished due to the impermeability of the clay. Any groundwater that is encountered would be stored in temporary sumps within the site boundary, pumped into the New Field Lagoon or allowed to percolate naturally into the river basins, aided by the advantageous topography. As a result, groundwater is considered to be a negligible impact.

The restored contours mean surface water would all be directed to New Field Lagoon. The enlarged New Field Lagoon has been demonstrated to be large enough to handle an extreme rainfall event. The existing operations and site would allow passive surface water management on a yearly basis, coupled with the topographies' ability to store extreme rainfall events the impacts of surface water flooding are considered negligible.

Due to the negligible impacts of the surface water, mitigation is not considered necessary and consequently cumulative surface water impacts are also negligible.

Comments

Management of surface water would be required by condition. Under drainage for agricultural areas would be required as part of agricultural aftercare.

DR/36/14

committee DEVELOPMENT & REGULATION

date 26 September 2014

MINERALS AND WASTE DEVELOPMENT

Proposal: **Extension of Stanway Quarry on land at Five Ways Fruit Farm (FWFF) via the extraction of 2.95m tonnes of sand and gravel; extraction of remaining 0.5m tonnes of sand and gravel from Stanway Quarry; processing of remaining 1.5m tonnes of sand and gravel from Bellhouse Quarry to be imported via the existing conveyor link to Stanway Quarry by 31 October 2026; retention of the existing sand and gravel processing plant, Dry Silo Mortar Plant, concrete plant, access roads, weighbridge and related infrastructure until 31 October 2026; retention of the existing inert recycling operation and associated mobile plant parking area until 31 December 2037; restoration of FWFF area using existing indigenous soils, clay and soil forming material from within the application site within 7 years of commencement of operations at FWFF; importation of approximately 2.35m cubic metres of inert waste material for the restoration of the central / eastern Stanway Quarry void by 31 December 2037; and implementation of a comprehensive restoration scheme for the application site comprising agricultural land, orchard, woodland, grassland, lakes, habitat creation and informal public access via permissive routes.**

Location: **Colchester Quarry (Stanway) and Five Ways Fruit Farm, Warren Lane, Stanway, Colchester, CO3 0NN**

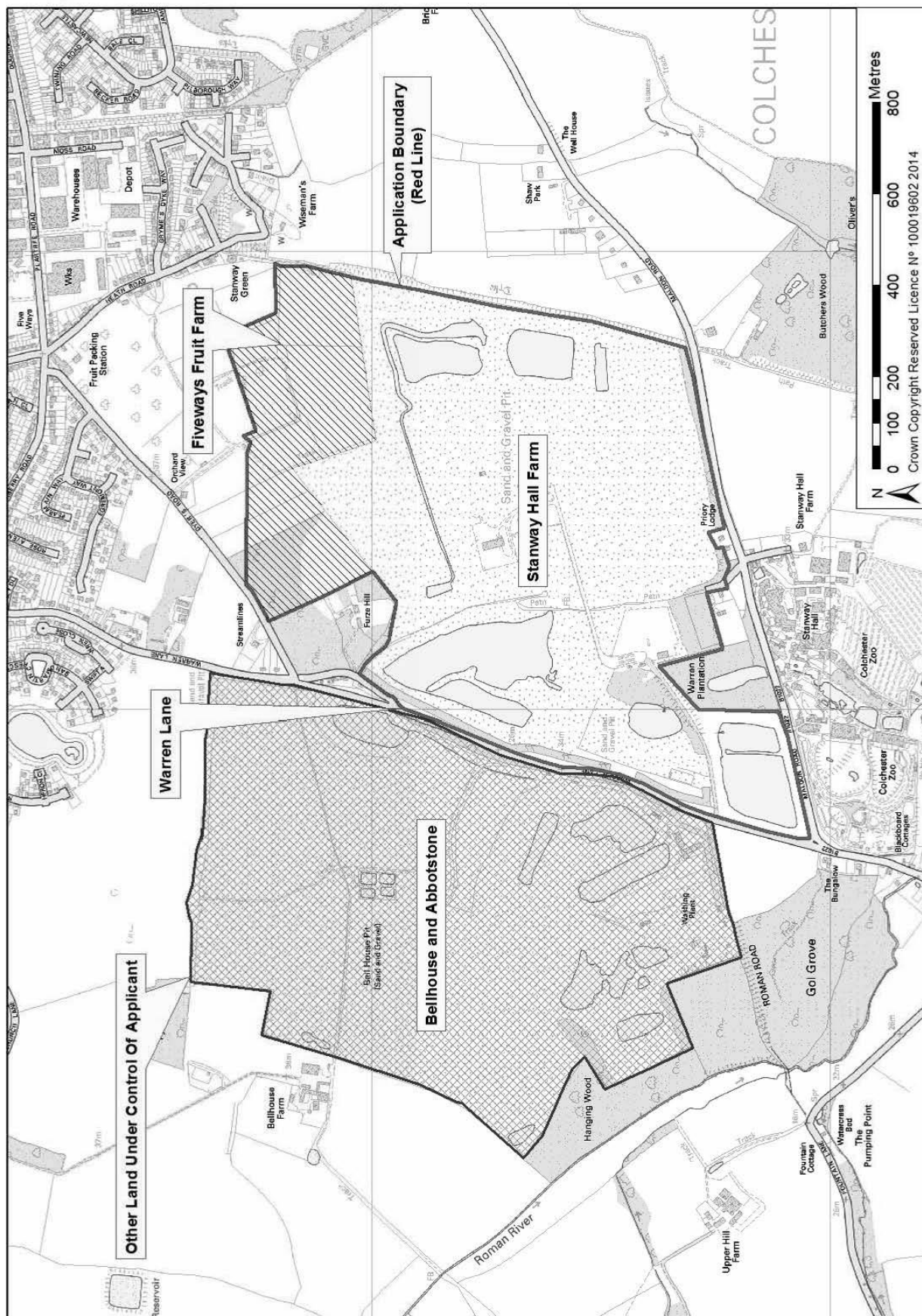
Ref: **ESS/23/14/COL**

Applicant: **Lafarge Tarmac Trading Ltd.**

Report by Director of Operations, Environment and Economy

Enquiries to: Shelley Bailey Tel: 03330136824

The full application can be viewed at www.essex.gov.uk/viewplanning



1. BACKGROUND

The application site and surrounding area have a long and complicated planning history. Mineral extraction at the application site dates back to 1969.

In summary, there are currently two broad areas of note. The first, Stanway Hall Farm, is located to the east of Warren Lane in Stanway. Mineral extraction with restoration to low level agricultural use is currently permitted via permission ref ESS/06/09/COL.

This general area also contains an inert recycling facility, a dry silo mortar plant, a sand processing plant, a concrete plant and site offices/buildings associated with the use of the quarry.

This area known as Stanway Hall Farm benefits from the following permissions:

- ESS/06/09/COL – ‘Continuation of development without compliance with conditions 6 (working and restoration scheme) and 15 (restoration scheme) attached to planning permission reference ESS/14/06/COL to extend the time for the submission of a detailed working and restoration scheme until 01 June 2010’.

(This permission amends permission ref ESS/14/06/COL, which itself varies the ‘Review of Mineral Permission’ (ROMP) permission ref ESS/49/01/COL/R for the original mineral extraction permission ref LEX/342/68).

Condition 6 of this permission requires the submission and approval of a working and restoration scheme. The applicant has submitted such a scheme, which includes a proposal to import 2.5 million m³ of inert material to restore the site to levels above the water table (which is at an average level of 20.5m AOD).

Following liaison between the applicant and the Minerals Planning Authority, it was considered that a full planning application would be more appropriate, hence the current application has been submitted. The submission under Condition 6 is being held in abeyance pending determination of the application the subject of this report.

- ESS/07/05/COL – ‘Erection of dry silo mortar plant, ancillary facilities, together with internal access improvements, as approved by application ESS/25/02/COL, without compliance with condition 2 (submitted details) to allow for amended plant layout and foundation levels’.
- ESS/17/05/COL – ‘Relocate inert recycling facility within the confines of Colchester Quarry’.
- ESS/21/02/COL – ‘Prior approval notification for replacement of sand

processing plant and weighbridge’.

- ESS/06/05/COL – ‘Creation of hardstanding for the proposed siting of a replacement sand and gravel processing plant, to provide an even hard surfaced area at a uniform level of 19.5m AOD’.
- ESS/05/99/COL – ‘Retention and continued use of existing quarry workshop’.
- ESS/04/14/COL – ‘Application for Prior Written Approval of a Concrete Batching Plant having regard to Condition 44 attached to permission ref ESS/06/09/COL and in accordance with Part 19 Class B of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).’

The following permissions exist but do not form part of the current application:

- ESS/63/06/COL – ‘Enclosed Mechanical and Biological Treatment (MBT), Anaerobic Digestion (AD) composting facility and biogas fired power generator for the treatment of residual municipal/commercial and industrial wastes together with environmental management compound for leachate treatment; offices; staff facilities; vehicle parking and visitor/education centre. Landfilling with residues, product and other pre-treated wastes to restore quarry to informal open space and recreational after use. Restoration of remainder of quarry to informal open recreational space.’

(Note: this permission has not been implemented. As such, permission will expire on 11 May 2015 if such implementation has not taken place).

- ESS/29/14/COL - Application for Prior Written Approval of a site office and welfare building having regard to Condition 44 attached to permission ref ESS/06/09/COL and in accordance with Part 19 Class B of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- ESS/33/14/COL – Erection of a staff welfare building.

The second area of note is located to the west of Warren Lane and is known as Bellhouse Farm and Abbotstone. Mineral extraction is currently taking place under permission ref ESS/48/01/COL/R and restoration to open space is taking place concurrently via landfill of commercial and industrial waste, under permission ref ESS/07/01/COL/REV.

The Bellhouse Farm and Abbotstone area also contains the regional offices for the applicant, the site offices for the landfill operators, an asphalt plant and a concrete batching plant.

A plant to manage the landfill gas arising from the Bellhouse Farm and

Abbotstone areas is located within the Stanway Hall Farm site area. Permission refs ESS/24/00/COL, ESS/09/12/COL, ESS/09/12/COL/NMA and ESS/09/12/COL/NMA2 relate to this plant. It is noted that these permissions are not proposed to be included within the application the subject of this report.

In addition, planning permission ref COL/758/89 was granted on 08 March 1990 for the construction of a tunnel under Warren Lane for conveying aggregates between Stanway Hall and Bellhouse Pit. Condition 4 of this permission requires, in summary, that the conveyor tunnel is removed and the land reinstated within 6 months of the completion of mineral extraction under permission ref LEX/342/68 (which has now been superseded by permission ref ESS/06/09/COL).

It is noted that the retention and use of this tunnel would need to be the subject of a further planning application.

2. SITE

The 94.2ha application site is located to the east of Warren Lane in Stanway, to the west of main developed part of Colchester and south of Stanway Village.

The application site encompasses an area of 78.3ha known as Stanway Hall Farm and an area of 15.9ha to the adjacent north, known as Five Ways Fruit Farm (FWFF). Vehicular access is and would continue to be via the existing priority junction access off Warren Lane.

The site is bounded by Warren Lane to the west, the B1022 Maldon Road to the south, Grymes Dyke to the east and partially bounded by Dyers Road to the north west. The northern boundary does not follow any physical features on the ground, but cuts across existing fields containing fruit trees associated with the existing FWFF.

The Stanway Hall Farm area has been almost fully worked for sand and gravel, to a depth of 14m AOD in the south eastern area and to average depths of between 18m AOD and 19m AOD across the base of the quarry.

FWFF is predominantly a mixture of arable agriculture, horticulture and orchard tree plantations. The westernmost field contains coniferous trees and rank grassland. The eastern part is generally flat, at an approximate elevation of 37m AOD, and there is an east-west valley in the west of the site, starting at approximately 36m AOD in the east and falling to 31m AOD in the west.

The FWFF area contains grade 3a and 3b agricultural land.

Sand and gravel deposits within FWFF are at a thickness of between approximately 12m and 23m. The deposit is generally glacially derived and thinner in the west and south of the area. The deposit is underlain by London Clay.

Bellhouse and Abbotstone minerals extraction/landfill site is located across Warren Lane to the west.

Colchester Zoo is located to the south across the B1022 Maldon Road.

The new Stanway Western Relief Road has been opened this year, linking Warren Lane directly to Essex Yeomanry Way to the west, thereby diverting traffic away from Stanway Village.

The northern and eastern parts of the existing Stanway Hall Farm Quarry have been designated as 'Warren Lane Pit' Local Wildlife Site (LoWS). 'Grymes Dyke' is also designated as a LoWS.

The nearest residential properties are located at Furze Hill and along Warren Lane to the west, along Dyers Road to the north west, at 'The Bungalow' to the north, along Heath Road and Maldon Road to the east, and 'Heckford Lodge', 'The Warrens', 'The Chase' and 'Priory Lodge' on Maldon Road to the south. There is also a property 'The Bungalow' located along Warren Lane to the south west.

Three Listed Buildings are located within 500m of the site, namely Wiseman's Farmhouse, approximately 90m from the application boundary; Cherrytree Cottage, approximately 180m from the application boundary; and Church of All Saints, approximately 140m from the application boundary.

Grymes Dyke Schedule Monument is located to the east, with fields containing the remains of Gosbecks Iron Age and Romano Site, a Scheduled Monument, beyond.

Footpath 39 (Stanway) runs from the north west of the application site in a southerly direction to the B1022 Maldon Road. Footpaths 25 and 36 (Stanway) run along Grymes Dyke to the east.

3. PROPOSAL

The application seeks to consolidate all existing planning permissions on the site into one.

The inert recycling area is proposed to be retained beyond the current end date of 11 January 2015, to 31 December 2037.

It also seeks permission to continue with the extraction and processing of the remaining mineral at Stanway Hall Farm, together with the extraction of 2.95m tonnes of sand and gravel from the extension site at FWFF and processing of the same at Stanway Hall Farm.

The application includes a proposal to continue processing sand and gravel extracted from the Bellhouse Farm area until 31 October 2026.

In order to restore the entire site to a mix of agricultural land, orchard, woodland, grassland, lakes, habitat creation and informal public access, the application seeks permission to import 2.35m cubic metres of inert waste material with a completion date of 31 December 2037. The FWFF area would be restored using only existing soils, clay and overburden from within the Stanway Hall Farm and FWFF areas.

12.9ha of land would be disturbed within the FWFF area, with the remaining 3ha proposed to be used for temporary soil storage and a receptor area for Jersey Cudweed (which is protected under Schedule 8 of the Wildlife and Countryside Act 1981). The FWFF area would be worked broadly in an east – west direction, with concurrent restoration of the wider Stanway Hall Farm site.

The main hours of operation are proposed to remain as per the existing, namely:

0700 – 1800 hours Monday to Friday
0700 – 1300 hours on Saturdays

With no working on Sundays or Bank/Public Holidays.

In addition, no stripping, movement, temporary or permanent placing of soil making materials is proposed to take place on any day prior to 0730 hours.

The application would also provide an area which would allow for the implementation of the existing Mechanical Biological Treatment facility (MBT) permission (ref ESS/63/06/COL).

An Environmental Impact Assessment has been required by the Minerals and Waste Planning Authority and submitted with the application. Details of the Environmental Statement are set out at **Appendix 1**.

Note

It is noted here that the application area has been amended without re-consultation. The amendment relates to the northern boundary of the Five Ways Fruit Farm area, which is proposed approximately 10m further north than the original red line drawing showed. The remaining supporting drawings did originally show the incorporation of an earth bund within this additional area and the extraction area is not proposed to change. It is therefore considered that no third party has been prejudiced by the altered drawing ref B030/00644A dated May 2014.

4. POLICIES

The following policies of the Essex Minerals Local Plan, (MLP), Adopted July 2014, the Essex and Southend Waste Local Plan, (WLP), Adopted September 2001, the Colchester Focused Review of the Core Strategy and Development Policies, (CFR), Adopted July 2014, the Colchester Core

Strategy, (CCS), Adopted 2008, the Colchester Development Policies, (CDP), Adopted 2010, and the Colchester Site Allocations (CSA), Adopted October 2010, provide the development plan framework for this application. The following policies are of relevance to this application:

| | <u>MLP</u> | <u>WLP</u> | <u>CFR</u> | <u>CCS</u> | <u>CDP</u> | <u>CSA</u> |
|---|------------|------------|------------|------------|------------|------------|
| Preferred and reserve sites for sand and gravel extraction | P1 | | | | | |
| Presumption in favour of sustainable development/ Sustainable development locations | S1 | | SD1 | | | |
| Creating a network of aggregate recycling facilities | S5 | | | | | |
| Protecting and enhancing the environment and local amenity | S10 | | | | | |
| Access and transportation | S11 | | | | | |
| Mineral site restoration and afteruse | S12 | | | | | |
| Development management criteria | DM1 | W10 E | | | | |
| Planning conditions and legal agreements | DM2 | W10 A | | | | |
| Primary processing plant | DM3 | | | | | |
| Secondary processing plant | DM4 | | | | | |
| Flood Control/Flood risk and management of surface water drainage | | W4A | | | DP20 | |
| Water Pollution | | W4B | | | | |
| Access | | W4C | | | | |
| Inert waste recycling | | W7D | | | | |
| Non-preferred sites | | W9B | | | | |
| Feasibility | | W10 C | | | | |

| | | | |
|--|-----|------|------|
| Hours of operation | W10 | | |
| | F | | |
| Public Rights of Way | W10 | | |
| | G | | |
| Design and amenity | | DP1 | |
| Historic environment assets | | | DP14 |
| Retention of open space and indoor sports facilities | | DP15 | |
| Nature conservation and protected lanes | | | DP21 |
| Appropriate uses within the Stanway Growth Area | | | STA1 |
| Open Space in Stanway Growth Area | | | STA5 |

The National Planning Policy Framework (NPPF), published in March 2012, sets out requirements for the determination of planning applications and is also a material consideration. The NPPF combined and streamlined all planning policy except for Waste, so Planning Policy Statement 10 Planning for Sustainable Waste Management (PPS10) continues to apply. Additionally, the National Waste Management Plan for England (NWMPE) is the overarching National Plan for Waste Management. All decisions must comply with the NPPF, while the NWMPE and PPS10 are material considerations in planning decisions.

Paragraph 214 of the NPPF states that, for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework.

Paragraph 215 of the NPPF states that in other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

The Colchester Core Strategy, Adopted 2008, the Colchester Development Policies, Adopted 2010, and the Colchester Site Allocations, Adopted October 2010, are considered to fall into paragraph 215, since the 12-month period has ended. Consideration will be given to the policies contained within these plans throughout the report.

Colchester Borough Council has carried out a Focused Review of the Core Strategy and Development Policies. This provides an up to date review of selected policies, as noted in this report, in accordance with paragraph 213 of the NPPF.

The level of consistency of the policies contained within the Essex and

Southend Waste Local Plan, Adopted 2001, is considered at **Appendix 2**.

The Essex Minerals Local Plan, Adopted July 2014, is considered to have full weight in the decision-making process, since it has been adopted taking the NPPF fully into account.

The emerging Essex and Southend Waste Local Plan is considered to be at too early a stage of preparation to be allocated any significant weight in the decision-making process.

Finally, the Stanway Joint Design Statement and Parish Plan was adopted as a Supplementary Planning Document in March 2011. However, there are no specific proposals in relation to the application site.

5. CONSULTATIONS

COLCHESTER BOROUGH COUNCIL – Supports the application in principle. Requests that the proposed permissive paths could also be used for cycling, and also that the existing Public Rights of Way are used for cycling. Requests conditions relating to full landscape proposals, a landscape management plan, a landscape maintenance plan and earthworks.

ENVIRONMENT AGENCY – No objection, subject to the consideration of conditions relating to water levels in domestic wells and a surface water attenuation scheme.

NATURAL ENGLAND – No objection. Recommends that possible impacts on local sites, local landscape character and local or national biodiversity priority habitats and species are assessed as part of the determination of the application. Recommends that opportunities for biodiversity enhancements are considered. Notes that a licence would be required for the translocation of Jersey Cudweed.

ESSEX WILDLIFE TRUST – No comments received.

ENGLISH HERITAGE – No objection, subject to condition and a legal agreement. Notes that the development would result in harm to non-designated archaeological remains but that this would be acceptably mitigated through a condition requiring a written scheme of archaeological investigation. Welcomes the proposal for a monument management plan in relation to the scheduled Grymes Dyke, which should be required via S106 Agreement.

COLCHESTER BOROUGH RAMBLERS ASSOCIATION – No comments received.

BRITISH HORSE SOCIETY – No comments received.

ESSEX BRIDLEWAY ASSOCIATION – No comments received.

UK POWER NETWORKS – No comments received.

NATIONAL GRID - No comments received.

ESSEX AND SUFFOLK WATER – Not affected.

OTHER POWER AND WATER COMPANIES – No comments received.

HIGHWAY AUTHORITY – No objection.

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

COUNTY COUNCIL'S NOISE CONSULTANT – Comments that, although there is some discrepancy over the method of calculation used, it is agreed that the calculated noise levels with mitigation would not exceed the proposed noise limits. Notes that it would not be appropriate to increase the noise limit at 'Randoms'. Compliance with the noise limit could be managed via noise monitoring and selection and disposition of plant items, with mitigation methods imposed as proposed by the applicant in the event that levels are exceeded.

COUNTY COUNCIL'S AIR QUALITY CONSULTANT – No objection subject to dust monitoring.

PLACE SERVICES (Ecology) – No objection, subject to conditions.

PLACE SERVICES (Trees) – No objection.

PLACE SERVICES (Landscape) – No objection subject to conditions covering a detailed restoration plan, detailed sections, details of surfacing and fencing and a management plan to cover a 50 year period.

PLACE SERVICES (Archaeology) – No objection subject to conditions covering a programme of archaeological work in accordance with a written scheme of investigation and a Conservation Management Plan for Grymes Dyke.

PLACE SERVICES (Listed Buildings) – No objection. Notes that development would be closer to Wiseman's Farm Grade II Listed Building, but the retention of hedge planting would avoid the setting being affected.

STANWAY PARISH COUNCIL – No comments received.

LOCAL MEMBER – COLCHESTER – Stanway and Pyefleet – Any comments received will be reported.

6. REPRESENTATIONS

97 properties were directly notified of the application. 3 letters of representation have been received. These relate to planning issues covering

the following matters:

Observation

The supporting statement contains boundary alterations and an extension to the life of the Bellhouse site.

Comment

Boundary alterations are reflective of the applicant's desire to consolidate existing and proposed permissions into one.

The Bellhouse site is currently required to be extracted and restored by 31/10/2026 under permission ref ESS/48/01/COL(R). The end date for landfill has been brought forward to 31/03/2022 by permission ref ESS/07/01/COL/REV. It is suggested that a condition could be imposed to ensure that no mineral would be imported to the site from Bellhouse beyond the timescales permitted under ref ESS/07/01/COL/REV.

The plant parking area would be applied for retrospectively and is outside of the 1969 consented area.

The applicant has chosen this application as the mechanism to apply for the plant parking area.

The application proposes the importation of waste from London.

The source of waste is not proposed to be restricted.

Concern over long-term off-site impact of traffic.

See appraisal.

Consideration should be given to the cumulative impacts (offsite) of the proposed restoration scheme, ongoing quarry activity and proposed new housing developments.

See appraisal.

The application suggests that the faces need to be made safe, but why are they currently deemed unsafe and how could this be addressed without any importation?

The quarry faces have been worked, leaving steep faces. Fill material is proposed to create a 1 in 3 minimum slope.

Why does the site need to be filled so the base is above the groundwater?

The current permission (ref ESS/49/01/COL) requires that the land is restored to dry levels (although a decision has not been made on the proposal to import material under condition 6). See appraisal.

The NPPF says that restoration should be at the 'earliest opportunity' (para 143) which could be better achieved if left as a suitably landscaped lake.

See appraisal.

There is a discrepancy in the application between a proposed rate of infill of 100,000 tonnes or 100,000 m³.

The proposals are for a rate of 100,000m³ of infill.

1.5 t/ m³ for inert waste is very much on the low side and should be closer to 2 t/ m³.

This is considered appropriate.

Is there any certainty that it will be one or other of the MBT/AD scheme or the proposed application scheme, not both, and can this be assured through any permission granted?

An alternative restoration scheme could be required via S106 Agreement in the event that the MBT permission (ref ESS/63/06/COL) is implemented.

The bund north of Heckford Lodge has been agreed as retained.

The bund is proposed to be retained.

The junction of FP39 and the proposed east west permissive path would be better located further south.

It is not considered that this would have any particular benefit compared to the proposed scheme.

A cesspit located within the application site to the north west of Heckford Lodge has an overflow into the wood which would pose a health hazard to anyone walking in the area; hence an offer to purchase the area has been made.

The existence of a cesspit has not been confirmed. However, walkers would not be in the vicinity.

7. APPRAISAL

The key issues for consideration are:

- A. Policy considerations
- B. Need
- C. Landscape and visual Impact
- D. Ecology
- E. Noise, dust & odour
- F. Traffic & Highways
- G. Heritage Impact
- H. Water Management

A POLICY CONSIDERATIONS

The wider mineral extraction site

The MLP identifies Site A13 Colchester Quarry, Fiveways, as a preferred site for mineral extraction. It notes the following (in summary):

- that the working of the site should be integrated into the restoration of the wider quarry;
- that the working of the site must compromise the effective implementation of the strategic waste facility granted under permission ref ESS/63/06/COL;
- that the site would need to be worked ahead of any housing development in close proximity identified in Colchester Borough Council's Core Strategy and Site Allocation DPD;
- A Transport Assessment would be required;
- Warren Lane Local Wildlife Site would require protection;
- An ecological assessment and surveys would be required;
- Early consultation with English Heritage would be required in respect of the Grymes Dyke Scheduled Monument;
- An Agricultural Land Classification and Soil resources Study should be undertaken and proposals formulated for the sustainable use of soil resources;
- Restoration should be to Open Space, in conformity with the Colchester Site Allocations.

These criteria will be considered throughout the report.

MLP Policy P1 (Preferred and reserve sites for sand and gravel extraction) states, in summary, that, on preferred sites, the principle of extraction has been accepted and the need for the release of mineral has been proven.

Stanway is identified as a Growth Area in the Core Strategy. The Site Allocations DPD, via Policy STA1 (Appropriate uses within the Stanway Growth Area) identifies 3 new sites which will be expected to deliver new housing and employment. Two of those are in the vicinity of the application site, namely 'Fiveways Fruit Farm' and 'land between Dyers Road and Warren Lane'. Significant areas of public open space are also expected to be delivered through the restoration of the existing quarry and the proposed land at FWFF.

Other infrastructure

MLP Policy DM3 (Primary processing plant), in summary, permits proposals for primary processing plant where it would be located within the mineral sites' boundary and would not have impact on the surroundings. It also states that imported minerals will only be acceptable where there are exceptional circumstances.

It is noted that the processing plant is already in place and is within the

mineral site's boundary. The importation of mineral from the Bellhouse site is also already permitted and, subject to a condition which restricts such importation to the timescales permitted by permission ref ESS/07/01/COL/REV, it is not considered reasonable that these existing developments should be refused. The plant is considered to comply with MLP Policy DM3.

MLP Policy DM4 (Secondary processing plant), in summary, will only be permitted where there would be no unacceptable impact on amenity, the environment, or the road network. Non-indigenous sources of minerals will only be allowable in exceptional circumstances and permission will only be granted for a temporary duration.

Two types of secondary processing plant are proposed to remain at the site, namely the dry silo mortar (DSM) plant and the concrete batching plant.

Since it is proposed that these facilities would be linked to the life of the proposed mineral extraction site, it is considered that they would be of temporary duration and, in principle their retention would comply with MLP Policy DM4.

MLP Policy S5 (Creating a network of aggregate recycling facilities) supports the safeguarding of existing Strategic Aggregate Recycling Sites (SARS), one of which is identified at the application site

WLP Policy W7D (Inert waste recycling), in summary, supports inert waste recycling facilities at current mineral working and landfill sites provided the development does not unduly prejudice the agreed restoration timescale for the site and the use ceases prior to the permitted end date for the site. The development must not cause unacceptable harm to the environment or residential amenity. This will be considered further throughout the report.

Sustainable development

MLP Policy S1 (Presumption in favour of sustainable development) and CFR Policy SD1 (Sustainable development locations) reflect the presumption in favour of sustainable development put forward by the NPPF.

The NPPF states that there are 3 dimensions to sustainable development: economic, social and environmental. It goes on to state, in summary, that these roles should not be undertaken in isolation but should be sought jointly and simultaneously through the planning system.

The applicant has stated that the application site has become a strategically important source of sand and gravel and construction aggregate for the local economy, since it became operational in 1969.

The materials produced at the site have been used in major local projects such as Abberton reservoir, Colchester United Football Club and the rebuilding of Colchester Garrison. Local housing and road schemes have

been supplied and some material is transported further afield via the rail siding at Marks Tey. This transported material has helped to build Heathrow and Stansted Airports.

The site provides direct employment for 26 local people and 7 hauliers. It contributes £1.1m per year to the economy.

The continuation of the existing operations and extension of the quarry would secure these employment opportunities and wider socio-economic benefits into the future.

The site would be well placed to provide aggregate for the Stanway Growth Area envisaged by the Colchester Development Framework. This would assist with the provision of a supply of housing required to meet the needs of the present and future generations, as well as the creation of a high quality built environment, all of which have economic and social benefits.

It is therefore considered that the proposal would fulfil the economic and social roles of the NPPF. The environmental role will be considered further throughout the report.

B NEED

As stated previously in the report, the need for the release of mineral at Fiveways Fruit Farm has been proven via the Essex Minerals Local Plan and MLP Policy P1.

It is useful to note at this stage that the total extractable reserve across the site would be 2,950,000 tonnes based on:

- 40m stand off from Dyers Road;
- 50m from Grymes Dyke;
- 10m from the remaining site perimeter;
- Slope batters at 1 in 1.5m
- Conversion factor of 1.65t/m³ for the main deposit and 1.70t/m³ for the basal gravels;
- Average wastage factor of 8%.

At the time this planning application was made, there were only 0.5m tonnes of sand and gravel left in the wider Stanway Hall Farm site. The extraction of this mineral is already permitted until 22 February 2042. Therefore, the current application would reduce the time for the site to be worked and it is considered that need for the Stanway Hall Farm mineral does not require debate through the application the subject of this report.

However, the need for the importation of waste does require careful consideration.

WLP Policy W9B states:

'Landfill..., for its own sake, without being necessary for restoration, will not be permitted. Landfill outside of 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.'

The site is currently dewatered to ensure that the quarry void remains dry. Ground water levels would rise to approximately 22m AOD if the current water management was to cease. Therefore, restored levels are proposed at between 22m AOD – 24m AOD. This would require the importation of 2.35m m³ of inert material, taking into account the available material on site.

The FWFF area would be restored using solely indigenous material, incorporating areas of irrigation water for the fruit farm. It is considered that the FWFF area therefore complies with WLP Policy W9B.

For the wider Stanway Hall Farm site, the proposed restoration scheme is considered in the context of the existing approved restoration scheme to low level agricultural use (the Hoveringham Scheme) stipulated within permission ref ESS/06/09/COL. The committee report dated January 2005 accompanying the original ROMP application ref ESS/49/01/COL(R) (which ESS/06/09/COL varies) recognised the difficulties associated with the then proposed importation of waste for restoration purposes within the ROMP. The report notes:

'A review of 'old' mineral permissions cannot grant planning permission for development that exceeds that authorised by the original approval. Moreover, an approval of modern conditions can only require the implementation and completion of a previously agreed restoration scheme or impose a condition requiring a new scheme. It cannot grant approval to a significantly different restoration scheme, particularly one becoming a hybrid involving the substantial importation of waste categories not envisaged when the original permission was granted.'

The report recognises that the original application did not contain borehole logs, and therefore the restoration scheme (the Hoveringham scheme) which was finally approved in 1973 was based on the premise that the workings and restoration would be dry with field drainage discharging to a soakaway as there was stated to be no 'subterranean water on the site.'

The report goes on to state:

'The importation of a substantial amount of waste materials to reinstate Stanway Hall Quarry to original, pre-working contours did not form part of the original planning application (LEX/342/68).'

It was considered at the time that any proposal for the importation of substantial volumes of waste would require planning permission in its own right and could not be considered as part of the Review application.

The restoration requirements of the current permission ref ESS/06/09/COL are that the site shall be restored to a beneficial afteruse in accordance with either the Hoveringham restoration scheme 'or any amendment to that scheme as may be approved'.

The Mineral Planning Authority is therefore in receipt of a separate submission for amendment to the Hoveringham scheme which is yet to be determined. This involves the importation of 2.5m m³.

The main consideration is that the site would flood with water if the pumps were turned off and the levels remain as they are.

Therefore, taking into account the ground water levels and the history of the site, it is considered that some landfill would be necessary for restoration, in compliance with WLP Policy W9B. The appropriateness of the proposed landform, and therefore of the proposed amount of imported material, will be considered further in the report.

C LANDSCAPE & VISUAL IMPACT

WLP Policy W10E (Development Management criteria), in summary, requires satisfactory provision to be made in respect of the effect of the development on the landscape and countryside.

Similarly, MLP Policy DM1 (Development Management criteria), in summary, requires no unacceptable impact on public open space and the appearance, quality and character of the landscape, countryside and visual environment.

CFR Policy DP1 (Design and amenity) requires, among other things, that all development must respect or enhance the landscape.

CFR Policy DP15 (Retention of open space), in summary, aims to prevent the loss of existing or proposed open space.

MLP Policy S12 (Mineral site restoration and afteruse), in summary, permits mineral development if it can be demonstrated that the land is capable of being restored at the earliest opportunity to beneficial afteruse. It requires progressive restoration, restoration at low level as a first preference, and an aftercare period of not less than 5 years.

The existing site and associated infrastructure, which is now proposed as part of this consolidation application, is well screened from the surrounding area by vegetation along all of the boundaries. The infrastructure is also largely located within the existing quarry void and can't be seen from outside of the site.

The application proposes the following land uses within the restoration scheme:

- Dry woodland

- Dry scrub
- Orchard
- Existing woodland
- Acid grassland
- Species rich grassland
- Agricultural grassland;
- Reedbed;
- Wet woodland;
- Marginal aquatic vegetation;
- Jersey Cudweed protection areas;
- Reptile areas/mosaic habitat;
- Bare ground;
- Proposed tracks;
- Open water.

In addition, the following mitigation measures are proposed:

- Retention of all site periphery vegetation;
- Extraction in benches, with mobile excavators sited below adjoining ground level;
- A new hedge along the boundary between FWFF and Furze Hill;
- Bund creation on the northern boundary of the extension area;
- Retention and management of all existing soils;
- Progressive restoration;
- Use of imported material to achieve the proposed restoration scheme;
- Management of the vegetation of the proposed northern, western and eastern boundaries;
- Increased permissive public access through and across the restored site.

The ECC Landscape Officer has requested the provision of a Landscape Management Plan covering a period of 50 years.

Planning Practice Guidance states that Mineral Planning Authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary.

A period of 50 years is considered to be unnecessary in this case, not meeting the tests for conditions as set out in the Planning Practice Guidance. However, It is considered that the restoration and aftercare of the site could be appropriately secured through the imposition of the standard condition requiring a 5-year aftercare period together with an appropriate extended period of aftercare to be agreed with the developer.

The creation of screening bunds and the implementation of planting along the boundaries of FWFF would assist in mitigating any visual effects of the operational extension area.

No lighting is proposed within the application, but it is considered that a

condition could be imposed to ensure that no lighting is erected without the prior approval of the Minerals Planning Authority.

The proposed scheme incorporates areas of water and is not proposed to utilise landfill to restore to pre-existing levels. The scheme also contains less landfill than that associated with the undetermined scheme submitted under permission ref ESS/06/09/COL.

Overall, the proposed restoration is considered to provide a varied space which would be of benefit to landscape character and visual amenity, particularly when compared with the permitted schemes which cover the site. Additionally, the site is not proposed as open space but does propose additional permissive rights of way and could be used as open space subject to negotiations between the applicant and the developers of the proposed housing area to the north.

It is therefore considered that the development would comply with WLP Policy W10E, MLP Policies DM1 and S12, and CFR Policies DP1 and DP15.

D ECOLOGY

MLP Policy DM1 (Development Management criteria), in summary, permits minerals development subject to it having no unacceptable impact on the natural and geological environment, including biodiversity and ecological conditions for habitats and species.

Similarly, WLP Policy W10E (Development Management criteria), permits waste management development, including landfill, where satisfactory provision is made in respect of the effect of the development on nature conservation, among other requirements.

The MLP site description for A13 Colchester Quarry, Fiveways, notes specific issues that are to be addressed. It states that the Warren Lane Local Wildlife Site would require protection and an ecological assessment based on appropriate survey work would be required with any application.

CDP Policy DP21 (Nature conservation and protected lanes) states, in summary, that development will only be supported where it is supported by acceptable ecological surveys, will conserve or enhance biodiversity, where it maximises opportunities for the restoration, enhancement and connection of natural habitats and where it incorporates beneficial biodiversity conservation and habitat creation.

MLP Policy S10 (Protecting and enhancing the environment and local amenity), in summary, requires that minerals development gives appropriate consideration to the natural environment, with appropriate mitigation measures, no unacceptable adverse impacts and that the opportunity is taken to improve/enhance the environment.

The applicant has undertaken various ecological surveys on the entire

application site.

A total of 8 Local Wildlife Sites are located within 2km of the application site, the most relevant of which is Warren Lane Pit, which is the northern part of the existing Stanway Hall Farm site and Grymes Dyke.

Warren Lane Pit has been designated for its inactive parts of a sand pit, including cliffs and water bodies. Grymes Dyke has been designated for its wooded earthworks, Colchester Green and an area of acid grassland.

The habitats and flora of the FWFF area have been assessed as of local importance and the Stanway Hall area is of district importance.

Two reptile translocation areas are proposed (one within FWFF, one within Stanway Hall Farm) as well as Jersey Cudweed Protection areas. Jersey Cudweed is protected under Schedule 8 of the Wildlife and Countryside Act 1981. Additionally, sand and gravel will be placed within FWFF to replicate the existing quarry faces in the Local Wildlife Site.

It is noted that the Warren Lane Pit Local Wildlife Site would be lost under both of the permissions which the site already benefits from (ESS/06/09/COL and ESS/63/06/COL).

Neither Natural England nor the ECC Ecologist have raised objection to the proposals, subject to conditions.

It is therefore considered that, subject to the imposition of suitable conditions, the proposed development would not have unacceptable impact on ecology, in compliance with MLP Policies DM1 and S10, WLP Policy W10E and CDP Policy DP21.

E NOISE, DUST & ODOUR

MLP Policy S10 (Protecting and enhancing the environment and local amenity), in summary, requires that consideration is given to public health and safety, amenity and quality of life of nearby communities (among other requirements), that appropriate mitigation measures are included, that no unacceptable impacts would arise and that opportunities have been taken to improve/enhance the environment and amenity.

MLP Policy DM1 and WLP Policy W10E, in summary, require that there should be no unacceptable impact on local amenity.

CFR Policy DP1 (Design and amenity), in relation to amenity, requires that existing residential amenity is protected.

WLP Policy W10F (Hours of operation) states:

'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’.

Noise

Baseline noise measurements have been taken at 7 different locations within the vicinity of the site. Some of these locations have noise limits already set via the existing permission ESS/06/09/COL. Suggested noise limits have been proposed at 8 locations.

Although the ECC noise consultant disagrees with some of the methodology used to calculate noise levels and proposed limits, it is agreed that, with mitigation, appropriate noise limits could be achieved. One receptor (Randoms) has the potential for difficulty to arise in achieving the proposed noise limits; however with noise monitoring conditions and mitigation in the form of managed site operations, it is considered that noise levels would be achievable.

Therefore, the noise limits currently set out in permission ref ESS/06/09/COL would not be exceeded as a result of the proposed development and it is considered that, subject to the imposition of conditions, there would be no undue impact on amenity as a result of noise, in compliance with MLP Policies S10 and DM1, WLP Policy W10E and W10F and CFR Policy DP1.

Air quality

The development proposed includes the importation of inert waste material. This is not of a nature which would cause particular odour.

A Dust Management Plan is already in place across the site. However, this application would not automatically carry it forward, if granted. Therefore, it is considered that a Dust Management Plan incorporating all existing and proposed operations could be required by condition, in the event that permission is granted.

It is noted that neither the Environment Agency nor the ECC air quality consultant has raised objection on grounds of air quality.

It is therefore considered that, subject to the imposition of a condition requiring a Dust management Plan, the proposed development would comply with MLP Policies S10 and DM1, WLP Policy W10E and W10F and CFR Policy DP1.

F TRAFFIC & HIGHWAYS

Paragraph 32 of the NPPF states, in summary, that applications for development should be supported by a Transport Statement or Transport Assessment. Decisions should take account of whether opportunities for sustainable transport modes have been taken up, safe and suitable access to the site can be achieved for all people, and whether improvements can be undertaken within the transport network that cost effectively limit the

significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

MLP Policy S11 (Access and transportation), in summary, permits minerals development where it would not have unacceptable impacts on the efficiency and effective operation of the road network. It permits transportation by HGVs where the road network is (or can be made) suitable. It also prefers that access is via a suitable section of existing road to a suitable existing junction with the main road network.

WLP Policy W4C (access) has similar requirements for waste management sites.

MLP Policy DM1 and WLP Policy W10E (Development Management criteria), in summary, respectively permit minerals and waste development subject to it having no unacceptable impact on the safety and capacity of the highway network, among other requirements.

Vehicular access to the existing site is currently via Warren Lane and is this not proposed to change.

Although mineral extraction under permission ref ESS/06/09/COL is almost complete, the permission does not restrict vehicle movements. Therefore, based on sales of 500,000 tpa over 6 working days per week, 182 vehicle movements (91 vehicles) per day are currently, in principle, allowed under the current permission until the year 2042 (although it is recognised that only a small amount of mineral remains to be exported in reality).

The undetermined ROMP submission would involve the importation of 100,000m³ of inert material (150,000 tonnes) per annum, resulting in 64 movements (32 vehicles) per day based on an average vehicle load of 17 tonnes. However, this is not considered to be a material consideration which holds any significant weight, since this submission has not been considered in any detail by the Minerals Planning Authority.

Nonetheless, the application notes that the current combined activities for extraction and processing of mineral at the site together with the undetermined ROMP scheme would result in 246 movements (123 vehicles) per day, assuming no back-hauling takes place.

The unimplemented MBT permission ref ESS/63/06/COL allows 290 movements (145 vehicles) per day Monday to Friday, 144 movements (72 vehicles) on Saturdays, increasing to 290 movements (145 vehicles) on 9 occasions per year, and 40 movements (20 vehicles) on Sundays, Bank and Public Holidays.

In principle, a maximum of 472 vehicle movements (236 vehicles) could therefore be associated with the mineral extraction and processing operations and the MBT permission combined, for the 9 occasions per year.

The proposed development would generate 182 movements (91 vehicles) per day, based on a production rate of 500,000tpa over 275 working days with an average load of 20 tonnes.

In addition, the importation of 100,000m³ (150,000 tonnes) of inert material per annum would result in 64 movements (32 vehicles) per day based on an average load of 17 tonnes.

This would result in 246 movements (123 vehicles) per day as a result of the proposed development, assuming no back-hauling takes place.

The Environmental Statement concludes that, since the proposed development would result in less traffic than the permitted MBT scheme, both in terms of daily flows and over the full life of the project, there would be a beneficial impact on the highway network.

Based on this, no mitigation is proposed aside from a continuation of vehicle sheeting, highway cleaning and maintenance of highway vegetation.

The Highway Authority has raised no objection.

Taking into account the permitted developments on the site and the adequacy of the existing road network with the newly-opened western bypass, it is considered that the proposed development would not have unacceptable impact on the safety and efficiency of the highway network, in compliance with MLP Policies S11 and DM1, WLP Policy W10E and the requirements of the NPPF. It is further considered that the existing access off Warren Lane is suitable, in compliance with MLP Policy S11 and WLP Policy W4C. This is subject to the imposition of conditions relating to vehicle and highway cleaning, vehicle sheeting and the maintenance of visibility splays, in the event that permission is granted.

MLP Policy S11 also requires no unacceptable impact on the Public Rights of Way network and WLP Policy W10G (Public rights of way) requires applications for waste management development to include measures to safeguard and improve the rights of way network, where practicable.

The application proposes a temporary closure and diversion of Footpath 39, which traverses the proposed fill area south of the internal haul route. The application also includes the provision of 0.9ha of permissive rights of way for public access across the site.

The Borough Council has requested that the existing Public Rights of Way and the proposed permissive paths should be used for cycling as well as for footpaths.

The Highway Authority (Public Rights of Way) has no comments on the application and it is noted that the upgrade of existing public rights of way would require consents outside of the control of Planning. However, it is

considered that a legal obligation could be imposed to require the applicant to use their best endeavours to allow the permissive routes and existing public rights of way to be available for cycling. This would comply with MLP Policy DM2 and WLP Policy W10A (Planning conditions and legal agreements) which state, in summary, that conditions and/or legal agreements will be imposed to mitigate the effects of development. The applicant is willing to proceed to in this manner.

It is therefore considered that there would be no unacceptable impact on public rights of way, in accordance with MLP Policy S11 and WLP Policy W10G.

G HERITAGE IMPACT

MLP Policy S10 (Protecting and enhancing the environment and local amenity), in summary, requires appropriate consideration of the historic environment.

MLP Policy DM1 (Development Management Criteria), in summary, requires that the development would not have unacceptable impact on the historic environment, including heritage and archaeological assets.

Similarly, WLP Policy W10E (Development Management Criteria), in summary, requires satisfactory provision to be made in respect of the effect of the development on historic and archaeological sites.

CDP Policy DP14 (Historic environment assets), in summary, does not permit that would adversely affect a listed building or important archaeological remains. Development affecting the historic environment should seek to preserve and enhance it.

There are listed buildings in the vicinity of the site; the closest being Wiseman's Farmhouse which is located approximately 90m from the FWFF site boundary.

ECC Historic Environment has raised no objection. It is noted that the development would be closer to Wiseman's Farm Grade II Listed Building, but the retention of hedge planting would avoid the setting being affected.

Grymes Dyke Schedule Monument is located to the east. This is a territorial earthwork boundary associated with a late Iron Age and Roman settlement and religious complex. Fields containing the remains of the Gosbecks Iron Age and Romano Site, a Scheduled Ancient Monument, lie beyond.

As noted previously in the report, the Site A13 preferred site listing in the MLP requires that early consultation with English Heritage would be required in respect of the Grymes Dyke Scheduled Monument.

Accordingly, the applicant has engaged with English Heritage and they have been consulted as part of the formal application process.

English Heritage has commented that the development would result in harm to non-designated archaeological remains; however it is considered that this harm could be acceptably mitigated by a condition to secure the implementation of a written scheme of archaeological investigation. This would accord with paragraph 141 of the NPPF, which requires developers to publicly record heritage assets.

English Heritage welcomes the proposal for a Management Plan to be drawn up containing monument management measures. It is considered that such a Plan could be required via S106 Agreement, in the event that permission is granted. This would ensure that the development would comply with one of the core principles of the NPPF, which is to: 'conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations'.

It is therefore considered that the listed buildings would not be adversely affected. Furthermore, the developer could be required to record the archaeological remains via condition, in the event that permission is granted, and the requirement for a Management Plan would ensure the Grymes Dyke would be conserved. The development would therefore comply with the provisions of the NPPF, MLP Policies S10 and DM1 and the requirements of the Site A13 preferred site, WLP Policy W10E and CDP Policy DP14.

H WATER MANAGEMENT

WLP Policy W4A (Flood Control), in summary, permits waste development where there would be no unacceptable risk of flooding or adverse effect on the water environment due to surface water run-off.

WLP Policy W4B (Water Pollution), in summary, permits waste management development only where there would be no unacceptable risk to the quality of surface and groundwaters or impediment to groundwater flow.

CDP Policy DP20 (Flood risk and management of surface water drainage), in summary, requires that developments minimise the risk of flooding and incorporate appropriate sustainable drainage systems (SuDS).

Mineral within the proposed FWFF area would be extracted to the base of the superficial deposits. This would necessitate dewatering, the method of which would reflect the existing operations whereby groundwater is collected by gravity ditch at the base of the quarry faces. Water would either be utilised on site or discharged off site after passing through a settlement lagoon.

Water levels in the proposed lakes would be maintained at approximately 22m AOD and would provide an attenuation feature for increased water runoff rates across the site.

In the event that groundwater levels exceed the levels of the base of the

restored landform around the lakes (it is not anticipated that there would be a high risk of this), the water would be managed via field drains which would direct it to the lakes.

It is noted that the Environment Agency has raised no objection, but has commented that 2 wells to the east of the FWFF area may be affected by drawdown.

The application concludes that the effects would be insignificant, temporary, and limited to the times when there would be active groundwater management / dewatering at the application site. However, the maximum potential drawdown of 0.3m has potential to impact on the well levels when superimposed on the lowest annual event. Since the level of the wells is not known, it has not been possible to calculate whether this would have a significant impact.

Therefore, it is considered that a condition could be imposed, in the event that permission is granted, to require a scheme of groundwater monitoring and mitigation.

Subject to the imposition of the above condition, it is considered that the proposed development would comply with WLP Policies W4A and W4B and CDP Policy DP20.

8. CONCLUSION

In conclusion, it is noted that there is currently permission for the extraction of mineral and restoration to low-level agriculture with an end date of 22 February 2042.

The proposal to retain this existing operation until 31 October 2026 with restoration by 31 December 2037 would therefore be a lesser timescale and it is considered that there would be no planning reason to refuse this aspect of the application.

In addition, the importation (via conveyor) and processing of mineral from the Bellhouse site is also currently permitted. There is a slight anomaly in that the ROMP permission (ref ESS/48/01/COL(R) for Bellhouse has an end date of 31 October 2026 but the associated landfill permission (ref ESS/07/01/COL/REV) requires restoration by 31 March 2024. In order that the restoration timescale of Bellhouse is not prejudiced by any permission granted here, it is considered appropriate to impose a condition that restricts the importation of minerals from Bellhouse to the timescales permitted under permission ref ESS/07/01/COL/REV.

Further planning permission would be required for the retention of the tunnel and conveyor itself, since it falls outside of the current application site.

The processing plant, DSM, concrete plant, inert recycling area and workshop are all currently permitted. It is considered that, subject to conditions relating to the submission of specific design and layout details and noise limitation, there would be no undue impact on amenity or the environment as a result of the retention of these facilities until 31 October 2026, with the exception of the inert recycling site which is proposed to remain until 31 December 2037. A retrospective application has also been made for the retention of a mobile plant parking area associated with this recycling facility, and this is also considered to be appropriate. All of these facilities are considered to comply with MLP Policies DM3 and DM4 and WLP Policy W7D. Furthermore, the continuation of the inert recycling facility is supported by MLP Policy S5.

MLP Policy P1 identifies the proposed FWFF extension area as a preferred site and notes that the principle of extraction has been accepted and the need for the release of mineral has been proven. This does not, therefore, require debate.

Taken in the context of the site history, the need for landfill is accepted in this instance. The proposals have not received objections from any statutory consultees and it is considered that the scheme would provide for suitable restoration, in compliance with WLP Policy W9B.

The proposal for the site to be utilised by the public through the provision of permissive rights of way is considered to comply with the Colchester Borough Council Local Development Framework, which allocates the site as Open Space.

The proposed landform, incorporating lakes, orchards and amenity areas, is considered to the proposed restoration would be considered to provide a varied space which would be of benefit to landscape character and visual amenity, in compliance with WLP Policy W10E, MLP Policies DM1 and S12, and CFR Policies DP1 and DP15. Several conditions are proposed, in the event that permission is granted, to require detailed restoration and aftercare schemes.

The proposed reptile translocation, Jersey Cudweed Protection areas and replication of the existing quarry faces would be considered to protect and enhance the site's ecological interests, in compliance with MLP Policies DM1 and S10, WLP Policy W10E and CDP Policy DP21, subject to the imposition of appropriate ecological conditions.

It is further considered that, subject to the imposition of conditions relating to noise monitoring and dust management, there would be no unacceptable impact on amenity through noise or air quality, in compliance with MLP Policies S10 and DM1, WLP Policy W10E and W10F and CFR Policy DP1.

Taking into account the permitted developments on the site and the adequacy of the existing road network with the newly-opened western bypass, it is considered that the proposed development would not have

unacceptable impact on the safety and efficiency of the highway network, in compliance with MLP Policies S11 and DM1, WLP Policy W10E and the requirements of the NPPF. It is further considered that the existing access off Warren Lane is suitable, in compliance with MLP Policy S11 and WLP Policy W4C. This is subject to the imposition of conditions relating to vehicle and highway cleaning, vehicle sheeting and the maintenance of visibility splays, in the event that permission is granted.

It is considered that there would be no unacceptable impact on public rights of way as a result of the proposals, in compliance with MLP Policy S11 and WLP Policy W10G. A legal obligation could be imposed to require the applicant to use their best endeavours to allow the permissive routes and existing public rights of way to be available for cycling. This would comply with MLP Policy DM2 and WLP Policy W10A

Importantly, the proposed scheme is considered to avoid any effect on the setting of the surrounding listed buildings. The adjacent Grymes Dyke would be protected and enhanced via a proposed Management Plan and it is considered that the developer could be required to record archaeological remains via condition, in the event that permission is granted. Therefore, it is considered that the development would comply with the provisions of the NPPF, MLP Policies S10 and DM1 and the requirements of the Site A13 preferred site, WLP Policy W10E and CDP Policy DP14.

Subject to the imposition of a condition requiring a scheme of groundwater monitoring and mitigation, it is considered that the proposed development would comply with WLP Policies W4A and W4B and CDP Policy DP20 in relation to impact on the water environment.

Overall, it is considered that the proposals comply with the development plan, taken as a whole. Additionally, it is considered that the economic, social and environmental roles of sustainable development would be fulfilled by the proposed development. Therefore, there is a presumption in favour of the development in accordance with the provisions of the NPPF and MLP Policy S1 CFR Policy SD1.

9. RECOMMENDED

That planning permission be **granted** subject to:

The completion, within 3 months, of a legal agreement including the following matters:

- Submission of a revised restoration scheme in the event that ESS/63/06/COL is implemented by 11 May 2015.
- The applicant to use best endeavours to upgrade proposed permissive rights of way and existing PROW so that they can be used for cycling;
- A Monument/Conservation Management Plan for Grymes Dyke, in consultation with English Heritage;
- Landscape Management Plan for medium to long term management of

- the site beyond the 5-year aftercare period;
- The formal implementation of a Local Liaison Group;

and conditions covering the following matters:

1. COM1 – Commencement by 11 May 2015 and notification to the MPA of such commencement.
2. COM3 - Compliance with submitted details.
3. CESS7 – Revised restoration in event of suspension of operations.
4. BESPOKE - Submission of elevations and layout drawings including surfacing of access road, colours of plant and traffic calming methods associated with the DSM plant, recycling facility and associated mobile plant parking area, processing plant, quarry workshop, concrete plant, site offices, visitor parking and lorry parking, within 3 months of the date of permission.
5. HOUR2 – Hours of working (mineral specific):

0700 – 1800 hours Monday to Friday
0700 – 1300 hours Saturdays

No stripping, movement, temporary or permanent placing of soils before 0730 hours on any day.
6. BESPOKE - Hours of operation for the DSM Plant:

0500 – 2000 hours Monday to Friday
0500 – 1800 hours Saturdays

No deliveries of HGV movements other than between:

0700– 1800 hours Monday to Friday
0700– 1230 hours Saturdays.
7. BESPOKE - Hours of operation for the recycling plant:

0700 – 1830 hours Monday to Friday
0700- 1230 hours Saturdays.
8. BESPOKE - Hours of operation for concrete plant:

0700 – 1800 hours Monday to Friday
0700 – 1300 hours Saturdays.
9. BESPOKE - No freestanding stockpiles of aggregate shall be stored within the DSM operational area.
10. BESPOKE - The DSM shall use only indigenous sands.
11. WAST2 – Skips to be incidental to main use.
12. BESPOKE - The recycling plant shall process only dry inert 'Type A' waste and road planings/construction waste.

13. BESPOKE - All waste residues from recycling process to be removed from site each week.
14. BESPOKE - No handling, processing or storage of waste outside of the permitted recycling area.
15. VIS2 – Stockpile heights not to exceed 6.1m in recycling area.
16. BESPOKE - Processing plant used only in connection with sand and gravel from Colchester Quarry.
17. BESPOKE - Quarry workshop used only for the repair of plant and vehicles associated with the quarry and no other use.
18. BESPOKE - No topsoil, subsoil, overburden or soil making material to be removed from site.
19. LAND1 – Landscape scheme including detailed landscape/restoration proposals, surfacing of footpaths, tracks and fencing, detailed sections, depths of excavation and contours within 3 months of date of permission.
20. LAND2 – Replacement landscaping.
21. BESPOKE – Progressive stripping, extraction and restoration to ensure Stanway and FWFF are restored concurrently and in a phased manner.
AFT1 – Aftercare scheme to be agreed.
22. AFT2 – Drainage of restored land.
23. ARC1 – Advance scheme of archaeological investigation.
24. EC03 – Protection of legally protected species.
25. LS2 – Soil movement scheme.
26. LS3 – Machine movement scheme.
27. LS4 - Stripping of top and subsoil.
28. LS5 – Maintenance of bunds.
29. BESPOKE - ‘Soil Bund 12’ to be in place prior to commencement of any works other than formation of the access track.
30. BESPOKE - Soil Bund 12 shall be no higher than 2m in height.
31. BESPOKE - Soil bunds 13 and 14 shall be no higher than 3m in height.
32. LS8 – Soil handled in a dry and friable condition.
33. LS10 – Notification of commencement of soil stripping.
34. LS11 – Notification of soil placement.
35. LS14 – Final soil coverage.
36. BESPOKE - Height of temporary stockpiles of soil-making material not to exceed height of boundary bunds.
37. BESPOKE - No imported material to FWFF.
38. HIGH2 – Vehicular access from Warren Lane only.
39. BESPOKE - Hedge to be kept cut back to maintain visibility along Warren Lane.
40. HIGH3 – Surfacing/maintenance of access road and Warren Lane shall be swept.
41. HIGH4 – Prevention of mud and debris on highway.
42. HIGH6 – Lorry sheeting.
43. HIGH5 – Vehicle movements associated with recycling site no more than 70 movements of up to 32t gvw per day.
44. BESPOKE - No mineral shall be imported to the site from Bellhouse beyond the timescales permitted by ESS/07/01/COL/REV (or as subsequently varied).
45. POLL1 – Surface and foul water drainage, including for the DSM plant and recycling area.

46. POLL6 - Groundwater monitoring and mitigation if levels impact on nearby private wells.
47. LGHT1 – Fixed lighting restriction.
48. BESPOKE - Reptile mitigation strategy.
49. BESPOKE - Construction Environment Management Plan.
50. BESPOKE - Ecological Management Plan.
51. NSE1 - Noise limits for all permitted site operations:

| | |
|----------------------------|------------|
| Furze Hill | 51dB LAeq |
| The Bungalow | 52dB LAeq |
| Dyer's Road | 53dB LAeq |
| Egremont Way | 51dB LAeq |
| Randoms | 53dB LAeq |
| Heath Road/Grymes Dyke Way | 50dB LAeq |
| Wiseman's Farm | 50dB LAeq |
| The Nook | 50dB LAeq. |

52. NSE2 – Temporary operations (not to exceed 70dBA).
53. NSE3 – Monitoring noise levels and the submission of a scheme of mitigation should noise levels be exceeded.
54. NSE5 – White noise alarms.
55. NSE6 – Silencing of plant and machinery.
56. DUST1 – Dust suppression scheme for all permitted operations.
57. POLL4 – Fuel/Chemical storage.
58. CESS2 – Cessation and removal from site of sand and gravel processing plant, Dry Silo Mortar Plant, concrete plant, access roads, weighbridge, workshop and related infrastructure by 31 October 2026.
59. CESS2 – Cessation and removal from site of the inert recycling operation and associated mobile plant parking area by 31 December 2037.
60. CESS2 – Cessation and restoration of FWFF area within the application site within 7 years of commencement of operations at FWFF and restoration of the entire site by 31 December 2037.
61. RES1 – Stones to be picked.
62. MIN1 – No importation except via conveyor from Bellhouse.
63. WAST1 – Waste type restriction.
64. GPDO1 – Removal of PD rights beyond the areas shown on drawing B30/489 dated February 2005.
65. BESPOKE – Scheme for pumps used for dewatering to be submitted and approved within 3 months.

BACKGROUND PAPERS

Consultation replies
Representations

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

The proposed development would not be located adjacent 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

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.

STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER

The Minerals and Waste Planning Authority has engaged with the applicant over several months prior to submission of the application, advising on the validation requirements and likely issues.

Throughout the determination of the application, the applicant has been kept informed of comments made on the application and general progress. Additionally, the applicant has been given the opportunity to address any issues with the aim of providing a timely decision.

LOCAL MEMBER NOTIFICATION

COLCHESTER – Stanway and Pyefleet

**ENVIRONMENTAL IMPACT ASSESSMENT (EIA) FOR:
STANWAY QUARRY AND FIVE WAYS FRUIT FARM (Application ref:
ESS/23/14/COL)**

An Environmental Statement has been submitted with the application and examines the main potential impacts associated with the development.

The key subject areas identified are:

- Landscape/visual effects;
- Ecology;
- Agriculture/soil resources;
- Hydrology/hydrogeology;
- Noise;
- Dust/air quality;
- Traffic;
- Cultural heritage.

The likely significant effects have been described under each subject area and any proposed mitigation/compensation measures have been identified.

Landscape/visual effects

The Landscape and Visual Impact Assessment (LVIA) covers the totality of the proposed, including the proposed extension at FWFF and the continuance of existing operations.

The ES takes into account the history of the site, including alternative restoration schemes which are either approved or submitted under existing permissions.

For the initial work, which entails the formation of screening bunds, there would be temporary adverse effects. This would also be the case for the removal of shelter belts and orchards. However, once established, the bunds would have more of a static effect and the shelter belts and orchards would be replaced as part of the proposed restoration scheme.

Mitigation measures include:

- Retention of all site periphery vegetation;
- Extraction in benches, with mobile excavators sited below adjoining ground level;
- A new hedge along the boundary between FWFF and Furze Hill;
- Bund creation on the northern boundary of the extension area;
- Retention and management of all existing soils;
- Progressive restoration;
- Use of imported material to achieve the proposed restoration scheme;
- Management of the vegetation of the proposed northern, western and eastern

- boundaries;
- Increased permissive public access through and across the restored site.

The potential visual envelope of the current and proposed developments would be primarily orientated to the west on land which is at a similar level to the existing quarry.

The size and scale of the effect of the proposed scheme has been assessed, as well as geographical extent, duration and reversibility, magnitude and significance.

Overall, the landscape character would experience adverse effects beyond the site perimeter. However, the sensitivity is generally low and, when compared to the MBT scheme and the ROMP scheme, the proposed restoration could be beneficial.

Specific properties and locations have been assessed for their sensitivity and the overall significance of any impact.

In terms of visual significance, the development would give rise to a limited degree of visual effects to surrounding receptors, with the majority of adverse effects arising within the immediate site surroundings.

The cumulative effects of the proposals with the Bellhouse/Abbotstone Quarry have been assessed as minimal in terms of landscape and insignificant in terms of visual.

Ecology

Desk-based and field assessments have been undertaken for both the existing site and the proposed Five Ways Fruit Farm extension.

Planning Policy Statement 9: Biodiversity and Geological Conservation was considered at the time of the original survey work. This has subsequently been replaced by the National Planning Policy Framework but the applicant considers that the scope of work has not been altered as a result of this change in planning guidance.

An initial survey was undertaken within the FWFF area and the quarry face that forms the boundary between it and the north side of the existing quarry. An extended Phase 1 survey and Habitat Suitability Index Assessment was undertaken within the Stanway Hall Farm area. Following the designation of the Stanway Hall Farm site as a Local Wildlife Site, an invertebrate survey was carried out.

Following the applicant's decision to include the Stanway Hall Farm site within the application area, surveys for breeding birds, reptiles, bats, great crested newts and badgers have been undertaken and were submitted as an addendum to the application.

Surveys for dormouse and water voles were not undertaken due to lack of suitable habitat.

Importance of species and habitats has been ranked as either National, Regional, County, District, Local or Site. Impact has been evaluated as either not significant, low, moderate or high and has been ranked either positive or negative.

The FWFF area is within a farm containing orchards. Several habitats have been recorded, with the highest level of importance being 'District' in relation to the acid grassland. In terms of species, Jersey Cudweed is present and is protected under Schedule 8 of the Wildlife and Countryside Act 1981. However, it has not been previously recorded in Essex and can be translocated by seed or small plants. As it is not native to Essex, its presence is not of high conservation significance. Common Cudweed is near-threatened according to the Red Data List and six other species have been identified as local importance.

Overall, the habitats and flora within the FWFF area have been assessed as being of Local importance.

The Stanway Hall Farm area is an operational quarry. Several habitat types have been identified, with the highest ranking being 'open ruderal' and 'unimproved acid grassland' which are of District importance, as well as 'bare ground' which ranges from Site to County importance. Jersey Cudweed and Common Cudweed are present.

Overall, the habitats and flora within the Stanway Hall Farm area have been assessed as being of District importance.

Invertebrates have been assessed as of Regional significance, amphibians of Site importance, reptiles of District importance, birds of Local interest, badgers of Site importance and bats of Local value.

The proposed development would involve the working of the FWFF area in a four-phased approach, broadly working east-west. Restoration would be to open space, including woodland, orchard, two water bodies, grassland and exposed faces. The current Stanway Hall Farm quarry would be restored to a lake in the north and species rich grassland, hedgerows and woodland to the south and west.

Reptile mitigation areas, a Jersey Cudweed mitigation area and replacement faces are proposed as mitigation. With such mitigation, the only habitat with a residual loss would be cultivated land, which would become part of the habitat areas. The overall impact on habitats has been assessed as low positive.

There would be a low negative effect on invertebrates and on the Local Wildlife Site, but it is noted that such losses are already consented.

Agriculture/soil resources

The main effects in restoring the existing quarry and the FWFF relate to moving soil from its existing position to storage areas before moving again to the final placement position. The restored landform and the loss of agricultural land are also considerations.

The FWFF area comprises grade 3a and grade 3b land. The proposed extraction area would be lost from agricultural land. All indigenous soils would be used sustainably; handled properly and only when there are suitably dry conditions.

The proposed phasing would ensure that the polytunnels in Phase 2 of FWFF could be retained in use for as long as possible.

An irrigation lake, which is proposed to be filled with surface water, would be incorporated into the FWFF scheme at the request of the landowner. This would provide irrigation for fruit growing following restoration.

A recommendation for a detailed soil survey in advance of soil stripping is proposed. This would determine the boundary between sandy loam and sandy clay loam topsoil to ensure the different soil types are separately stored. Existing soil resources within Stanway Quarry should also be assessed to separate subsoil from overburden. Overall, the requirement to minimise the quantity of imported material is stated to constrain the feasibility of restoring the site back to agricultural use.

Hydrology/hydrogeology

Dewatering already takes place at the quarry. It would continue and in a different area due to the FWFF extension. This has potential to impact on groundwater flows to and from the application site. This would be a temporary impact, limited to the times when dewatering takes place. Abstracted water would be discharged to the Roman River. Once the restoration has been completed, groundwater levels in the vicinity of the site would recover.

Suspended solids in surface water would be managed via settlement lagoons.

No residual impacts or resultant significant effects have been noted.

Noise

The ES considers the findings of a noise assessment for the proposed development.

Dewatering by means of pumping overnight is also considered.

Current noise guidelines within the NPPF and PPG have been taken into account.

The ES calculates noise levels for 8 locations, namely:

- Furze Hill
- Dyers Road
- The Bungalow (Orchard View)
- Egremont Way
- Heath Road/Grymes Dyke Way
- Bridleway 17
- Wiseman's farm
- The Nook, Heath Road.

Barrier attenuation attributable to existing quarry faces or bunding along the edges of the proposed extraction area has been taken into account.

The changes in traffic movements associated with the proposals have been shown to have an insignificant impact in terms of noise in comparison to existing levels.

It is concluded that the site could be worked in accordance with acceptable noise limits.

Dust/air quality

The ES reviews the potential impacts of air quality from the proposed operations, including items of plant such as the processing plant and concrete plant.

Receptors within 100m of the site boundary have been assumed to have risk of significant dust soiling effects. Three receptors would be within this distance, namely Colchester Zoo, Priory Lodge (Maldon Road) and Oaklea (Maldon Road).

A woodland buffer would be expected to ensure that the impact of dust/particles on these receptors would not be significant. Furthermore, the deposition of such material on the vegetation would not significantly harm it.

Dust mitigation is proposed in accordance with the existing Dust Management Plan, to include continuous monitoring of the generation of dust and prevailing weather conditions; provision and use of water spray equipment; maintenance of site speed limits; the use of wheel and tyre cleaning equipment; maintenance of initial planting throughout the operational life of the site; and a complaints response system.

Traffic

Vehicular access to Stanway Quarry is currently via Warren Lane to the west of the site. Vehicles mostly arrive from the north and turn left into the site. Therefore, a right-turn lane has not been deemed necessary when improvements have been made to Warren Lane in the past. The access is gated, with the gates set back by 22m from the edge of the carriageway.

The report recommends that vegetation is kept cut back to maintain visibility splays along Warren Lane.

182 vehicle movements (91 vehicles) are currently, in principle, allowed under the current permission in association with mineral extraction. This is based on sales of 500,000 tpa over 6 working days per week, excluding Sundays and Bank/Public Holidays, with an average vehicle load of 20 tonnes.

The undetermined ROMP submission would involve the importation of 100,000m³ of inert material (150,000 tonnes) per annum, resulting in 64 movements (32 vehicles) per day based on an average vehicle load of 17 tonnes.

This means that the current combined activities for extraction and processing of mineral at the site together with the undetermined (*and, as yet, un-assessed by the Mineral Planning Authority*) ROMP scheme would result in 246 movements (123 vehicles) per day, assuming no back-hauling takes place. This could take place any time up until the year 2042.

The MBT permission allows 290 movements (145 vehicles) per day Monday to Friday, 144 movements (72 vehicles) on Saturdays, increasing to 290 movements (145

vehicles) on 9 occasions per year, and 40 movements (20 vehicles) on Sundays, Bank and Public Holidays.

In principle, a total of 472 vehicle movements (236 vehicles) could be associated with the mineral extraction and processing operations and the MBT permission combined. (*Mineral Planning Authority note: This is based on the 9 occasions per year permitted by the MBT permission ref ESS/63/06/COL*).

The proposed development would generate 182 movements (91 vehicles) per day, based on a production rate of 500,000tpa over 275 working days with an average load of 20 tonnes.

In addition, the importation of 100,000m³ (150,000 tonnes) of inert material per annum would result in 64 movements (32 vehicles) per day based on an average load of 17 tonnes.

This would result in 246 movements (123 vehicles) per day as a result of the proposed development, assuming no back-hauling takes place.

The Environmental Statement concludes that, since the proposed development would result in less traffic than the permitted MBT scheme, both in terms of daily flows and over the full life of the project, there would be a beneficial impact on the highway network.

Based on this, no mitigation is proposed aside from a continuation of vehicle sheeting, highway cleaning and maintenance of highway vegetation.

Cultural heritage

The ES considers direct and indirect effects on cultural heritage.

A Zone of Theoretical Visual Influence (ZTVI) of 2km around the application site has been searched for Scheduled Monuments, Listed Buildings, Registered Parks and Gardens and archaeology.

Two scheduled monuments lies within 2km of the application site; namely the Colchester Dykes and the Gosbecks site.

Pre-application discussions have been held with English Heritage in respect of the setting of Gryme's Dyke Scheduled Monument, which runs along the eastern boundary.

There are 20 listed buildings within the ZTVI; however only 3 lie within 500m of the application site.

Gosbecks was the focus of a native tribal centre during the Late Iron Age. It was protected by a series of dykes, the outermost of which is Gryme's Dyke which runs along the eastern application area boundary.

An archaeological evaluation has been carried out. Although the site lies within an area

of high archaeological potential, the evaluation suggests that there is unlikely to be the same level of archaeological significance within the site as nearby.

Nonetheless, some archaeological features have been found and they would be lost through mineral extraction. This is a direct effect of the development. Therefore, a scheme of mitigation is proposed for the recording of remains prior to development.

Indirect effects have been noted as the potential impact on the setting the of the Dyke, although this has already been impacted on by the existing quarry operations; and potential impact on the setting of 3 listed buildings, which is proposed to be reduced by landscaped boundary treatments.

Mitigation is proposed in the form of set piece archaeological excavation, continuous monitoring (watching brief) and a formal written scheme of investigation. A Management Plan for the Dyke would help to alleviate existing erosion from walkers and cyclists and could include signage, planting to prevent the use of short cuts, the installation of a removable bollard at the entrance, consideration of reduction of waterlogging and provision of interpretation panels. The restoration proposals for the site include management of the eastern boundary hedge to allow views towards the Dyke.

Overall, there were considered to be no significant effects on archaeology, Scheduled Monuments or listed buildings as a result of the proposed development.

APPENDIX 2

Consideration of Consistency of Policies

Essex and Southend Waste Local Plan

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| W4A | <p>Waste management development will only be permitted where:</p> <ul style="list-style-type: none"> • There would not be an unacceptable risk of flooding on site or elsewhere as a result of impediment to the flow or storage of surface water; • There would not be an adverse effect on the water environment as a result of surface water run-off; • Existing and proposed flood defences are protected and there is no interference with the ability of responsible bodies to carry out flood defence works and maintenance. | <p>Paragraph 99 of the NPPF states that 'Local Plans should take account of climate change over the longer term, including factors such as flood risk, coastal change, water supply and changes to biodiversity and landscape. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure'. In addition Annex E of PPS10 highlights at section <i>a. protection of water resources</i> that 'Considerations will include the proximity of vulnerable surface and groundwater. For landfill or land-</p> |
|-----|--|---|

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|-----|---|---|
| | | <p>raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The suitability of locations subject to flooding will also need particular care'.</p> <p>Therefore, as policy W4A seeks to only permit development that would not have an adverse impact upon the local environment through flooding and seeks developments to make adequate provision for surface water run-off the policy is in conformity with PPS10 and the NPPF.</p> |
| W4B | Waste management development will only be permitted where there would not be an unacceptable risk to the quality of surface and groundwaters or of impediment to groundwater flow. | See above. |
| W4C | <ol style="list-style-type: none"> 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. 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. 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 there would be no undue impact on road safety or the environment. 4. Proposals for rail or water transport of | <p>Paragraph 21 (i) of PPS10 highlights that when assessing the suitability of development the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use modes other than road transport.</p> <p>Furthermore, Paragraph 34 of the NPPF 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</p> |

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| | waste will be encouraged, subject to compliance with other policies of this plan. | policy seeks to assess the existing road networks therefore, being in accordance with the NPPF and PPS10. |
| W7D | <p>Proposals for inert waste recycling facilities will be supported at the following locations:</p> <ul style="list-style-type: none"> • The waste management locations identified in Schedule 1 (subject to policy W8A); • Industrial locations as defined in policy W8B; • In association with other waste management development; • Current mineral working and landfill sites, provided the development does not unduly prejudice the agreed restoration timescale for the site and the use ceases prior to the permitted completion date of the site (unless an extension of time to retain such facilities is permitted); • Demolition and construction sites where the spoil is to be used in the project itself. <p>Provided the development complies with all other relevant policies of this Plan and, in particular, does not cause unacceptable harm to the environment or residential amenity by virtue of noise, dust or heavy traffic.</p> | <p>Paragraph 143 of the Framework states that 'so far as practicable, take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials, whilst aiming to source minerals supplies indigenously'.</p> <p>Policy W7D is in conformity with the Framework in that the policy seeks to Reduce the use of mineral resources and designed to increase the rate of aggregate re-use and recycling in Essex and provide the necessary mineral facilities to help achieve these aims.</p> |
| W9B | 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>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> |

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| W10A | <p>When granting planning permission for waste management facilities, the WPA will impose conditions and/or enter into legal agreements as appropriate to ensure that the site is operated in a manner acceptable to the WPA and that the development is undertaken in accordance with the approved details.</p> | <p>PPS10 states that 'It should not be necessary to use planning conditions to control the pollution aspects of a waste management facility where the facility requires a permit from the pollution control authority. In some cases, however, it may be appropriate to use planning conditions to control other aspects of the development. For example, planning conditions could be used in respect of transport modes, the hours of operation where these may have an impact on neighbouring land use, landscaping, plant and buildings, the timescale of the operations, and impacts such as noise, vibrations, odour, and dust from certain phases of the development such as demolition and construction'.</p> <p>Furthermore, paragraph 203 of the Framework states that 'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition'.</p> <p>Policy W10A inter alia only seeks to impose conditions and/or enter into legal agreements when appropriate to ensure that the site is operated in an acceptable manner. Therefore, the policy is in accordance with the requirements of the Framework and PPS10.</p> |
| W10C | <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>See explanation notes for Policy W9B as these are relevant and demonstrate conformity with the Framework and PPS10.</p> |

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| W10E | <p>Waste management development, including landfill, will be permitted where satisfactory provision is made in respect of the following criteria, provided the development complies with other policies of this plan:</p> <ol style="list-style-type: none"> 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); 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; 3. The impact of road traffic generated by the development on the highway network (see also policy W4C); 4. The availability of different transport modes; 5. The loss of land of agricultural grades 1, 2 or 3a; 6. The effect of the development on historic and archaeological sites; 7. The availability of adequate water supplies and the effect of the development on land drainage; 8. The effect of the development on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations; and 9. In the Metropolitan Green Belt, the effect of the development on the purposes of the Green Belt. | <p>Policy W10E is in conformity with the NPPF 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 NPPF.</p> |
| W10F | <p>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> | <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</p> |

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| | | <p>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> <p>Also see above regarding PPS10 and conditions.</p> |
| W10G | 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 the Framework.</p> |

DR/37/14

Committee DEVELOPMENT & REGULATION

Date 26 September 2014

MINERALS AND WASTE DEVELOPMENT

Proposal: **Change of use to waste recycling and materials recovery facility and erection of buildings, containment walls, hardstanding, roadways, fencing, parking, storage areas and ancillary development (part retrospective)**

Location: **Land to the south of Terminus Drive, Pitsea Hall Lane, Pitsea, SS16 4UH**

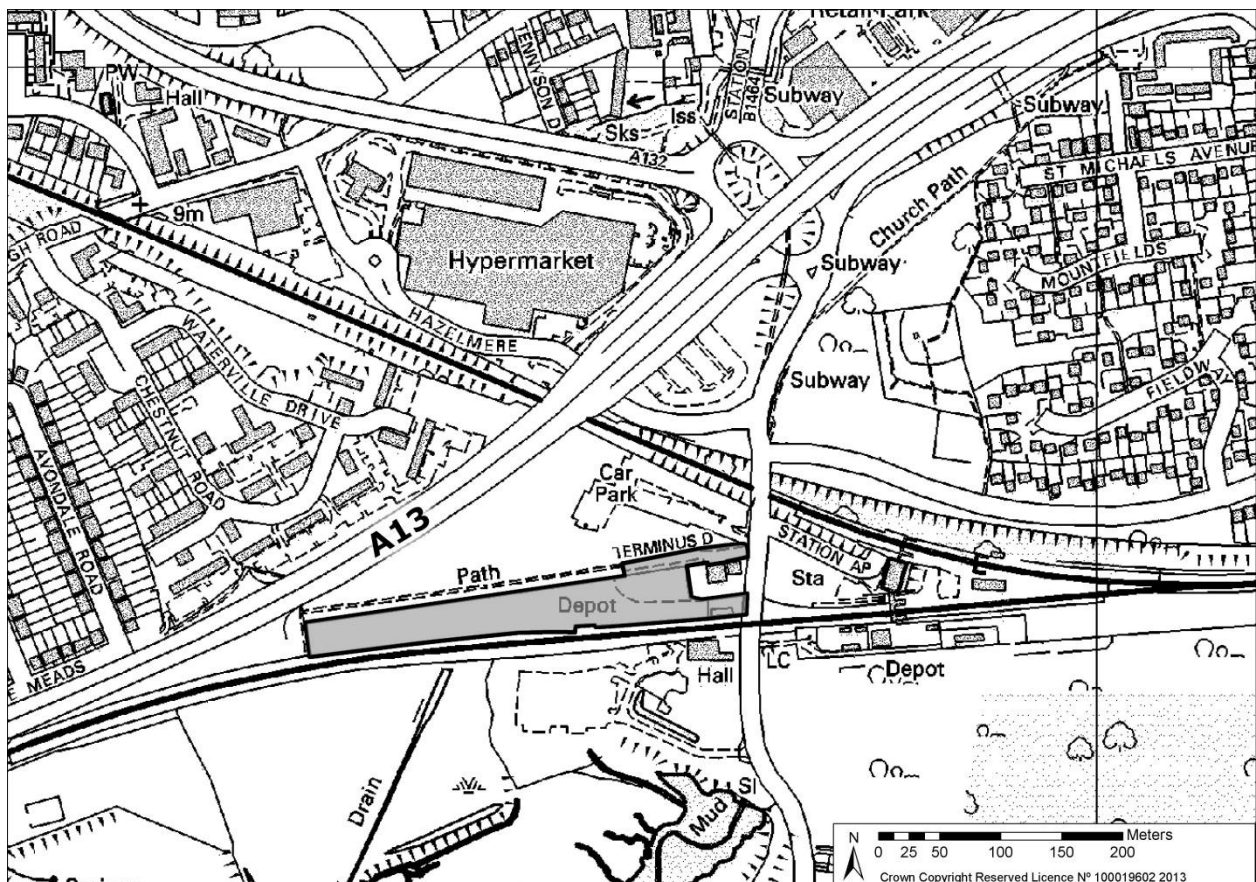
Ref: **ESS/69/12/BAS**

Applicant: **Heard Environmental**

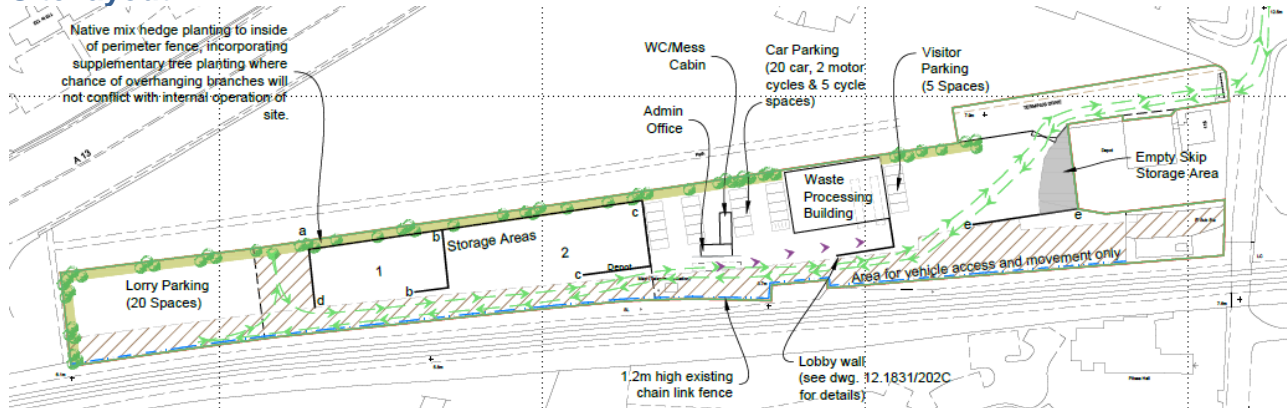
Report by Director of Operations: Environment and Economy

Enquiries to: Claire Tomalin Tel: 03330 136821

The full application can be viewed at www.essex.gov.uk/viewplanning



Site layout



1. BACKGROUND TO APPLICATION

This application was previously considered by the Committee in May 2013, where it was resolved to grant planning permission subject to conditions. Planning permission was issued in June 2013, however, the decision was subject of a Judicial Review (JR) and ECC agreed to quashing of the planning permission. Details of this JR were provided to the committee in February 2014 (see Appendix A). The quashing of the decision left the WPA to re-consider the application. The applicant amended the scheme, namely proposed a lobby to the waste transfer building and provided additional information to support the application. The revised application was subject to consultation in accordance with the Council's Statement of Community Involvement and was reconsidered by the Committee in June 2014 with a resolution to grant permission subject to conditions.

Since the June resolution, a 'letter before claim' has been received from the legal representatives of the owners of Cromwell Manor, a grade II listed building to the south of the application site, signalling an intention to apply to the court for a second Judicial Review (JR) challenging the resolution of the June Committee. A formal planning permission has, to date, not been issued. Having taken external legal advice, the view was taken that the report to the June Committee did not fully assess the effects of the impact of the proposal on Cromwell Manor as a heritage asset. Accordingly, the application has been re-considered in light of recent case law in relation to the discharge of the duty in S.66(1) of the Listed Buildings and Conservation Areas Act 1990 (as amended) and this is considered further in the report. This report sets out the results of that reconsideration and supersedes the analysis in the earlier reports.

The opportunity has also been taken to review the approach taken to the other issues raised in the 'letter before claim'. This report therefore presents a fresh analysis of all relevant issues and entirely supersedes the earlier reports. The application is now being returned to Committee for redetermination. Members are advised to put the resolution of June 2014 to one side and to approach the determination of the application completely afresh, without regard to the earlier

decision. The earlier decision of May 2013 was quashed by the JR and so matters relating to that decision should not be taken into account either. Members should approach the decision now to be made in the light of the current circumstances and, if in attendance previously, should put out of their mind the discussions and debate that took place at earlier meetings.

It should be noted that in the time between the issuing of the original decision notice and the subsequent quashing of the decision, following the first JR, the applicant erected the waste transfer building, however the building has not been brought into use. In addition on the 2 September 2014 it was noted that the operator has also commenced erection of the lobby to the building and in addition located a single storey portable style building the east of the main building, the later not forming part of the application details. The office and mess modular buildings are also on site along with the weighbridge and are in use. The western end of the site has and is being used for the storage and sorting of wood waste, although this activity is not considered lawful and therefore is not material for the consideration of the application. Should permission not be granted, further consideration of the options for dealing with the building (which does not at present benefit from planning permission) would need to be considered. Members should not approach the current decision on the basis that the building will inevitably remain. Its presence, as a matter of fact, does however assist in forming judgments about the visual impact of the proposed development.

The applicant is currently operating a waste management business in Harvey Road, on the Burnt Mill Industrial Estate, Basildon, which was granted planning permission by Basildon Borough Council most recently in 1988 (BAS/1429/88). This application was for the change of use from storage yard to non-toxic waste handling facilities. The planning application proposed a throughput of 25,000 tonnes per annum. Data from the EA for the period 2009 to 2012 indicates that the throughput has been approximately 7,800 tonnes per annum. On the Burnt Mills site, the applicant imports demolition, site clearance and ground works waste, where it is sorted and exported.

2. SITE

The site is linear piece of land alongside the London Fenchurch Street to Shoeburyness railway line on southern edge of Pitsea. It is the southern edge of a triangle of urban waste land between the two branches of the railway line and the A13 Pitsea Flyover, with the eastern corner truncated by Pitsea Hall Lane located south of Pitsea. The site is accessed via Terminus Drive an unsurfaced no through road, which also gives access to an existing industrial unit. The application site itself covers an area of approximately 1.24 hectares. The two railway lines converge to the east of Pitsea Hall Lane at Pitsea station. Pitsea Hall Lane crosses the main line railway line by means of a bridge north east of the site and the other line by a level crossing south east of the site.

To the southwest, south of the railway line (approximately 10m), is the Vange Creek Marshes (County Wildlife Site) and to the south east (approximately 10m) is

Cromwell Manor (formerly Pitsea Hall), which is a Grade II Listed building used as a wedding and function venue.

To the north of the site is the A13 flyover, which is closer to the site at its western end. Residential flats (4 storeys high) lie to the north east of the site beyond the A13 flyover, the nearest of which are 60m from the north west corner of the site on Chestnut Road and the Glen (residential areas on the southern edge of Vange). St Michael's Church a grade II Listed Building is located approximately 220m to the north east on Pitsea Mount, also to the north east lie the residential properties accessed from area along Brackendale Avenue, the closest property approximately 200m.

On the north side of the site, at the eastern end, Terminus Drive abuts a car park, the remaining land to the north between the site and the main line railway line is vacant. Beyond the mainline to the north is a Tesco Superstore and associated parking.

Directly east of the site is a fencing manufacturing business, located within an industrial building and a residential property permitted for use as offices.

Pitsea Hall Lane is a no through road but gives access to Wat Tyler Country Park, Vange Creek RSPB reserve, Tuskit Works Industrial Area, an ECC Household Waste Recycling Centre and Pitsea sewage treatment works, Pitsea Landfill among others.

Footpath Vange 136 is adjacent to the northern boundary of the site and links to Pitsea Hall Lane along Terminus Drive. The path at its western end meets a path that can be used to go north to the residential area of Vange or south across the railway line to the marshes.

The site is allocated as Employment Area within the Basildon District Local Plan (adopted 1998)(BDLP) and has previously been granted planning permission for car parking associated with a market, but this permission was not implemented. The land immediately to the south is designated as Green Belt (including the railway line) and also as "Marshes Area" within the BDLP.

The Marshes Area is subject of several separate designations. The closest is Vange Creek Marshes County Wildlife Site that lies south west of the site on the south side of the railway line and Vange Creek Marsh SSSI and Pitsea Marsh SSSI which respectively lie to the south east 200m and southwest 300m.

The site was vacant prior to the applicant commencing waste storage and sorting on the site (as said, as the use is unlawful, consideration of this should be disregarded when assessing the merits of the application). The site was previously permitted as a minerals yard, such that it is likely mineral was imported by road and potentially rail, stored and then distributed from the site by road.

The southern edge of the site for its entire length is required to be kept clear of any permanent structures to allow Network Rail full access to the railway network boundary if required.

3. PROPOSAL

The application is for the change of use of land to enable the use of the site as a waste recycling and materials recovery facility. The applicant has identified this site at Terminus Drive as being suitable for its needs and if planning permission was granted, would relocate from Harvey Road site. The reason for seeking relocation stems from limitations on the existing site in terms of capacity and size, where there is no opportunity to expand within the Burnt Mills Industrial Estate.

It proposed that the annual throughput of waste handled at the site would be 49,000 tonnes. Of this total approximately 10% would be household waste, 60% commercial and industrial waste and the remaining 30% would consist of construction & demolition (C&D) waste. The onsite operations would involve the sorting and recovery of materials, which would include waste arising from ground works, demolition and site clearance. All residual waste (up to 15% of the total brought on to site) would need to be disposed of and sent to landfill.

The proposal involves the erection of a waste processing building on the northern boundary at the eastern end of the site. In addition the application includes modular style offices and mess facilities, a weighbridge and hardstandings located west of the main building.

The main building would be constructed from corrugated steel and measure 19m x 30m and 9m to eaves and 11.4m to ridge, the ridge aligned east/west. The application has been revised, since it was previously considered and now includes a lobby/screening wall to the front/south elevation of the main building. The building would be grey and would be fully enclosed on three sides; the western fifth of the front/south elevation would also be enclosed. The building would be fitted with 10 sky lights 5 on each roof side to allow natural light into the building. The building would face south, such that the unenclosed side of the building would face south towards the railway line. However, the building has been revised since its first consideration and a lobby screening wall to the front of the building has been added, the height of this lobby is 9m, the same height as the eaves of the building. Vehicles would approach from the east passing in front (to the south) of the building and lobby to the weighbridge then they would travel to the east into the building behind the lobby/screen, be unloaded and then reverse out of the building travelling west, where there would be able to turn around before leaving the site in an easterly direction passing in front the of the lobby. There would be an exit in the east elevation of the lobby, but this would be for emergency use only. Sound insulation has been proposed within the building.

The waste building would be used for the sorting of waste which would be transferred by grab onto a belt feeding a trommel and a waste picking station. Waste would either be sorted mechanically or by hand and separated into its components these chiefly being metals, brick, concrete and stone, plastics, paper,

cardboard, green waste, wood and associated materials. Once separated the materials would be stored on site for distribution to materials recovery facilities with wood and inert rubble placed outside, the rest remaining in the building. The residue would be taken to landfill (e.g. Pitsea Landfill).

An area for skip storage is located south of the access into the site at the east end of the site and would be screened on its south edge by a 3m high sleeper wall.

The WC/mess cabin, administration and weighbridge offices would consist of two modular style offices and would be located west of the waste processing building. Included in the proposals is the installation of a new weighbridge and 20 car parking spaces, 2 motorcycle spaces and 5 bicycle spaces, also located west of the building.

The applicant has confirmed there would be no use of 360 degree tracked vehicle in the area east of the main building, except for maintenance and construction.

The area west of the offices would be for open storage area. Bays would be created with sleepers and RSJ's. The bay wall on the northern boundary with the public footpath would be 3m high. Two bays would be created with 3 further sleeper walls. The highest bay wall to the east would be 4.8m high with a return to create a reversed "L" shape in plan view; the next wall would be similar in shape being 4.2m high and the most westerly wall 3m high. These bays would be used mainly for storage of wood waste and hardcore which would be sorted outside.

The application has proposed not to carry out all noise generating operational activities at once namely use of the crusher, shredder and trommel at one time.

At the extreme west of the site would be 20 lorry parking spaces for storing vehicles while not in use and a lorry turning area.

A hedge is proposed along the western boundary and along the northern, in parts this would be between the existing palisade fence and the sleeper wall.

The access would consist of the existing access on to Pitsea Hall Lane, utilising Terminus Drive. The access from Pitsea Hall Lane is currently unconsolidated hardcore, but it is proposed to surface the access with a bonded material. It is proposed that there would be 100 HGV movements (50 in and 50 out) Monday to Friday and 50 HGV movements (25 in and 25 out) on Saturday. These movements would consist of skip lorries, tipper and roll on/off HGVs and some articulated HGVs. There would be a number of employee cars and vans. The southern edge of the site is required to be kept clear and would be utilised for access through the site by HGV the vehicles.

Hours of operation stated within the application would be 07:00 to 17:30 (Monday to Friday), 07:00 to 13:00 (Saturdays) with no work taking place on Sundays and/or Bank Holidays.

A lighting scheme has been proposed for the site to light the car parking areas east and west of the main building, the weighbridge area and gateway to the site. Two lights would be mounted on the main building at 5m high, the remaining on 5m high columns except one to the rear of the offices at 3m high. The lighting scheme has been designed taking account of the railway line and Cromwell Manor the two closest sensitive receptors and has been designed to result in minimal light spill outside the site.

A dust suppression scheme has been proposed, including a misting system within the building and the use of bowers and hoses to suppress dust in vehicle circulation areas and in outside storage areas.

The application was supported by a Heritage Statement with respect to Cromwell Manor, a Transport Statement, a noise assessment, vibration assessment, visual and landscape assessment and a lighting assessment and a reptile survey.

4. POLICY

The following policies of the Essex & Southend-on-Sea Waste Local Plan (2001) (WLP) and Basildon District Local Plan Save Policies (1996) (BDLP) provides the development plan framework for this application. The following policies are of relevance to this application

| <u>Policy</u> | <u>BDLP</u> | <u>WLP</u> |
|----------------------------------|--------------------|-------------------|
| Proposed Employment Area | BAS E2 | |
| Untidy Industry | BAS E6 | |
| General Employment Policy | BAS E10 | |
| The Marshes Area | BAS C7 | |
| Waste Strategy | | W3A |
| Need for Waste Development | | W3C |
| Flooding | | W4A |
| Surface & Groundwater | | W4B |
| Access | | W4C |
| Inert waste recycling facilities | | W7D |
| Materials Recovery Facilities | | W7E |
| Non Preferred Locations | | W8B |
| Development Management | | W10E |
| Hours of Operation | | W10F |
| Public Rights of Way | | W10G |

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 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). A conformity/compliance appraisal with respect to the Waste Local Plan policies is provided at Appendix A. Basildon Borough Council have produced its own conformity/compliance checklist with the Framework and this is provided at Appendix B.

With regard to updates/replacements or additions to the above, the Framework (Annex 1, paragraph 216) states: 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 Waste Development Document: Preferred Approach 2011 (now known as the Replacement Waste Local Plan (RWLP) has yet to reach 'submission stage' and as such is too early in its development to hold any significant weight in decision making.

In June 2006 Basildon Borough Council resolved to withdraw the draft Replacement Local Plan and proceed with a Local Development Framework. In relation to this a Core Strategy Preferred Options Report was published in February 2012. A new Preferred Options Report was issued for consultation in 2014 (consultation ended 01 April 2014). As the replacement Local Plan (now titled Basildon 2031 Local Plan) is still however in its formation it is considered, in context of paragraph 216 of the Framework, that little weight can be applied to applicable policies, especially as objections may be outstanding from consultation.

With regard to waste policy and guidance, the National Planning Policy Framework (the Framework) does not contain specific waste policies. The National Waste

Management Plan for England was adopted in December 2013 and sets out where we are now in terms of the waste we generate in England and how we manage those materials. It sets out the policies we currently have in place to help move us toward this vision (prevent and manage waste to support the growth of our economy and to continue to protect our environment). An update to the national waste planning policy: Planning for sustainable waste management (PPS10) was consulted on by the Department for Environment Food & Rural Affairs and the Department for Communities and Local Government in autumn 2013, and supports the aspirations of the NWMP. The objective of the consultation document appears grounded in the promotion of economic growth. The consultation, however, emphasises the Government's approach to boosting economic growth via an efficient planning regime to ensure that resulting expansion is sustainable. The consultation document seeks to maintain the Government's drive for an increased level of recycling and preventative waste management, focusing on the use of waste as a resource; however this has yet to be adopted. Until formal adoption Waste Planning Policy Statement (PPS 10) remains the most up-to-date adopted source of Government guidance for determining waste applications.

CONSULTATIONS

The application has been subject to two periods of full consultation, initially on submission of the application in November 2012 and then as revised following quashing of the original decision in February 2014, the comments below are a summary of all comments relevant to the revised application.

English Heritage (EH) was not consulted until August 2014 as under the Direction included in Circular 01/01 (outside of Greater London) there is no need to consult EH on planning applications affecting the setting of a listed building unless the building is Grade I or II*. However, since the publication of National Planning Practice Guidance¹ (NPPG) it is unclear whether the Government has intended to change the position previously set out in the Direction included in Circular 01/01. Table 1 of the NPPG (at para ID18a-057) now suggests that for planning applications the position is governed by Regulation 5A(3) of the Planning (Listed Buildings & Conservation Areas) Regulations 1990, rather than by Circular 01/01.

If it is an intentional change, whilst it could be argued that that it should not be retrospective and would not apply to applications received and consulted on before 6 March 2014 (when the NPPG was issued), English Heritage has accordingly been consulted and the reply is as set out below.

BASILDON BOROUGH COUNCIL - Object on the following grounds:

- Contrary to Policy BAS E6 which seeks to located untidy uses in the Harvey Road and Archers Field area of Burnt Mills Industrial Estate. Locations

¹ <http://planningguidance.planningportal.gov.uk/>

outside of these areas will be assessed on their impact on nearby uses. Outside of industrial areas untidy uses will not be allowed. The proposed use is considered an untidy use and the adverse impact of the use on the character and amenities of the locality could not be satisfactorily mitigated, in particular, the use of the site does not provide for extensive landscape to mitigate against the visual impact on the locality and therefore should not be permitted outside any area specifically designated for untidy uses.

- Contrary to Policy BAS E2, not within use class B1 and B2 and considered the proposals would lead to congestion of Pitsea Hall Lane, in that the existing railway bridge is inadequate to accommodate additional heavy goods vehicle traffic.

CROSSRAIL LTD - No objection

ENVIRONMENT AGENCY – No objection, subject to the imposition of a condition with respect to surface water management.

NATURAL ENGLAND: No objection, while close to 4 sites designated as SSSIs it is considered if operated as proposed there be would no adverse effects from the proposals.

HIGHWAYS AGENCY – No objection, but requested that the applicant aims to minimise HGV movements at peak times to reduce severe congestion experienced at M25/A13 junction.

NETWORK RAIL - No objection. The developer/applicant must ensure that their proposal, both during construction and after completion of works on site, does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

In addition conditions to be attached, with respect to use of plant, scaffolding and cranes, excavation of footings and drainage to ensure protection of the railway

ENGLISH HERITAGE: No comments to make, Grade II buildings lie beyond EH's usual remit. The Council should determine the application in the light of its own specialist conservation advice

HIGHWAY AUTHORITY – No objection, subject to conditions to ensure:

- Development is operated operating in accordance with the submitted details

- *No unbound material would be used surface treatment of the vehicular access from the bellmouth junction of Terminus Drive on to Pitsea Hall Lane for a distance of 12 metres;*
- *Gated access to the site would be inward opening only and set back 6 metres from the adopted carriageway (Terminus Drive);*
- *Parking spaces size to be 2.9m x 5.5m;*
- *Cycle and motor cycle parking provision;*
- *Vehicle movement restrictions;*
- *Surfacing, line marking and provision of a 2m wide footway along the northern edge has been provided on Terminus Drive.*

HIGHWAY AUTHORITY - Public Rights of Way - No objection

COUNTY COUNCIL'S NOISE CONSULTANT – No objection. Satisfied with the approach and conclusions of the assessment. The applicant has proposed that only one element of noisy plant namely the crusher, shredder and trommel would operate at one time and should be condition as such and require details of management scheme to achieve this.

COUNTY COUNCIL'S AIR QUALITY CONSULTANT – No objection. Basildon Borough Council does not have any Air Quality Management Areas and does not monitor particles. Nitrogen Oxide levels are monitored on Meads Road adjacent to the A13 and are below air quality objectives. The proposed traffic movements are unlikely to result in detriment. The application proposes various methods of dust suppression, it is considered these measures would adequately address both construction and operational phases of the development and would suitably mitigate any impact on sensitive receptors including the ecologically designated sites to the south and Cromwell Manor.

COUNTY COUNCIL'S VIBRATION CONSULTANT – No objection. A vibration survey was undertaken, considering two factors, damage to property and disturbance to occupiers. Vibration likely to result in damage to buildings is caused at 15mm/s, but a lower level is probably appropriate for historical buildings. The applicant's vibration survey concluded that traffic movements to the site would not result in structural damage to the historical building and this is not disputed. In addition tracked excavator activity on the site resulted in less vibration than vehicle movements.

COUNTY COUNCIL'S LIGHTING CONSULTANT – No objection. The proposed lighting scheme would not give rise to adverse impact both in terms of its impact upon the railway or the nearest residential/sensitive neighbour Cromwell. It is noted that the proposed lighting levels fall below those suggested by the British standards, but these are only guidance.

PLACE SERVICES (Ecology) – No objection. The site was cleared of vegetation prior to submission of the application, preventing any meaningful ecological survey of the site. However, it is understood that this was not in the applicant's control, when this took place. However, it is likely the site supported reptiles. It is

therefore required that any landscaping should seek to encourage biodiversity and as such a condition requiring details of the hedgerow mix, to include 40% flowering shrubs to support bumble bees is required and implementation of a condition to require implementation of the submitted Reptile Mitigation Strategy.

PLACE SERVICES (Urban Design) – No objection, while the colour of the constructed grey building is not from the colour range previously suggested, the colour is accepted, the proposed olive grey for the lobby is considered acceptable.

PLACE SERVICES (Landscape) – No objection, subject to approval of planting details and protection of planting and requirement for a landscape management plan to ensure its successful establishment. The lack of planting proposed along the southern boundary would result in impact in views from PRoW and properties to the south. The landscape to the south is an environmentally sensitive area, subject of statutory designations.

PLACE SERVICES (Historic Buildings) – The main conservation issue is the effect of the development on the setting of the grade II Listed Building, Cromwell Manor and to a lesser extent that of St Michael's church and the impact of the proposals on the ongoing conservation of Cromwell Manor by the effect of the proximity of the use on the economic viability of the wedding and conference venue business.

Object on the following grounds:

- While it is acknowledged that the setting of Cromwell Manor has been seriously compromised by the development of the railway, roads and industrial buildings to the north. Views from the north would be dominated by the new building, but it is agreed that these views can be disregarded as have little bearing on the significance of the building. The building is experienced in the context of the garden setting from the south, albeit with some aspects of the existing industry and development backdrop. The building is considered a mass of extremely large scale that intrudes into the skyline of views of the Listed Building and is disruptive to the setting of the listed building in these views both in its own right and cumulatively with the modern development surrounding the building.
- The western most part of the proposed building would be screened by vegetation within Cromwell Manor grounds. Some of the bulk of the proposed building would be screened by the marquee, so that only part of the building would be seen. However, it does not disguise the scale and bulk of the building. Whilst the marquee itself has a harmful impact on the appearance and setting of the listed building in these views in its own right and cumulatively with the modern development surrounding the proposed buildings, without it the impact of the proposed building on views of the principal elevation of Cromwell Manor would increase.
- The addition of the lobby on the south elevation would not improve its appearance and would increase its bulk and its design would make it appear tacked on.
- Based on the assessments with respect to noise and dust which indicate that the levels are acceptable it is difficult to be conclusive as to whether the venue

business would be harmed by actual or perceived harm by customers, such that the ongoing conservation of the building might be affected.

- The visual and non-visual harm to the setting of the heritage asset would be less than substantial mostly due to the harm already done to the setting by the surrounding modern development. However there would be cumulative harm to the significance of the Listed Building due to the impact of the development on its setting as outlined. The proposed building also intrudes into longer views of the St Michael's church tower from the footpath leading from the marshes to the west and contributes to the harm caused to this listed building caused by the surrounding modern development.

NPPF para 134 requires the LPA to weigh up any less than substantial harm against the public benefits of the proposal.

PLACE SERVICES (Urban Design) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection. It is disappointing that the building has been constructed grey in colour which is industrial in nature when other more recessive colours were suggested. Reluctantly the grey is accepted for the building. The lobby is proposed an olive/grey which is acceptable.

PLACE SERVICES (Archaeology) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS: No objection, no known features north of the railway line requiring exploration.

BOWERS GIFFORD & NORTH BENFLEET PARISH COUNCIL: Concerned at the height of wood stockpiles.

PITSEA MOUNT RESIDENTS ASSOCIATION: Object on the following grounds:

Noise- outside plant noise appears to be underestimated.

Dust- within the building there has been addressed, but dust from outside activities particularly crushing, seems inadequate and prevailing winds would carry dust to residential areas.

Odour – potential for odour depending on nature of waste.

Traffic – is already a problem in the area, with restricted access across the weak railway bridge and narrow pedestrian path on this bridge. Traffic waiting for the level crossing can back up and blocks access to Brackendale Avenue and Station Approach. The proposals with additional HGV movements would worsen this situation. The additional HGV traffic is causing deterioration of the road surface and road signage on Pitsea Hall Lane.

Location – Pitsea Hall Lane provides access to Wat Tyler Country Park. The area would improve upon closure of Pitsea Landfill, siting a waste facility here will not improve the appearance of the area.

Visual – the use is not appropriate on the approach road to a country park, the building is not aesthetically pleasing and the waste stockpiles are visible from Pitsea Hall Lane.

LOCAL MEMBERS – BASILDON – Pitsea - Any comments received will be reported

5. REPRESENTATIONS

362 properties were directly notified of the original application. 13 letters of representation were received with respect to the original application, where the comments related to matters that have not been amended as part of the revision application the comments are included below. The same 362 properties were notified of the revised application. A further 18 representations have been received, including 5 representations from the owner and planning agent for Cromwell Manor, which have been supported by a Heritage Asset Statement, noise assessment reviewing that submitted by the applicant and statements from the occupiers/operators of Cromwell Manor and have included video footage seeking to show dust arising in the open storage areas and plant at the site causing vibration in the listed building. The representations raise planning issues relating to the following matters:

| <u>Observation</u> | <u>Comment</u> |
|--|---|
| <u>Highways issues:</u> | |
| Highway infrastructure insufficient – particularly, Pitsea Hall Lane and restricted railway bridge | See appraisal – Section B |
| Increase in HGVs | See appraisal – Section B |
| Access/egress will further complicate junctions | See appraisal – Section B |
| Debris will be dropped on Highway, as well as vehicle oils | All vehicles would be required to be sheeted. See appraisal – Section B |
| Increased congestion due to the proximity of Tesco supermarket, railway and level crossing | See appraisal – Section B |
| Access to Pitsea Mount is restricted due to congestion | See appraisal – Section B |
| Loss of the Public Right of Way | See appraisal – Section C |
| Terminus Drive is a PRow and inappropriate to be shared with HGV traffic | See appraisal – Section C |
| Cause problems for commuters going to Pitsea Railway station. | See appraisal – Section B |
| Congestion would back up causing | See appraisal – Section B |

congestion at the A13 roundabout interchange

Local amenity

| | |
|--|---------------------------|
| Noise and dust impact on users of PRow | See appraisal – Section F |
|--|---------------------------|

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|---|---------------------------|
| Don't consider that the submitted noise assessment adequately predicts the likely noise levels. | See appraisal – Section F |
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|---|---------------------------|
| Concern there will be noise impact upon properties in Chestnut Road | See appraisal – Section F |
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| Dust from operation affecting surrounding residential properties | See appraisal – Section F |
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|---|---------------------------|
| Inadequate dust mitigation is proposed. | See appraisal – Section F |
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|--|---------------------------|
| Recent improvements to Wat Tyler Country Park will be in vain, as people will not visit due to a hazardous journey | See appraisal – Section A |
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|-----------------|---------------------------|
| Odour pollution | See appraisal – Section F |
|-----------------|---------------------------|

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|--|---------------------------|
| Light pollution especially in winter and in the evenings | See appraisal – Section F |
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|---|---------------------------|
| Noise, pollution, light and disruption will arise | See appraisal – Section F |
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|---|---------------------------|
| Consider the noise assessment is flawed and does not apply the appropriate standards. | See appraisal – Section F |
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| | |
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| Hours of operation | See appraisal – Section F |
|--------------------|---------------------------|

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|---|---------------------------|
| The building is visible from Pitsea Hall Lane when heading north away from Wat Tyler Country Park | See appraisal – Section F |
|---|---------------------------|

| | |
|--|---------------------------|
| Adverse impact on health and quality of life | See appraisal – Section F |
|--|---------------------------|

| | |
|--------------------|---------------------------|
| Increase in vermin | See appraisal – Section F |
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|--|----------------------|
| Local property values will be adversely affected | Not a planning issue |
|--|----------------------|

| | |
|--|---|
| Inappropriate to have a recycling yard in the midst of modern development | See appraisal – Section A |
| Will result in substantial harm to the Heritage asset contrary to NPPF | See appraisal – Section G |
| There is no overriding public benefit that warrants the harm to the heritage asset | See appraisal – Section G |
| Affect viability of local business at Cromwell Manor | See appraisal – Section G |
| <u>Location & Policy</u> | |
| Site not identified in the adopted or emerging Waste Local Plan | See appraisal – Section A |
| Does not accord with the existing or emerging Local plans. Also premature to the emerging Waste Local Plan. | See appraisal – Section A |
| Cause substantial harm to the heritage asset, by affecting the setting of the Grade II Listed Cromwell Manor | See appraisal – Section G |
| Effects on the Greenbelt, national and internationally designated ecology sites in the vicinity | Site is not within the greenbelt. See appraisal – Section A |
| No consideration of reducing CO ₂ emissions or adaption to climate change | See appraisal – Section F |
| Proximity to Pitsea Landfill and the Recycling Centre for Household Waste | See appraisal – Section A |
| There is too much waste development in the Basildon area. | See appraisal – Section A |
| Ensure access to the currently vacant Homes and Community Agency land is continued | There would be no disruption to the access to the existing car park and undeveloped land. |
| Inadequate screening for EIA purposes | See appraisal – Section K |
| Failure to consult English Heritage | See appraisal – Section K |

6. APPRAISAL

The key issues for consideration are:

A – NEED, PRINCIPLE AND LOCATION
 B – HIGHWAY IMPACTS
 C – IMPACTS ON PUBLIC RIGHTS OF WAY
 D – DESIGN, LANDSCAPE AND VISUAL IMPACTS
 E - IMPACTS ON ECOLOGY
 F - IMPACTS ON LOCAL AND RESIDENTIAL AMENITY
 G – IMPACTS ON THE HISTORIC ENVIRONMENT AND VIABILITY OF CROMWELL MANOR
 H - IMPACTS ON HYDROLOGY
 J – ECONOMIC BENEFITS
 K - PROCEDURAL MATTERS

A. NEED, PRINCIPLE AND LOCATION

WLP policies W3A and W3C seek to ensure proposals are consistent with the goals and principles of sustainable development; that the proposal inter-alia supports the waste hierarchy; and that there is a need for the facility in respect of waste arising from Essex and Southend. PPS 10 however states that when determining planning applications waste planning authorities should not require applications for new or enhanced waste management facilities to demonstrate a quantitative or market need for their proposal.

PPS 10 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. At paragraph 24, in relation to un-allocated sites, details new or enhanced waste management facilities should be considered favourably when consistent with (inter-alia):

- i. the policies contained within PPS 10; and
- ii. the WPA's core strategy.
- iii. encouraging waste management facilities to be on previously developed land

Further discussion with regard to the suitability of the site in context of the locational criteria of Annex E of PPS 10 and relevant policies within the WLP is explored later in this report.

WLP policy W3A (Waste Strategy) identifies the need for proposals to be consistent with the goals and principles of sustainable development and the proximity principle. It also requires proposals to consider whether it represents the best practicable environmental option (BPEO) for the particular waste stream and at that location or whether the proposal would conflict with other options further up the waste hierarchy. However, the need to consider BPEO has been superseded by PPS10, which no longer requires the consideration of BPEO. In addition, WLP policy W7E (Materials Recovery Facilities) aims to facilitate the efficient collection and recovery of materials from the waste stream by providing materials recovery facilities and supported in appropriate location subject to compliance with other

relevant development plan policies. WLP policy W7D supports inert recycling reducing landfill and the demand for primary aggregates, but similar to W7E in appropriate locations and subject to no adverse environmental impacts.

Given that the proposal is a recycling operation moving away from the disposal of waste, it is considered that the proposal is in compliance with the objectives of PPS10 and WLP policies W3A, W7E and W7D.

WLP policy W3C (Need for Waste Development), requires significant waste management facilities (with a capacity of over 25,000tpa) to demonstrate a need for the development, however as explained above PPS10 does not require the market need for the development to be demonstrated. Representations have been made that there is no need for the development and the fact that Basildon Borough seems to have a disproportionate number of waste facilities (namely Pitsea landfill, the Pitsea Recycling Centre for Household Waste and Courtauld Road Integrated Waste Management Facility among others). The Waste Capacity Gap Report 2013² notes that even if all strategic facilities were delivered there would remain a need for a further 170ktpa non-hazardous treatment capacity until 2031³. With respect to the number of waste management facilities with Basildon it has been noted in the proposal that the types of waste, which would be handled, are materially different to those handled in the permitted but currently non-operational Courtauld Road facility (notably construction and demolition waste). It is the case, however, that many of the waste developments are located in the Untidy Industry areas and that despite the number of waste permissions within the Basildon Borough it is the case that PPS10 requires waste facilities to be located close to areas where waste is produced.

The applicant's existing business is long established at Harvey Road, and focuses on its centre of operations in the Basildon area, but has the ability to serve the south of Essex due to the transport links. The applicant has identified a need to find new premises as the existing site is now constrained, creating difficulties with day-to-day operations. The existing site is approximately 0.11ha and is constrained on all boundaries and there are currently no vacant larger units within the Burnt Mills Industrial estate. The applicant considers there is no means of expanding the premises and has identified the Terminus Drive site as suitable for the business's needs as it provides a more functional site, with a greater site area and improved accessibility to the route hierarchy.

In particular, the applicant has stated that the larger site area and capacity would enable new demolition contracts to be established within Essex. With the proposed site being more than 10 times the site of the existing facility at Burnt Mills, the proposed site and building would provide greater inside and outside processing and storage capacity for recovery of recyclable materials.

² As the Waste Capacity Gap, as an evidence base to the emerging Waste Local Plan, has yet to be tested it is considered, at the current time, only limited weight can be given to the conclusions within this.

³ For the purposes of the Capacity Gap Report (2013), the recycling of non-organic waste falls in to the treatment category, to which this application relates.

With regard to this application, the Terminus Drive site is a brownfield site (formerly used as a minerals yard) and therefore development here is preferable to the development of previously undeveloped land (WLP Policy W8B).

Terminus Drive site is subject to the Basildon District Local Plan (BLP) policy BAS E2, which states

3.5 hectares (8.6 acres) of land is allocated for employment purposes in Terminus Drive, Pitsea, subject to the following criteria:-

- i. The proposal must be subject to a Traffic Impact Assessment. Any improvement to the local highway network required to enable the development to take place, will be expected to be provided by the developer; and*
- ii. The site shall provide for B1 [Business] and B2 [General Industrial] uses.*

Further to this, BLP policy BAS E10 (General Employment Policy) states

Proposals for industrial, business and office development (Use Classes B1 to B8) will be considered with regard to the following criteria:-

- i. the surrounding roads must be adequate to accommodate the increase in vehicle traffic generated. A Traffic Impact Assessment may be required;*
- ii. Developments should relate to the primary road network without using residential estate roads;*
- iii. Adequate car parking should be provided in accordance with the Council's Car Parking Standards in Appendix Three;*
- iv. Adequate servicing and turning areas should be provided on the site in accordance with the Council's Highway Standards;*
- v. Provision for the landscaping and screening of buildings and storage areas with a landscaping strip abutting all highways will normally have a minimum width of 5 metres to be retained at all times;*
- vi. The design, form, scale, and materials of the development will be expected to be appropriate and sympathetic to neighbouring developments, particularly adjacent to residential areas; and*
- vii. Adequate controls should be installed to limit the emission of noise, pollutants, discharge and smells which could be associated with the proposed use.*

These criteria will be explored further in this report.

It is considered that this proposal is in accordance with PPS10, which requires sufficient and timely provision of waste management facilities to cater for local communities. PPS10 does not require waste management facilities to demonstrate a quantitative or market need for their proposal and therefore the submission complies with these requirements in trying to further address local policy. A need for further waste recycling capacity within Essex has been suitably

demonstrated. Even though the proposal could be classed as a sui-generis⁴ use, the proposed use is akin to a general industrial, B2 use and such uses are generally supported on allocated industrial land, as advocated by Policy W8B of the WLP. It is therefore considered that it has been demonstrated that this site in principle is suitable for this use as it is a brownfield site, allocated for B1 and B2 by policy BAS E2 of the BLP.

The Framework supports the effective use of land by reusing land that has previously been developed, provided that it is not of high environmental value. Furthermore, WLP policy W8B (Non Preferred Locations) states inter alia that waste management facilities will be permitted at locations other than those identified in the Waste Local Plan, where they fall in to the following criteria (among others):

- *Existing general industrial areas;*
- *Employment areas (existing or allocated);*
- *Areas of degraded, contaminated or derelict land.*

However such locations are only acceptable where the proposals meet the requirement to all other relevant policies and in particular do not give rise to adverse environmental effects (these will be explored later in the report). In addition, it notes that proposals in the order of 50,000 tonnes per annum will not be permitted unless it is shown that the preferred locations within the plan are unavailable or unsuitable for the type of development proposed.

Representations previously raised concern that the application did not contain evidence that the Schedule 1 sites (set out within the Waste Local Plan) are not suitable or not available for this proposal), as required by WLP Policy W8B for proposals in the order of 50,000tpa. Subsequently, the applicant provided reasons as to why the Scheduled site were not available or not suitable as set out below:

- *Rivenhall (WM1), Warren Lane (WM2), Courtauld Road (WM5), and Sandon (WM6) are unavailable as these have existing permissions and/or are already operational;*
- *The operator is locally based, so relocating to either Whitehall Road (WM3) or North Weald Airfield (WM4) are simply and logistically not feasible. This would involve moving an established company, which has significant links to the area, would prejudice job retention and move away from the established waste streams that my client collects. Moving the business to outside the Basildon area would not be a practical or economic option;*
- *The Schedule 1 sites are for larger scale and integrated schemes, which are materially different scale and purpose from than that proposed by the application.*

⁴ In a use class of its own

It is considered that the applicant has satisfactorily demonstrated that the Schedule 1 sites are either not unavailable or inappropriately located for the proposed development.

Similar to W8B WLP policy W7D (inert waste recycling facilities) and W7E (Materials Recycling Facilities) seek to locate facilities of the scale proposed on industrial land, with the caveat that they do not give rise to unacceptable adverse environmental impact.

Policy BAS E6 (Untidy Industry) of the Basildon Local Plan states:

The development or expansion of untidy industry sites will be permitted in the Harvey Road and Archers Field area of the Burnt Mills Industrial estate, as identified on the Proposals Map. Untidy industry proposals in other locations within the existing industrial areas will be assessed on the basis of their likely effects on nearby uses. Outside of industrial areas untidy industry will not be allowed.

It is acknowledged that waste proposals, involving recycling, outside storage and the parking of heavy vehicles, are akin to “untidy” activities and the applicant’s existing business is located within the Burnt Mills industrial estate, but for reasons set out earlier, there is no opportunity to expand or relocate to larger premises within the industrial estate. The applicant has therefore, identified this employment area identified for industrial use (as designated by policy BAS E2) as their preferred option. Thus in principle the site is a suitable location, subject to its likely effect on nearby uses being mitigated.

Basildon Borough Council has objected on the grounds that such an “untidy” activity should remain within the Burnt Mills Estate, but as explained above no suitable site is available within the preferred industrial estate. In addition Basildon has objected to location on this allocated employment land on the basis it does not consider these effects can be adequately mitigated these will be discussed later in the report.

It is considered however that in principle the proposed location meets the locational criteria of PSS10, W8B and BAS E2, subject to there being no adverse environmental effects.

The Framework (paragraph 216) states that decision takers may give weight to relevant policies in emerging plans. As such, the Basildon emerging core strategy carried out its revised preferred options consultation in April 2014 and replacement waste local plan at preferred approach stage was consulted upon in November 2011.

However it is acknowledged that within Basildon’s core strategy there are key areas noted for Primary Areas for Development and Change (PADC). In all three the Spatial Growth Options scenarios, the Terminus Drive area is located within the urban PADC, while the Policy PADC13 relates to the South Essex Marshes seeks to improve and transform the Marshes into a publicly accessible Thameside wilderness, connected to nature reserves in neighbouring districts and

boroughs. The policies in combination aim to regenerate and improve the amenity and enjoyment of Pitsea and its surrounding areas, with this area providing a 'Gateway' to Pitsea and the rural environment to the south. Representations have raised concerns that efforts to improve Wat Tyler Country Park would be undermined by placing a waste recycling facility on the gateway to the Marshes area. It must be remembered that the site has been designated for B1 and B2 such that urban development was likely in this area in any event and there are other existing industrial activities along Pitsea Hall Lane within the Marshes area itself which would remain.

With regard to the Waste Development Document: Preferred Approach it should be noted that the Terminus Drive site was not submitted as part of the original call for sites.

In view of the early stage in the preparation of these plans very little weight can be given to these plans.

In conclusion, it is considered that the proposals in terms of moving waste up the hierarchy and its location meet the goals and objectives of the Framework, PPS10 and WLP W3A, W7D and W7E, which requires waste to be moved up the hierarchy. It is considered that it has been suitably demonstrated that there is a need to relocate from the existing premises on Burnt Mills Industrial Estate and that further capacity is required for the treatment of non-organic waste (Capacity Gap Report, 2013). As such, the proposal is also in conformity with W8B, as it has been suitably demonstrated that the schedule 1 sites are not available or feasible.

The proposal is located on a proposed employment area (BAS E2) and an area of degraded, contaminated or derelict land. It therefore complies with the locational criteria as set out in W8B, W7D and W7E. Although, policy BAS E6 directs untidy industry to the Burnt Mills Industrial Estate, it has been satisfactorily evidenced that there is no opportunity to expand or relocate to larger premises within the industrial estate. Furthermore, it is considered that Policy BAS E6 is complied with in terms of untidy industry proposals in other locations are permitted, however, this is subject to their likely effects on nearby uses, which are considered later within the report.

Thus having concluded that there is in principle a need for the facility and the location in principle is acceptable it is appropriate to consider the environmental impacts of the proposal.

B. HIGHWAY IMPACTS

The Framework states, at paragraph 29, that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Continuing at paragraph 32 it is suggested all decisions should take account of whether: the opportunities for sustainable transport modes have been explored; safe and suitable access can be achieved for all; and if improvements can be undertaken within the transport network to limit any significant impacts of the development. Development should only be

prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.

WLP policy W4C (Access) details that access for waste management sites will normally be by short length of existing road to the main highway network, consisting of regional routes, and county/urban distributor, via a suitable existing junction, improved if required to the satisfaction of the Highway Authority.

In addition, BLP policy BAS E2 (Proposed Employment Area), requires any proposal for Terminus Drive to be subject to a Traffic Impact Assessment. Any improvement to the local highway network required to enable the development to take place, will be expected to be provided by the developer. Policy BAS E10 (General Employment Policy) specifically considers proposals against the following highway criteria:

- *The surrounding roads must be adequate to accommodate the increase in vehicle traffic generated;*
- *Developments should relate to the primary road network without using residential estate roads;*
- *Adequate car parking should be provided in accordance with the Council's Car Parking Standards;*
- *Adequate servicing and turning areas should be provided on the site in accordance with the Council's Highway Standards;*
- *Provision for the landscaping and screening of buildings and storage areas with a landscaping strip abutting all highways will normally have a minimum width of 5 metres to be retained at all times.*

The access would consist of the existing access on to Pitsea Hall Lane, which is currently used by the occupier of the industrial premises to the east of the proposed site and would be shared with the proposed development. Pitsea Hall Lane links to a grade separate roundabout junction with the A13 and therefore the access is considered to conform with WLP policy W4C.

There have been a number of objections made with regard to the traffic and highways implications of this proposal. The objections specifically relate to the following:

- *Does not comply with Policy BAS E2 due to infrastructure requirements and that the site is inappropriate due to the large number of HGVs;*
- *Local Infrastructure is insufficient (particularly the railway bridge) for any increase in HGVs given Pitsea Hall Lane is the sole access to (and the close proximity of) the landfill and Recycling Centre for Household waste;*
- *Increased congestion through increased HGV movements in proximity to the level crossing, would result in congestion on the A13 junction, the junction to Tesco, and access points to Pitsea Mount residential area and the station and station car parks, including from vehicles queuing for the level crossing;*
- *Access is unsuitable as it is narrow, of temporary configuration and used as a Public Right of Way (see below for further consideration in to the PRoW);*

- *Increased mud and debris on the Highway due to the nature of the site and that the access is not metaled;*
- *Highways safety concerns, due to the increased number of HGVs, congestion and access arrangements;*
- *There has been no consideration of reducing CO₂ emissions or adaption to climate change in relation to this application;*
- *Access needs to be retained to the currently vacant land to the north of Terminus Drive, to allow access for the maintenance of the A13 flyover and the north of Terminus Drive itself;*

Basildon Borough Council has objected partly on the grounds that Pitsea Hall Lane is inadequate to accommodate the additional HGV traffic.

A transport statement was submitted as required in Policy BAS E2 and has been subject of consultation with the Highway Authority and Highway Agency. The Highway Authority notes that the access to the site serving a storage and distribution use does not conflict with the Highway Authority's Policies DM1 or DM4 and that there is good accident record in the immediate vicinity. It also notes that there would be a comparatively low increase in HGV movements (100 HGV movements a day) over the railway bridge and no overall increase of HGVs using the level crossing; as there would be no greater residual waste being transported to Pitsea Landfill.

The transport statement notes that the installation of a pedestrian bridge over the railway is provided for as part of a legal obligation associated with last planning permission for Pitsea Landfill to improve pedestrian access as the current footpath is very narrow. However the WPA is aware that provision of this bridge has been delayed, due to the technical approvals required associated with crossing the railway line. The Highway Authority has not objected on either highway safety or capacity grounds, but does require a number of conditions, including, surfacing of the haul road, parking etc., to minimise any potential impacts.

The proposed vehicular and cycle parking provision meets the requirements of the parking standards.

In view of the considerable local concern and to further ensure that the scale of operations is controlled, so that there is not detrimental impact on the efficiency of the highway network, a condition restricting the number of vehicle movements associated with the use could be imposed, if planning permission was approved, in the interests of limiting the HGV movements and ensuring compliance with WLP policy W4C and BLP policy BE10 and such a condition is supported by the Highways Authority.

With respect to the comments regarding reducing CO₂ emissions or adaption to climate change in relation to this application, the waste is collected from demolition sites and customer across south Essex, such that use of rail is impractical, HGV being the only realistic option. The County's air quality consultant has advised that the additional HGV would not result in a significant detrimental impact on air quality. It is also noted in the transport statement that due to the proposed location

staff will be encouraged to use sustainable forms of transport, such as cycling or by public transport. With regards to waste vehicles, it is noted that the relocation of this operation from Burnt Mills Industrial Estate would result in a shorter distance (and therefore a reduction in emissions) for any residual waste being sent to Pitsea landfill.

Within the transport statement it is noted that currently, there is a vehicular and pedestrian gate and concrete blocks impeding vehicular access to the vacant land to the north of Terminus Drive and indeed for maintenance of the A13. These obstructions appear to have been erected to restrict unauthorised access on to the vacant land at the end of Terminus Drive. The applicant proposes surfacing the access route to Pitsea Hall Lane and marking with lineage the route of the Public Right of Way. Previously a gate across Terminus Drive was suggested, but this would conflict with the PRow and is on land outside the applicant's control.

The Highways Agency has no objection to the proposal, but requested that the applicant aims to minimise HGV movements at peak times to reduce severe congestion experienced on the A13. It is not considered that a condition could reasonably be imposed to control movements at busy times, but the operator could be advised of this preference.

Network Rail has no objection to the proposals with regard to the impacts on the level crossing. If permission is granted this would be subject to compliance with the submitted details that access would be as indicated on the plans (in the north east). Network Rail has also indicated that the applicant should get in contact with their asset protection team to discuss the scope of entering an asset protection agreement and this information has been passed to the applicant.

It is considered that subject to the conditions required by the Highway Authority and Network Rail and attaching appropriate informatives, as requested by the Highways Agency, that the proposal is in accordance with the NPPF, WLP policy W4C and Basildon policies BAS E2 and BAS E10. This is because there would be a comparatively low increase in HGV movements over the railway bridge and no net increase movements over the level crossing.

C. IMPACTS ON PUBLIC RIGHTS OF WAY

The Framework requires decision takers to protect and enhance Public Rights of Way (PRowS) and access, by seeking opportunities to provide better facilities. PPS10 remains silent on waste facility impacts on PRowS.

WLP Policy W10G (Public Rights of Way) states that applications should include measures to safeguard and where practicable improve the Public Rights of Way (PRow) network. Any works to improve/safeguard the PRow shall be implemented prior to any development commencing.

Adjacent to the northern and western boundary of the proposed site is PRow Vange 136. This public footpath follows the line of Terminus Drive, linking Pitsea Hall Lane and the wider Vange Marshes Area. The application details that the

PRoW would be retained, but the access to the site would share Terminus Drive with footpath at its eastern, where it joins Pitsea Hall Lane.

During pre-application discussions, it appears there is no definitive map of the footpath location, so the applicant proposes that the footpath would remain in its current position and a 2 metre wide area will be delineated by lining on the ground.

Representations have been made which raise concern that footpath might be lost or obstructed and safety concerns of using the current access from this PRoW on to Pitsea Hall Lane, as this area would be used for large vehicles accessing the site. It is acknowledged the proposals would increase the intensity of vehicular use of this part of Terminus Drive, thus potentially affecting the PRoW. The applicant does not intend to obstruct the PRoW, in fact the improved surfacing of the access and delineation of the PRoW are likely to be an improvement on the current arrangement. The adjacent existing industrial development to the east of the application site (and incorporating Primrose Villa - 93/00004/FUL) currently uses part of Terminus Drive for parking and storage of materials (currently subject of investigation by BDC) and the provision of linage would hopefully discourage parking/storage along the PRoW route. Concern has been raised that use of the path to the Marshes and Wat Tyler Country Park would be less appealing due to the waste transfer station, but it must be remembered that the land is designated for B1 and B8 use, such the commercial activity was always likely in the vicinity of the path.

Essex Highways (Public Rights of Way) does not object to the proposal as the PRoW Vange 136 would be retained, but would like to state that although only a 2 metre wide area is to be delineated as the PRoW public access rights to Footpath status will still subsist across the full width of the original path. It is considered that to ensure this delineation is undertaken a condition is attached (if permission is granted) to ensure appropriate signage and linage is carried out and maintained throughout the life of the development.

It is considered that subject to the surfacing, linage and signage of PRoW, there would not be significant harm to the existing right of way and that proposal is consistent with WLP Policy W10G, as it safeguards the existing PRoW. It would also comply with the Framework as there would be no net loss of PRoWs and would improve the eastern end of PRoW Vange 136 (as it merges with Pitsea Hall Lane).

D. DESIGN, LANDSCAPE AND VISUAL IMPACTS

The Framework emphasises the importance of good design within proposals, at paragraph 56, that good design is a key aspect of sustainable development; it is indivisible from good planning and should contribute positively to making places better for people while considering the functionality of the proposals. Whilst planning policies and decisions should not attempt to impose architectural styles or particular tastes, stifle innovation, originality or initiative it is proper to reinforce local distinctiveness. Paragraph 61 of the Framework goes on to detail that although visual appearance and architecture of buildings are very important

factors, securing high quality and inclusive design goes beyond aesthetic considerations. The Framework also requires the planning system to “contribute to and enhance the natural and local environment by: protecting and enhancing valued landscapes...”. BLP policy BAS E10 states that proposals for industrial, business and office development – note the consideration of a waste sui-generis use being considered akin to this – should be of a design, form, scale and materials appropriate and sympathetic to neighbouring developments, particularly adjacent to residential areas.

WLP policy W8A which sets out the criteria for consideration of waste management facilities by way of Policy W8B requires inter alia buildings and structures are of a high standard of design, with landscaping and screening provided as necessary.

WLP policy W10E (Development Management) states that waste management development will be permitted where satisfactory provision is made in respect of the effect of the development on the landscape and the countryside. The supporting text to WLP policy W10E (paragraph 10.12) of the policy specifically notes that landscaping and design (including siting, design and colour treatment of the elevations) can ameliorate impact, and requires a high standard of design and landscaping to minimise visual impact. It also notes that consideration will need to be taken to the metropolitan Green Belt.

Policy BAS E10 (General Employment Policy) specifically considers proposals against the following criteria:

- *Provision for the landscaping and screening of buildings and storage areas with a landscaping strip abutting all highways will normally have a minimum width of 5 metres to be retained at all times;*
- *The design, form, scale, and materials of the development will be expected to be appropriate and sympathetic to neighbouring developments, particularly adjacent to residential areas.*

With respect to design the main building is industrial and functional in appearance, the lobby has been added to screen views and minimise noise and dust escaping from the building. The main building is proposed to be goosewing grey, with the lobby olive grey, both functional in design. The lobby, while screening views into the building would in part add to the bulk of the building. Should members consider that a darker colour would be more recessive, then this could be secured through the imposition of an appropriate condition. West of the main building would be the two modular buildings in dark blue as offices/mess facilities, equally functional in nature. However it has to be remembered that this area is designated for B1 and B2 use and industrial buildings of this nature were always likely to be required. There is already an industrial building east of the site (grey with red trim), but it is acknowledged that the proposed building would be larger than the existing building.

Places Services (Urban Design) has commented that the grey colour of the building and grey/olive of the lobby are acceptable, but a more recessive colour for

the whole building would have been preferred and the building is functional in nature.

In landscape terms the building is the element of the proposal that would be visible within the landscape. The applicant's landscape assessment notes that the outlying marshland landscape is not directly affected by the proposals, but there would be an indirect affect as the new building is seen from some locations within the Marshland to the south and west. The effect of this would be to extend and intensify the appearance of industrial built form in the edge of Pitsea beneath Church Hill. The Marshland is not subject of any statutory designation with respect to landscape, but is identified as the Marshes Area within the Basildon Local Plan. The Marshes Area policy seeks to prevent development with the Marshes that would "...cause harm to the landscape, the open and rural character..." It is noted by the applicant's consultant that there is an interesting view from the Marshes and would be considered to represent a secondary element in the characteristics of the marshland in this area. It is noted that the development might marginally degrade this view, but overall the impact on landscape character is considered low significance and it is therefore conclude in the assessment there would be no significant landscape effects.

In terms of visual effects the applicant's visual assessment identifies 7 potential receptors:

- Residents within Chestnut Road flats
- Visitors to Cromwell Manor
- Walkers on the footpath along the northern edge of the site
- Walkers exploring the marshes to the south-west
- People moving about in the urban area along Pitsea Hall Lane and around Pitsea Station
- People travelling on the A13 Pitsea flyover
- Train travellers on the southern railway line

The top section of main building and its lobby and tops of large vehicles would be seen behind and to the side of Cromwell Manor; the building is within the main view on entering through the gated entrance to the Manor, but not directly in the scene when properly within the grounds of Cromwell Manor. It may draw the eye, but already there are gantry lines for the railway line. The applicant's visual assessment notes that the overall sensitivity of Cromwell Manor is high due to the nature of the property and wedding venue use it currently has. However, views from the Manor are generally orientated south away from the development and it is primarily views from the open frontage looking back at the property that are likely to be affected. The addition of the lobby means there would no direct views into the building and the recycling activities inside but only the lobby side, reducing the visual impact. Nonetheless the effect on this view is considered quite high significance, but due to the existing backdrop of railway gantry and lines the impact is assessed by the applicant's assessor as moderate. The building has been located as far west as is possible within the constraints of the narrow site (moved 5m west during consideration of the original application). Ideally additional

fencing and planting would be provided on the southern boundary of the site but the maintenance strip for Network Rail prevents this. The applicant's assessment notes that there are trees and vegetation on the northern boundary of the Cromwell Manor site and their continued growth would screen the building further. There is also a brick wall west Cromwell Manor, which screens views of the ground within the application site and lower half of the building and vehicles as they circulate within the site. In the past a marquee has been located adjacent to and on the west side of Cromwell Manor. Planning permission for the marquee was refused by Basildon Borough Council, due to its location within the Green Belt and was temporarily removed in late June 2014 but has subsequently been reconstructed. When in place the marquee obscures the view of a larger proportion of the proposed building and lobby. The retention of the marquee is matter for Basildon BC and would be dependent on the outcome of any enforcement action and/or appeals. It is therefore appropriate to consider the impact of the development without the marquee.

Considerable concern has been raised by the owners and operators of Cromwell Manor on the visual impact of the building and the waste facility in general, due to the dirty and untidy nature, which it is considered by the objector will have both a direct visual impact on visitors as they arrive at the Manor and indirect impact through the perception of visitors as to the desirability of the venue for their wedding or event located near a waste transfer/recycling facility. Concern has been raised not only with respect to the buildings impact, which is acknowledged and discussed above, but also concern has been raised as to the visual impact of the outside storage and storing of waste to be located to the west of the building. The area west of the building is not visible from the frontage of the Cromwell Manor only from the car park located to the west of the manor and the car park is not visible from the frontage due to existing planting. Users of the car park would only be in the car park for limited periods. The stockpiles are visible from the upstairs rear window of the residential flat within Manor, but only if looking west, but more prominent in this view is the railway line and all its associated cables, gantry etc. The view directly north from the window is more that of the existing industrial buildings associated with the fencing business and the area for parking and circulation of vehicles and skip storage to be screened on its south by a 3m high railway sleeper fence.. It is considered the views from the Manor car park and the rear of the Manor flat are not very sensitive receptors and as such there is no significant adverse visual impact on these views from the proposals.

The applicant's assessor notes walkers along the northern edge of the site would experience the development as a prominent and extended industrial edge. While walkers previously have crossed undeveloped brownfield land, this will not be the case in any event when the either side were developed for employment use. The views are only transient and thus it is considered the visual affect would be moderate.

The proposals include a hedge and hedgerow trees (subject to not restricting the operation of plant) to be planted along the northern and western boundary of the site and this would soften the visual impact on path users. The hedge would in places need to be located between the proposed sleeper walls and palisade

fencing and it would be necessary to ensure the ground conditions were made suitable for planting, which could be secured by condition, if planning permission were approved.

The view from the flats on Chestnut Road would be through the pillars of the A13 and planting around the car parks, such that views would be limited and the intervening land, as mentioned above is designated for B1 and B2 use which may be developed in the future. The proposed sleeper walls and planting (once matured) would restrict views of the outside storage areas.

Views from people moving about in Pitsea Hall Lane would be limited. The main building is partly screened by the existing other industrial building, while the modular building and outside storage areas would be screened by the main building and proposed walling and planting (once matured). Users of the A13 and passengers on trains are not considered sensitive receptors as the views are transient and are expected in an urban setting.

Basildon Borough Council object to the proposals on the basis that the proposals are an untidy use in area not designated for untidy uses and the adverse impact of the use on the character and amenities of the locality could not be mitigated, particularly that the proposals do not provide landscaping to mitigate against the visual impact and therefore contrary to BAS E10. However, as discussed above in terms of landscape and visual impact it is not considered there would be significant adverse impact, other impacts on the locality will be discussed further in the report.

Place Services (Landscape) note that if the Waste Planning Authority is mindful to grant planning permission, then a condition should require a detailed landscaping scheme for the proposed hedge and hedgerow trees, including locations and species mix to be submitted.

On balance, it is considered that although the proposal does result in some landscape and visual impact, which cannot be fully mitigated due to the constraints on the southern boundary of the site, the site is within a designated proposed employment area (policy BAS E2). Furthermore, because these policies are contained within out-of-date local plans, the policy drivers within the Framework must take precedence. In light of this, it is considered that the proposal (subject to appropriate conditions regarding hedge/tree planting and colour of the building) would have minimal impact on the landscape character of the area and would not result in significant adverse visual impact to warrant the refusal of planning permission.

E. GREEN BELT

The NPPF seeks to protect the Green Belt and enhance its use including for recreation and amenity. There has been a specific objection noting the proposal could adversely affect the visual amenities of the Green Belt (containing the Pitsea Marshes). However, this site is within a designated employment site (Policy BAS E2) and is not located within the Green Belt. The railway line defines the

boundary of the Green Belt (the railway line being in the Green Belt) between the rural marshes to the south and the urban setting with built development to the north. It is acknowledged that the upper sections of the stockpiles and building would be visible from the Marshes, but in the context of the existing urban development including the A13 it is not considered there would be a loss of amenity to users of the footpath within the Green Belt and it must be remembered the area north of the railway line is designated for B1 and B2 use. It is also considered for the same reasons the proposals would not have a significant impact on the openness of the Green Belt and therefore the proposals are in accordance with the NPPF in this respect complies with the NPPF WLP policy W10E.

F. IMPACTS ON ECOLOGY

One of the three main strands of sustainability (according to the Framework) is environmental sustainability, which considers that the planning system should contribute to and enhance the natural and local environment. As part of this, decision takers must protect and enhance the natural and local environment by recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity. The Framework also supports the effective use of land by reusing land that has previously been developed, provided that it is not of high environmental value.

Basildon Local Plan is silent in this case, as it contains no saved policies other than those of national importance. Similarly, WLP policy W10E only considers ecologically designated sites, thus the NPPF is the most up to date guidance.

The proposal contained an extended phase 1 habitat survey and a Reptile Survey. In summary, both noted the site consisted of an expanse of bare/disturbed ground bordered by banks of tall grass and ruderal vegetation. The survey was undertaken after the site had been cleared but the clearance work was not undertaken by the applicant, but unfortunately some biodiversity interest may have been lost. The survey identified two SSSIs, Wat Tyler Country Park and five Local Wildlife Sites (LoWS) within 500m of the site boundary of the site. It did not identify any areas of importance for protected/notable species or habitats. There was found to be a low population of slowworm and common lizard on the railway embankment due to the proximity of Vange Creek Marshes LoWS 20m to the south of the site. A translocation program was not considered necessary as this area is not proposed for development but did suggest that a temporary (Heras fencing) barrier is installed along the length of the bank on the south of the site to prevent vehicle movements in areas of favourable reptile habitat and prior to operation installing reflective bollards.

Place Services (Ecology) has reviewed the submitted information and does not object subject to the imposition of a condition to ensure that the reptile mitigation plan is implemented and a condition to ensure the proposed hedge along the northern boundary would be composed of species identified in the ECC Tree Planting Palette. Due to the value of the surrounding land for 'Priority' bumblebee

species, the hedge-mix should include a high percentage (over 40%) of 'flowering shrubs' such as common hawthorn, common cherry and/or blackthorn.

It is therefore, considered that subject to the imposition of the suggested conditions, that the development is not contrary to the Framework and commensurate with the scale of the proposal and in accordance with WLP policy W10E.

G. IMPACTS ON LOCAL AND RESIDENTIAL AMENITY

The Framework aims to prevent unacceptable risks from pollution and decisions should ensure that new development is appropriate for its location, in so doing consider whether the development would be an acceptable use of land. It does qualify this by stating that local authorities should consider that pollution regime control regimes will operate effectively. Planning considerations nonetheless need to consider impacts such as noise, dust, light pollution and other adverse impacts on health and the quality of life, while recognising that development will often create some noise and impacts, which should not be unreasonably restricted.

Whilst the proposal may in principle comply with WLP policies W8B, W7D and W7D, in terms of location and land use, all these policies are caveated by "provided the development complies with all other relevant policies of this plan; and does not cause unacceptable harm to the environment or residential amenity by virtue of noise, dust or heavy traffic". A position supported in policy terms by WLP policy W10E which, inter-alia, states developments will only be permitted where satisfactory provision is made in respect of the amenity of neighbouring occupiers, particularly from noise, smell and dust.

The locational criteria of PPS 10, in respect of the above, furthermore includes; air emissions, including dust; odours; vermin and birds; noise and vibration.

Policy W10F (Hours of Operation) within the WLP states that where appropriate the Waste Planning Authority will impose a condition restricting the hours of operation, as appropriate with regard to local amenity and the nature of the operation.

The proposal suggests that the hours of operation would be 07:00 to 17:30 (Monday to Friday), 07:00 to 13:00 (Saturdays) with no work taking place on Sundays and/or Bank Holidays. While within industrial areas hours of operation restrictions would not normally be imposed, conditions could be applied if the proposal is granted to restrict working hours. Such conditions could also restrict the use of especially noisy plant and equipment to only operate after 8:00am Monday to Friday and not at all on Saturdays, to minimise the impact on local amenity and the wedding venue use at Cromwell Manor. Should permission be granted such conditions could be imposed.

During the consideration of this application, as said, the applicants have occupied the site, and carried out outside storage and sorting of wood waste and have

utilised the modular offices and weighbridge, although the unlawful use of the site should not have any bearing on consideration of the application.

During the course of the determination of this application there have been a number of complaints with regard to, dust, noise, vibration and unsightliness of the site, including photographic and video evidence. Activity at the site has especially been the cause of dust complaints that have been substantiated as arising from the current activities at the site. The operator has implemented a temporary dust suppression measures, namely wetting of stockpiles and hauls roads to minimise dust. The proposal includes a dust suppression scheme and the applicant indicated a willingness to install a permanent spray system around outside stockpiles which could be required by condition if planning permission was granted.

It is considered that, should permission be granted, once the building is in use for sorting, the retaining walls for outside storage fully erected and the dust suppression scheme fully implemented, dust emissions could be managed.

Noise

The application was supported by a noise assessment. The revised proposals include additional sleeper walls in the open storage area between 3 and 4.8m high, a 3m high wall south of the skip storage area and the inclusion of the lobby on the main building and sound reduction insulation within the building. ECC's noise consultant has no objection and considers that the predicted noise levels, subject to construction of the proposed noise attenuation measures would not give rise to significant increase in noise levels above permitted guidelines.

Representations have raised concerns with respect to noise and the noise assessment has been independently reviewed by a noise consultant acting on behalf of the owners of Cromwell Manor. Concern has been raised that the predicted noise levels utilised with respect to the plant to be operated at the site are based on the lower levels of noise than such plant could generate and if less cautious values were used, then acceptable maximum noise levels would be exceeded. All of these comments have been subject to review by the County's noise consultant and they remain satisfied that the appropriate standards and prediction methods have been used. In addition concern has been raised that the noise attenuation materials to be used inside the building are likely to deteriorate or be damaged by activities in the building, such that their attenuation value would reduce. If approved, conditions could be imposed to ensure all noise attenuation measures are maintained throughout the life of the development.

Subject, to the condition suggested above and the requirement for regular noise monitoring to show compliance with the maximum noise levels, it is considered that planning permission could not be refused on grounds of noise and therefore the proposals accord with the NPPF, PPS10 and WLP policy.

Dust/Air Quality

The applicant has submitted a dust assessment. The assessment details that: all wastes would arrive at the site in sheeted containers; dust on the access road could be managed by regular mechanical sweeping of the access road or spraying the access road with water, thus preventing dust leaving the site. This water would be collected by way of an onsite drainage system to prevent risk of pollution. All waste would be deposited in to the waste collection building, which would be fitted with a mist spray dust suppression system and if required this system could be extended to the outside stockpile areas, and would be mounted on the sleeper walls. Any material contained within the storage area outside the building would be dampened down prior to movement in dry conditions.

Basildon Borough Council and other representations have objected due to harm to residential amenity by reason of dust and complaints in relation to current activities at the site have been made by Cromwell Manor, the car park business to the north and local residents. Some of the wood sorting currently taking place outside would if planning permission were approved been undertaken within the building, such that dust from these outside areas would only likely to occur during deposition and removal of the stockpiles and are proposed to be managed by bowser and hose, although a sprinkler system, as mentioned above has been offered attached to the outside storage bay walls.

With respect to potential pollution from the additional traffic, the County's Air Quality Consultant has advised that local levels of Nitrogen Oxide are within acceptable limits and the limited additional traffic is unlikely to result in a significant detriment to these levels.

It is considered subject to conditions requiring installation and maintenance of the proposed dust suppression, with a requirement to extend the dust sprinkler suppression system to outside storage areas, there are no grounds to withhold planning permission due to the adverse impacts of dust.

Vibration

Objection has been raised by Cromwell Manor with respect to the impacts of vibration on both the structural condition of the Listed Building and the impact on residential amenity and the wedding venue business. The application was accompanied by a vibration survey which has assessed the vibration impact of the HGV traffic associated with the business. The County's vibration consultant has confirmed that the HGV traffic associated with the development and the sample operation of the tracked vehicle indicate that the development would not give rise to vibration that is likely to cause structural damage to the building or adversely affect the residents and or users of the wedding venue. The assessment did not include an assessment of use of plant, namely the tracked 360° machine, in the area east of the proposed main building. The reason for this omission is the applicant has confirmed that, while the tracked plant had previously been used in this area, apart from construction and maintenance the area east of the building would no longer be regularly used by the tracked vehicle. The areas east of the building (and closest to Cromwell Manor) are proposed for a combination of parking, storage of skips and circulation area for vehicles arriving and leaving the

site. The vibration assessment has shown that the levels are well below those that would give rise to structural damage to the listed building and would be unlikely to be detected within the residential/wedding venue. A condition, if approved, could be imposed to ensure the tracked vehicle is not used in the area east of the building (except for construction and maintenance) and the applicant has indicated a willingness for such a condition. In addition vibration monitoring would be required, if planning permission were approved, to confirm that vibration levels are within acceptable limits.

Lighting

The proposals include a lighting scheme for outside areas namely in areas to be used for circulation of vehicles and staff parking. The application has been submitted with a lighting assessment and has demonstrated there would no adverse impact from the proposed lighting on surrounding uses including the railway line and Cromwell Manor. Concern has been raised that the lighting scheme proposes inadequate lighting and does not meet BS guidance for lighting and thus additional lighting is likely to be required. The County's lighting consultant has reviewed the lighting scheme and considers the assessment has been carried out appropriately and as proposed would not result in adverse light pollution. It is noted that the proposed light levels are low, but the BS levels are only guidance and it is the responsibility of the operator to ensure the safety of his staff.

Conditions could be imposed to require approval of any further additional lighting (which could be refused if found to give rise to adverse impacts) and require monitoring of light levels to show compliance with the submitted scheme.

Vermin and Odour

There have been representations noting that there would be an adverse impact on health and quality of life and an increase in vermin. The nature of the waste, namely construction and demolition is unlikely to be attractive to vermin or give rise to odour and the operation would also be subject to an Environmental Permit.

It is considered that in accordance with the Framework, planning permission should not be refused, subject to the imposition of appropriate conditions to ensure noise, dust, vibration and lighting can be effectively mitigated and controlled to ensure compliance with policy W10E and BAS E10. In addition, conditions restricting the hours of operation will further protect amenity and in so doing comply with policy W10F and the Framework, which supports sustainable development where the adverse impacts do not significantly and demonstrably outweigh the benefits of proposals.

H. IMPACT ON THE HISTORIC ENVIRONMENT & VIABILITY OF CROMWELL MANOR

Impact on the Historic Environment

Section 66 (1) of the Listed Buildings and Conservation Areas Act 1990 (LBA) states, inter-alia that; *in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*

The Framework states in paragraphs 128 to 134 that heritage assets are an irreplaceable (and therefore finite) resource and should be conserved in a manner appropriate to their significance and notes that any harm or loss should require clear and convincing justification. It requires applicants to describe the significance of heritage assets including any contribution made by their setting.

The Framework defines the “Setting of a heritage asset” as “The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

The Framework defines “Significance (for heritage policy)” as “The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting.”

The planning authority in accordance with the NPPF guidance is required to:

Para 129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset)...

Para 132 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. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional...

133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, 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 outweigh that harm or loss...

134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Recent case law⁵ has clarified how development affecting the setting of a listed building should be considered. The Courts have confirmed that, even where the harm to significance is found to be less than substantial, a decision maker who follows the balancing approach recommended in para 134 of the NPPF must, when performing that balance, give “*considerable importance and weight*” to any harm to the setting of a listed building and to the desirability of preserving that setting without harm and start with a “*strong presumption*” that harm to the setting of a listed building should lead to a refusal of planning permission.. Whilst the Courts will look at the substance of what is decided, rather than require the decision maker to recite a particular form of words to show he has met his statutory obligations, the Courts will look critically at decisions which seem to show no signs of reflecting the statutory requirement in S.66(1) LBA 1990.

The Basildon Local Plan is silent on this issue, as it contains no saved policies in respect of Heritage Assets. Similarly, WLP policy W10E states that development would be permitted where satisfactory provision is made in respect of the resultant effects on the historic environment but does not explain what this will entail.

It is important therefore to set out the starting point when considering the impact of the development upon the setting of Cromwell Manor, a grade II listed building. As determined by the courts, S66(1) of the LBA is more than a material consideration. When it is considered that a proposed development would harm the setting of a listed building, that harm must be given *considerable importance and weight*⁶.

Recent case law⁷ has stated that, if the proposed development would cause harm to the setting of a listed building, there is a strong presumption against planning permission being granted. The presumption is a statutory one as set out in the LBA. The presumption to refuse permission can nonetheless be outweighed by material considerations, provided those considerations are powerful enough to do so.

The revised application has been supported by a Heritage Statement. The Heritage Statement notes that as the seat of the medieval manor, Cromwell Manor (historically Pitsea Hall) is a site of historic importance, second only in Pitsea to the ruins of St Michael’s church. The building is a good example of a gentry house of the early 16th Century, however, it has largely ceased to have a recognisable identity, its name has been changed and its footprint has been doubled by a modern extension. Surrounded by the railway, fencing and trees it is now barely visible from the road, though its entrance is well signposted. Only the front retains a relationship with the flat marshland landscape from which its medieval wealth derived.

⁵ Most notably East Northamptonshire DC v SSCLG [2014] EWCA Civ 137 (Barnwell Manor wind turbine case) as further explained by the High Court in R (Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin) (Penshurst Place affordable housing case)

⁶ Glidewell L.J.’s judgment The Bath Society v. Secretary of State for the Environment [1991] 1 W.L.R. 1303

⁷ Lindblom J in R (Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin)

The applicant's assessment is that the development is distant from Cromwell Manor and has no direct effect on its historic fabric or immediate environs. It does have the capacity to affect its setting. To the south of Cromwell Manor, there survives to a large degree the landscape with which it has historically been associated. This relationship would not be affected by the development. To the north the assessment states the setting has already been seriously compromised by the railway, industrial development and roads and concludes the development could be regarded as having an incremental impact, but it would not give rise to substantial harm to the heritage asset.

Place Services (Historic Environment) have commented on the proposals and set out that the main conservation issue is the effect of the development on the setting of the grade II Listed buildings, Cromwell Manor and to a lesser extent that of St Michael's church. Also the potential of both visual impact and non-visual impacts of the development on the use of Cromwell Manor and thus the ongoing conservation of Cromwell Manor by the effect of the proximity of the proposed use on the economic viability of the wedding venue business.

The County adviser does not disagree with the content of the heritage statement submitted by the applicant, that the setting of the Listed Building from the north is degraded due to the railway, roads and existing industrial buildings, such that the proposal have little bearing on the significance of the listed building from the north. From the south the building is viewed in the context of the garden albeit with a backdrop of industrial and urban development. However, the proposed building and its lobby are considered extremely large scale and intrude into the skyline and are disruptive to the setting of the listed building both in its own right and cumulatively with the modern development and infrastructure surrounding the building. The western most part of the building is screened by vegetation within Cromwell Manor, but the bulk of the waste building and its lobby would appear in the principal elevation of Cromwell Manor.

The County's Historic building adviser has commented that it is difficult to assess if the operations would harm the environmental conditions around the listed building to the extent that it would affect the economic viability of the wedding venue. Assessments indicate noise and dust would be within limits. Perception by potential customers of the venue due to the proximity of the waste use could be as damaging as any actual harm. The adviser concludes that the visual and non-visual harm to the setting of the asset would be less than substantial, mostly due to the harm already done to the setting by the surrounding modern development; however there would be cumulative harm to the significance of the listed building due to the impact of the development on the setting. The proposed building also intrudes into longer views of St Michael church tower and when viewed from the marshes contributes to the harm to the setting of this building caused by modern development. The adviser cannot support the application and advises the WPA would need to weigh up any less than substantial harm against the public benefits of the proposal.

Cromwell Manor's agent has also commissioned a Heritage Statement which raises similar concerns to those of the Council's historic adviser but concludes that the harm would be substantial. The historic adviser to Cromwell Manor refers to the consultation response by the County Historic Building Adviser to the original proposal, as having "a comprehensive and detrimental impact on the northern setting of the listed building". It should be noted that these comments were made prior to the building being moved 5m west and without the lobby screening views into the building and thus are considered to be superseded by the those comments in relation to the revised application which have been explained above.

English Heritage commented that they would not normally comment on an application involving Grade II listed building and the WPA should rely on local advice for this application.

The main harm to the setting of the Listed Building is the impact of the view of the western end of the proposed building and lobby, from the entrance and grounds in front of Cromwell Manor - the principal elevation - on the significance of the setting. The building and lobby would be visible above the existing brick wall to the west of the Listed Building. That is, the impact is upon the setting of the upper half of the building and the skyline to the west of Cromwell Manor. It is not considered the development has any impact on the setting from the north, this having been lost already due to the railway line, roads and existing fencing business operating from the industrial building directly to the north of the LB.

As alluded to earlier, in the context of the LBA whether the harm caused by the development to the setting of Cromwell Manor, and to some degree the church, is either substantial or not, is not determinative of the need to comply with the statutory duty in s.66 LBA 1990. Both the applicant's and the authority's historic advisers consider that the development would cause harm to the setting of Cromwell Manor and St Michael's church. It is therefore considered that there would be harm to the setting of the listed buildings and therefore the settings would not be preserved.

However, the degree of harm still has to be assessed as part of the exercise of deciding whether there are sufficient 'overriding' factors to displace that harm. While the development alone would result in harm to the setting of the LBs, there is existing harm (irrespective of the proposal) caused by past developments, including the railway and its infrastructure such as gantries and level crossing, roads including Pitsea Hall Lane and the A13 flyover and other urban development to the north.

The NPPF recognises that within the setting of a heritage asset there may be elements that make a negative contribution to its significance. In this case there is a negative contribution caused by the railway, the A13 flyover and other urban developments in the vicinity.

In the English Heritage publication "The Setting of Heritage Assets", EH advises (on p.8):

“Where the significance of a heritage asset has been compromised by in the past by unsympathetic development affecting its setting, to accord with PPS 5 policies, consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset. Negative change could include severing the last link between an asset and its original setting; positive change could include the restoration of a building’s original designed landscape or the removal of structures impairing views of a building.”

This guidance has not been updated since the publication of the NPPF but EH still regard it as relevant.

Imposing additional harm on a setting that is already compromised could be said to have more of an impact rather than less.

It is clear, therefore, in the context of the guidance above, that the proposed would bring about a negative change to the setting of the listed building and this change would exist both cumulatively (when the impact on the setting is considered from the proposal and other built development) as well from the proposed development itself.

Nonetheless, on balance, it is considered that the assessment of the County historic buildings adviser is agreed in that the harm caused by the proposal is less than substantial harm because there is only a limited impact on a limited part of the setting of listed buildings which have already lost much of their significance due to other developments within their settings. However, as said, even less than substantial harm falls within the scope of S.66 of the LBA to be considered.

Accordingly, the starting point in considering the proposal in accordance with the LBA is that planning permission should be refused unless there are any sufficiently *significant* material considerations (when balanced against the harm caused by the development upon the setting of Cromwell Manor and St Michael’s church) to rebut that strong presumption. In other words, there is statutory presumption in favour of preserving the setting of the Listed Buildings and, notwithstanding other considerations, that presumption should be given *considerable importance and weight*.

This report goes on to consider whether there are any material considerations significant enough to override the presumption that planning permission should be refused.

As referred to above, The National Planning Policy Framework (NPPF) does set out that *heritage assets are an irreplaceable (and therefore finite) resource and should be conserved in a manner appropriate to their significance and notes that any harm or loss should require clear and convincing justification*. The NPPF further sets out 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. (Paragraph 132)*

Further, the NPPF states *as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. (Paragraph 132)*

Substantial harm is defined with national planning practice guidance (NPPG) as

Whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.

The NPPF states: *Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, 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 outweigh that harm or loss...*

At paragraph 134 the NPPF states that *where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.*

Taking into consideration the definition above, it is considered that the waste building would not cause substantial harm to the setting of Cromwell Manor or St Michael Church, due to the harm already done to the setting by the surrounding modern development. However there would be cumulative harm to the significance of the Listed Building due to the impact of the development on its setting as outlined by the Council's historic adviser. Nonetheless, in conflict with the LBA, the development does not preserve the setting of the listed buildings.

To further take the NPPF into account, it should be considered whether the less than substantial harm is outweighed by the public benefits of the proposal, such that it amounts to sustainable development as promoted by the NPPF. The NPPG describes public benefit as follows

Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the National Planning Policy Framework (Paragraph 7). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.

The proposals would enable the movement of waste up the waste hierarchy, reducing the volume of waste disposed to landfill and associated greenhouse gases. The proposal would also allow the expansion of the existing business ensuring security of the existing employment and potentially increasing the number of jobs.

There is generally a need for waste recycling facilities of the nature proposed (as identified in the Waste Capacity Report 2013ⁱ) and this combined with the unavailability of any of the WLP Schedule 1 Preferred Sites for waste management in the area (as the applicant has confirmed) and the applicant's desire to protect existing jobs, are considered important material considerations. Nonetheless, it is not known whether the proposed site is the only site available for the applicant to relocate to.

The applicant has stated the percentage of the material handled that can be recycled would increase as a result of the relocation, as the current site is too small to allow stockpiling of material before export to reprocessing facilities. The proposed site, being located close to Pitsea Landfill, would enable unrecoverable materials to be transported a short distance to a disposal point and recovered soils and inert material could be taken to Pitsea Landfill required in the restoration of the landfill. In addition the proposal would see Terminus Drive surfaced and the PRoW delineated, providing a safer and surfaced route for users of the PRoW.

The statutory test concerning the setting of listed buildings is to have *special regard* to the desirability of preserving their settings. As planning inspectors have established, to justify a development that causes harm to the setting of a listed building is considered a *high hurdle*⁸ to overcome.

In this instance it has been established that harm to the setting of the Cromwell Manor would occur and whilst that harm may not be classed as 'substantial harm' given the existing industrial nature of the land to the north of the site and the surrounding development and infrastructure, it is an additional harm adding cumulatively to the detrimental impact on the setting of predominantly Cromwell Manor but also St Michael's Church and that harm should be given significant weight as set out in the LBA.

Whilst an argument could put forward in favour of the development, balancing the wider public benefits of the proposal (such as the need for waste recycling and the employment opportunity created), to meet the test set out in paragraph 134 of the NPPF, such a test is not set out in the LBA. As said the LBA should be the primary consideration when considering the impact of the development on the setting of the listed buildings, as it is statute.

Accordingly, when balancing the harm to the setting of the Cromwell Manor and St Michael's Church against the factors in favour of the proposed development, It is

⁸ Lindblom J: Forest of Dean District Council v. Secretary of State for Communities and Local Government [2013] EWHC 4052

considered that whilst there are material considerations in favour of the development, these considerations are not considered material considerations *powerful enough*⁹ to override the statutory presumption to preserve the setting of the listed buildings as dictated by the LBA.

Viability of Cromwell Manor

In addition to the consideration of the direct impacts of development on the historic Environment, the Framework requires local authorities to consider the potential economic impacts of development.

The owner of Cromwell Manor and Place Service (Historic Environment) objections highlight how noise, vibration, light pollution, landscaping, design and the setting would potentially impact upon the viability of the business use of Cromwell Manor now, or in the future viability, thereby threatening its on-going conservation.

It has been concluded within previous sections of this report that the environmental impacts of the proposals are largely either adequately addressed by measures forming part of the proposal or could be mitigated through conditions. It is acknowledged there would be a visual impact and impact on the setting of the Listed Building, such that there are limited direct impacts that could discourage customers from choosing the venue for their functions and equally the knowledge that there is a waste facility may give rise to the perception that the venue is not desirable as a venue for functions and weddings, although assessing the effect of such perceptions is difficult.

However, the setting of Cromwell Manor was largely despoiled upon the construction of the railway line and the subsequent urbanisation of the land to the north and this includes the existing industrial building currently utilised by a fencing business. The land to the north is allocated for commercial use. Nonetheless the waste building could have an impact upon the viability of business use of Cromwell Manor, although the impact from the development on the viability of the business at Cromwell Manor and its on-going conservation is not considered to be reason alone to warrant refusal of planning permission in the context of NPPF para 134.

I. IMPACTS ON HYDROLOGY

WLP policy W4A (Flooding) states inter alia that development would only be permitted where there would not be an unacceptable risk of flooding or has an adverse effect on the water environment. This is supported by policy W4B (Surface & Groundwater) which states that development would only be permitted where there would not be an unacceptable risk to the quality of surface and ground water, or of impediment to ground water flow.

⁹ Lindblom J in R (Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin)

In support of the application a Flood Risk Assessment (FRA) has been prepared as the development would be on an area of greater than 1 hectare. This FRA states that the development is in flood zone 1 (the low risk zone), and states that the proposed development would be operated with minimal risk from flooding and not increase flood risk elsewhere. Surface water drainage from the building has been agreed with the local sewage authority. The Environment Agency has no objection to the proposals or conclusions stated within the FRA, but would still require the design of the final drainage for the site to be submitted and approved, which could be imposed if planning permission were granted.

It is therefore considered that subject to the imposition of an appropriate pre-commencement condition to approve in writing the final drainage scheme and hydrological/hydrogeological context that the development would comply with policies W4A, W4B and the Framework.

J. ECONOMIC BENEFITS

The Framework promotes a positive approach to consideration of economic development proposals, with significant weight being placed on the need to support economic growth through the planning system. It is noted by the applicant that the existing site on the Burnt Mills Industrial Estate employs 15 people, who would be retained, safeguarded and transferred to the Terminus Drive site, should permission be granted, with potential for increased employment. Furthermore, the proposal emphasises that there is a significant existing client base within Essex and Southend, and the provision of a larger site with increased capacity, would help the applicant more efficiently process waste and thus potentially allow greater opportunities for the applicant to bid for new demolition contracts.

In particular, the applicant has stated that the larger site area and capacity would enable new demolition contracts to be established within Essex. As a local employer (employing 15 people), it is noted within the application that the local economy would benefit if the application were granted, as these jobs could be safeguarded with the potential for further job creation.

The Framework requires significant weight to be placed on the economic benefits of proposals.

K. PROCEDURAL MATTERS

Consultation with English Heritage: Concerns have been raised regarding the failure of the Waste Planning Authority to consult English Heritage.

As stated, English Heritage (EH) was not consulted until August 2014 as under the Direction included in Circular 01/01 (outside of Greater London) there is no need to consult EH on planning applications affecting the setting of a listed building - unless the building is Grade I or II*. Cromwell Manor and St Michael's Church are Grade II listed buildings, so as directed by the Circular there is no obligation to consult EH.

Nonetheless, since the publication of National Planning Practice Guidance (NPPG) it is unclear whether the Government has intended to change the position previously set out in the Direction included in Circular 01/01. Table 1 of the NPPG (at para ID18a-057) now suggests that for planning applications the position is governed by Regulation 5A(3) of the Planning (Listed Buildings & Conservation Areas) Regulations 1990, rather than by Circular 01/01. EH has therefore been consulted and the comments received are set out earlier in the report.

Environmental Impact Assessment: Concerns have been raised in respect of the inadequacy of previous EIA screening opinions carried out by the Waste Planning Authority and in particular the failure to take account of the impact of the development upon listed buildings in the exercise.

To date three separate Screening Opinions have been carried out. The first was done in December 2012 when the original application was submitted. The second carried out in March 2014 when the revised/additional details were submitted following the quashing of the original permission. The 3rd Screening opinion was carried out on 27 June 2014 – the day of the June Development and Regulation Committee meeting. A further EIA screening opinion is likely to be carried out prior to the issue of any decision to take account of any new environmental information since the June opinion. The June 14 opinion makes reference to the changes that would result from removal of the marquee adjacent to Cromwell Manor as well as considers the cumulative impact of the proposed development. It is considered that the June 14 opinion is the most up-to-date opinion and fully considers the impact of the proposed development upon the listed building. The conclusion of that opinion is that EIA is not required and is attached at Appendix B for information.

7. CONCLUSION

The Framework states “the planning system is to contribute to sustainable development” and requires significant weight to be placed on the economic benefits of proposals, while protecting the environmental and social strands of sustainability. Without question the proposal would allow the applicant to expand his business, preserving jobs giving rise to an economic benefit.

The need and general suitability of the site (on allocated employment land Policy BAS E6) comply with the Framework, PPS10 and WLP policies W3A, W7D and W7E, which require waste to be moved up the hierarchy and located on employment land. The proposal is in conformity with W8B, through demonstration of a need to both relocate the business and, as the applicant has stated, this being the most suitable and feasible option as there is no other site available within Burnt Mills Industrial Estate (the preferred location for untidy sites as required Basildon local policy BAS E6). Additionally this site was an area of degraded and derelict land and designated as a proposed employment area policy BAS E2.

Therefore, while the principle of the site in terms of need and location are acceptable, consideration must be given to the impacts of the development on the surrounding environment.

The first of these considerations is the highway impact, which primarily focuses on local infrastructure impacts and increased HGVs worsening congestion. However, following assessment by the Highway Authority and Highways Agency, it is considered that suitable conditions and an informative could be attached if planning permission were to be granted. These could ensure the proposal would not result in a significant and demonstrably negative impact, so it is considered to be in accordance with WLP policy W4C, W8B and Basildon policies BAS E2 and BAS E10. Similarly, impacts on ecology and hydrology could also be suitably mitigated by imposing appropriate conditions to ensure the proposal would comply with WLP policies W4A, W4B, W10E and the Framework, thus would be commensurate with the scale of the proposal.

Further concerns raised relate to design, landscape impacts. The issues primarily focus on the scale and colour of the building itself. It is considered that views from the PRow and properties to the north west would be adequately screened by the proposed fencing and planting. There would be some views of the building from PRow south of the railway line on the Marshes and from Pitsea Hall Lane, but the impact would be limited. The proposal would include the construction of a large (11.4m high) building and lobby to house some of the recycling operations, the buildings are functional in design and the colour of these buildings could be required to be agreed by condition. The design is standard warehouse type not dissimilar to the existing building to the east.

Concern has been raised by local residents, users of the footpath and Cromwell Manor of the impact of noise and dust. Assessments of these were included as part of the application and subject to appropriate conditions it was concluded these environmental impacts could be adequately controlled. Impact of vibration on both the structural integrity of the Listed Building was shown through assessment would not occur and likely not to be detected by users of the wedding venue.

The proposed lighting scheme would not give rise to adverse impact on the either the railway network or adjacent properties. It is acknowledged that the lighting levels are low, but the applicant considered them to be workable and any additional lighting could be controlled by condition and refused if giving rise to adverse impact.

Nonetheless considerable concern has been raised as to the impact of the proposal on both the setting of the Listed Building and the potential detriment this would cause to the desirability of the venue for weddings, thus jeopardising the ongoing conservation of the Listed Building.

It is acknowledged that the proposals do cause harm to the setting of the listed buildings, especially Cromwell Manor as particularly the building and lobby, do not preserve the setting of this Listed Building. An argument could be put forward that the that harm is less than substantial harm and that there could be other wider

public benefits, such as the need for increased waste recycling, movement of waste management further up the waste hierarchy and job preservation, considerations that could outweigh the harm caused to the setting of the Listed Buildings. However, recent case law¹⁰ has reiterated the primary statutory consideration when determining such applications is Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. When harm to the setting of a listed building would occur, including less than substantial harm, then the courts have confirmed that the desirability of preserving the setting of a listed building should be given “*considerable importance and weight*”¹¹. Furthermore, the courts have established that any material considerations capable of overriding the presumption to refuse permission (where harm to the setting of a listed building would occur) must be “*powerful enough to do so*”¹².

Accordingly, proposed development conflicts with S66(1) of the LBA as the development does not preserve the settings of St Michael’s Church nor Cromwell Manor - both Grade II listed buildings. It is considered that significant weight should be given to the protection of heritage assets and whilst wider public benefits of the proposal may exist, including increasing recycling and protecting existing jobs, such considerations are not considered so powerful enough to override the presumption to refuse permission.

On balance, whilst it is considered that the proposal does not directly conflict with the relevant policies of the Development Plan¹³ taken as a whole, the proposal does not conform with S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and it is considered there are no other material considerations (as interpreted by the *Forge Field* court decision) that would justify overriding the presumption to refuse permission. It is therefore considered that the development does not represent sustainable development in the context of the Framework and the recent case law on the interpretation of development causing harm to the setting of listed buildings and therefore planning permission should be refused.

ENFORCEMENT

In light of the above conclusion and subject to permission being refused it is necessary to consider the way forward with respect to the unauthorised existing building.

As previously explained, the building was constructed in August 2013, prior to the discharge of a number of ‘pre-development’ conditions attached to the original planning permission (subsequently quashed by the court). Upon submission of

¹⁰ Most notably *East Northamptonshire DC v SSCLG* [2014] EWCA Civ 137 (Barnwell Manor wind turbine case) as further explained by the High Court in *R (Forge Field Society) v Sevenoaks DC* [2014] EWHC 1895 (Admin) (Penshurst Place affordable housing case)

¹¹ *East Northamptonshire DC v SSCLG* [2014] EWCA Civ 137

¹² *R (Forge Field Society) v Sevenoaks DC* [2014] EWHC 1895 (Admin)

¹³ The Basildon Local Plan is silent on consideration of the impact of the development upon the setting of Listed Buildings and the Waste Local Plan requires, inter-alia, under Policy W10E that “*satisfactory provision is made in respect of the effect of the development on historic sites*”.

the first JR and following discussions with the WPA, the applicant agreed to the quashing of the decision notice and not to bring the building into use for waste transfer and recycling, until such time as reconsideration of the planning application had been completed. Since then the building has been used for some limited storage of materials and plant but the building has not been used for waste transfer or sorting.

The modular office buildings forming part of the proposals have been in use since late 2012 and outside storage and sorting of wood and inert materials has taken place since late 2012. In addition in early September 2014 works have commenced on the construction of the proposed lobby and an additional temporary modular single storey office has been located east of the main building, albeit without permission.

The County Council's [Enforcement and Site Monitoring Plan](#) seeks to resolve breaches of planning control without the need for formal enforcement action, through discussion with the operator/landowner. This includes agreement in writing where appropriate to cease uses or remove operational development within a reasonable timescale, depending on likely effectiveness of such informal action. The operator has co-operated with the WPA in not bringing the building into use during the re-consideration of the application, nonetheless the building was constructed prematurely without compliance with the original planning permission and the lobby commenced without the benefit of planning permission. It is considered that the building, operational or not, causes harm to the setting of the Listed Building and its removal should therefore be sought. While an informal agreement, as suggested by the Enforcement Plan, might be obtained for removal of the building within a reasonable time period, should this not be adhered to, the process of formal enforcement action would have been delayed and the on-going harm to the setting of the listed building would continue. Should planning permission be refused, it is considered expedient to issue an enforcement notice seeking the removal of the building and lobby.

While the building and lobby are considered to give rise to unacceptable harm to the setting of the heritage asset, it has not been concluded that the use of the site for waste activities namely the outside storage of inert and wood waste and some outside storing would be unacceptable, although these activities are likely only to be acceptable subject to strict regulations and operational controls being in place. It is therefore, not considered expedient at this time to take enforcement action for the cessation of the use of the site for waste storage and sorting or for the removal of the modular buildings (office and weighbridge buildings); this could only be determined through consideration of a revised application, which the applicant could be invited to make.

The NPPF states with respect to enforcement

There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact

on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

The NPPF also places great weight on the economic dimension of sustainable development and the need for removal of the main waste building is likely to significantly impact upon the operation of the waste business and its viability and thus the jobs it provides. The applicant has had a prolonged period of uncertainty with respect to the application, due to the complex issues arising prior to determination of the application, resulting from two legal challenges. However, the applicant has chosen to undertake development without the benefit of planning permission, which is ultimately at his own risk.

It is also acknowledged that the ongoing presence of the waste building could have an adverse impact on the viability of the adjacent wedding and event business at Cromwell Manor. However, it should be noted that the building has substantially been in place since August 2013 and has not resulted in the closer of the adjacent wedding venue.

In view of the special circumstances described above, it is necessary to carefully consider a reasonable period for removal of the waste building and lobby. While the building remains, there continues to be adverse impact upon the heritage asset and potential resulting impact upon the desirability of Cromwell Manor as a venue for events. However, it is considered its immediate removal would place an unreasonable economic burden upon the applicant. On balance it is considered that a 6 month period to remove the waste building and lobby would enable the waste operator to make alternative arrangements with respect to those activities proposed within the building and would be unlikely to demonstrably impact upon the viability of the wedding venue during that time, with the impact on viability potentially lessened in a winter period.

8. RECOMMENDATION

That planning permission be refused for the following reason:

1. The proposed development would cause harm to the setting of a listed building as the development does not preserve the setting of Cromwell Manor, a Grade II listed building, contrary to S66 (1) of the Listed Buildings and Conservation Areas Act 1990 and it is considered that there are no significant material considerations to override the statutory presumption against granting planning permission for the development.

And that:

2. Given the on-going harm to the setting of the listed building caused by the unauthorised development, an Enforcement Notice is served requiring the removal of the unauthorised development within a reasonable timeframe – i.e. with 6 months from the date of the notice.

BACKGROUND PAPERS

Consultation replies

Representations

Ref: ESS/69/12/BAS

LOCAL MEMBER NOTIFICATION

BASILDON – Pitsea

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 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 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. The application has been considered in line with the Equalities Act 2010 and suitably appraised with regard to relevant equality issues, implications and/or needs.

STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER:

In determining this planning application, the County Planning Authority has worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in dealing with the application and offering advice on ways forward, as appropriate. This approach is considered in accordance with the requirement in the Framework, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012. In this instance, following recent case law (2014) clarifying the weight to be attached to the LBA when considering such applications, whilst the Waste Planning Authority has sought to work to a positive outcome in the applicant's favour, given the overriding statutory (LBA) concerns, a positive outcome to the application was not considered possible.

CONSIDERATION OF POLICIES

| REF: | POLICY | CONSISTENCY WITH THE NPPF AND PPS10 |
|---|---|---|
| Essex & Southend-on-Sea Waste Local Plan (2001) | | |
| <u>W3A</u> | <p><u>Waste Strategy</u> The WPAs will:</p> <p>In determining planning applications and in all consideration of waste management, proposals have regard to the following principles:</p> <ul style="list-style-type: none"> • 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. <p>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/composting, energy recovery from waste and waste disposal in that order of priority.</p> <p>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 and Southend waste management needs as defined in policies W3B and W3C.</p> | <p>Paragraph 6 of the Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development.</p> <p>PPS10 supersedes 'BPEO'.</p> <p>PPS10 advocates the movement of the management of waste up the waste hierarchy in order to break the link between economic growth and the environmental impact of waste.</p> <p>One of the key planning objectives is also to help secure the recovery or disposal of waste without endangering human health and without harming the environment, and enable waste to be disposed of in one of the nearest appropriate installations.</p> <p>Therefore, Policy W3A is considered consistent with the Framework and PPS10.</p> |
| <u>W3C</u> | <p><u>Need for Waste Development</u> Subject to policy W3B, in the case of landfill and to policy W5A in the case of special wastes, significant waste management developments (with a capacity over 25,000 tonnes per annum)</p> | <p>Paragraph 3 of PPS 10 highlights the key planning objectives for all waste planning authorities (WPA). WPA's should, to the extent appropriate to their responsibilities,</p> |

| REF: | POLICY | CONSISTENCY WITH THE NPPF AND PPS10 |
|------------|--|--|
| | <p>will only be permitted when a need for the facility (in accordance with the principles established in policy W3A) has been demonstrated for waste arising in Essex and Southend. In the case of non-landfill proposal with an annual capacity over 50,000 tonnes per annum, restrictions will be imposed, as part of any planning permission granted, to restrict the source of waste to that arising in the Plan area. Exceptions may be made in the following circumstances:</p> <ul style="list-style-type: none"> • Where the proposal would achieve other benefits that would outweigh any harm caused; • Where meeting a cross-boundary need would satisfy the proximity principle and be mutually acceptable to both WPA5; • In the case of landfill, where it is shown to be necessary to achieve satisfactory restoration. | <p>prepare and deliver planning strategies one of which is to help implement the national waste strategy, and supporting targets, are consistent with obligations required under European legislation and support and complement other guidance and legal controls such as those set out in the Waste Management Licensing Regulations 1994.</p> <p>Therefore, as Policy W3C is concerned with identifying the amount of waste treated and its source the policy is considered consistent with the requirements of PPS10.</p> |
| <u>W4C</u> | <p><u>Access</u></p> <ol style="list-style-type: none"> 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. 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. 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 there would be no undue impact | <p>Paragraph 21 (i) of PPS10 highlights that when assessing the suitability of development the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use modes other than road transport.</p> <p>Furthermore, 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.</p> |

| REF: | POLICY | CONSISTENCY WITH THE NPPF AND PPS10 |
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| | <p>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> | <p>In addition, the policy seeks to assess the existing road networks, therefore being in accordance with the Framework and PPS10.</p> |
| <u>W7D</u> | <p><u>Inert Waste Recycling Facilities</u> Proposals for inert waste recycling facilities will be supported at the following locations:</p> <ul style="list-style-type: none"> • the waste management locations identified in schedule 1 (subject to policy w8a); • industrial locations as defined in policy w8b; <p>in association with other waste management development;</p> <ul style="list-style-type: none"> • current mineral working and landfill sites, provided the development does not unduly prejudice the agreed restoration timescale for the site and the use ceases prior to the permitted completion date of the site (unless an extension of time to retain such facilities is permitted); • demolition and construction sites where the spoil is to be used in the project itself. <p>Provided the development complies with all other relevant policies of this plan; and, in particular, does not cause unacceptable harm to the environment or residential amenity by virtue of noise, dust or heavy traffic.</p> | <p>See explanation notes for Policy W3C and W8B as these are relevant and demonstrate conformity with the Framework and PPS10.</p> |
| <u>W7E</u> | <p><u>Materials Recovery Facilities</u> To facilitate the efficient collection and recovery of materials from the waste stream, in accordance with policy W3A, the WPAs will seek to work with the WDAs/WCAs to facilitate the provision of:</p> <ul style="list-style-type: none"> • Development associated with the source separation of wastes; • Material recovery facilities (MRF's); • Waste recycling centres; • Civic amenity sites; • Bulking-up facilities and waste transfer stations. | <p>See explanation notes for Policy W3C and W8B as these are relevant and demonstrate conformity with the Framework and PPS10.</p> |

| REF: | POLICY | CONSISTENCY WITH THE NPPF AND PPS10 |
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| | <p>Proposals for such development will be supported at the following locations:</p> <ul style="list-style-type: none"> • The waste management locations identified in Schedule 1 (subject to policy W8A); • Other locations (subject to policies W8B and W8C); • In association with other waste management development; • Small scale facilities may be permitted at current landfill sites, provided the development does not unduly prejudice the agreed restoration timescale for the site and the use ceases prior to the permitted completion date of the site (unless an extension of time to retain such facilities is permitted). <p>Provided the development complies with other relevant policies of this plan.</p> | |
| <u>W8B</u> | <p><u>Non Preferred Locations</u> Waste management facilities (except landfill to which policies W9A and W9B apply) will be permitted at locations other than those identified in this plan, provided all of the criteria of policy W8A are complied with where relevant, at the following types of location:</p> <ul style="list-style-type: none"> • Existing general industrial areas; • Areas allocated for general industrial use in an adopted local plan; • Employment areas (existing or allocated) not falling into the above categories, or existing waste management sites, or areas of degraded, contaminated or derelict land where it is shown that the proposed facility would not be detrimental to the amenity of any nearby residential area. <p>Large-scale waste management development (of the order of 50,000 tonnes per annum capacity or more, combined in the case of an integrated</p> | <p>Policy W8B is concerned with considering locations for sites that have not been identified within the Plan as preferred sites for waste related developments.</p> <p>By setting criteria for non-preferred sites, this policy allows for the protection of the natural environment in conformity with the third strand of the three dimensions of sustainable development.</p> <p>Additionally, in conformity with paragraph 17 of the Framework, the policy contributes to the conservation and enhancement of the natural environment. The Framework goes on to state that 'Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework.</p> |

| REF: | POLICY | CONSISTENCY WITH THE NPPF AND PPS10 |
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| | facility) will not be permitted at such non-identified locations unless it is shown that the locations identified in Schedule 1 are less suitable or not available for the particular waste stream(s) which the proposal would serve. | It is therefore considered that policy W8B is in conformity with the principles and requirements of the Framework. |
| <u>W10E</u> | <p><u>Development Management</u> Waste management development, including landfill, will be permitted where satisfactory provision is made in respect of the following criteria, provided the development complies with other policies of this plan:</p> <ol style="list-style-type: none"> 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); 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; 3. The impact of road traffic generated by the development on the highway network (see also policy W4C); 4. The availability of different transport modes; 5. The loss of land of agricultural grades 1, 2 or 3a; 6. The effect of the development on historic and archaeological sites; 7. The availability of adequate water supplies and the effect of the development on land drainage; 8. The effect of the development on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations; and 9. In the Metropolitan Green Belt, the effect of the development on the purposes of the Green Belt. | <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 the natural, built and historic environment.</p> <p>The policy therefore, is linked to the third dimension of sustainable development in the meaning of the Framework.</p> |
| <u>W10F</u> | <p><u>Hours of Operation</u> Where appropriate the WPA will impose a</p> | Paragraph 123 of the Framework |

| REF: | POLICY | CONSISTENCY WITH THE NPPF AND PPS10 |
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| | condition restricting hours of operation on waste management facilities having regard to local amenity and the nature of the operation. | <p>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 by 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, while seeking to impose conditions to minimise this adverse effects, policy W10F is in conformity with the requirements of the Framework.</p> <p>Also see above regarding PPS10 and conditions.</p> |
| <u>W10G</u> | <u>Public Rights of Way</u> 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 requires planning policies to protect and enhance public rights of way and access. As such, opportunities for improvement and incorporation of better facilities for users should be sought.</p> <p>It is therefore considered that Policy W10G which seeks to safeguard and improve the Public Rights of Way network is in conformity with the requirements of the Framework.</p> |

Review of Local Plan Saved Policies – Compliance with NPPF (March 2012)

| Saved Policy | Conformity | Observations in relation to NPPF | Whether supported on appeal |
|--|----------------------------|--|-----------------------------|
| BAS GB1 The Definition of the Green Belt | <u>Compliant</u> | Paragraphs 81 – 86 deal with the approach that should be taken in defining green belts. Paragraphs 83, 153 and 157 give the basis for defining them in a Local Plan. | Yes |
| BAS GB3 Replacement dwellings in the Green Belt | <u>Compliant</u> | Paragraphs 87.92 provide guidance relevant to these areas, supporting replacement and extensions providing it is not excessive, in addition to limited infilling or the complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt and the purpose of including land within in than the existing development. <i>Note: NPPF also supports non-residential enlargement, further reinforced by Changes to permitted development rights. It also defines certain development as not being inappropriate (subject to caveats) including mineral extraction, engineering operations, local transport infrastructure and development brought forward by a Community Right to Build Order</i> | Yes |
| BAS GB4 Extension to dwellings in the Green Belt | <u>Compliant</u> | | Yes |
| BAS GB5 Definition of a Dwelling | <u>Compliant</u> | | |
| BAS GB6 Agricultural Workers Dwellings | <u>Compliant</u> | | |
| BAS GB7 Re-use of Buildings in the Green Belt | <u>Compliant</u> | | |
| BAS S2 Housing Sites | <u>Generally Compliant</u> | However, of the list of identified sites, only one remains undeveloped. The NPPF supports sustainable development whilst indicating the importance of a supply of land to boost the supply of housing and meet the objectively assessed housing needs of the area. Paragraph 49 is clear that local planning policies for housing supply are not considered to be up to date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. | |
| BAS S3 Areas of Special Reserve | <u>Generally Compliant</u> | The NPPF supports sustainable development. Paragraph 49 is clear that local planning policies for housing supply are not considered to be up to date if | |

| Saved Policy | Conformity | Observations in relation to NPPF | Whether supported on appeal |
|----------------|----------------------------|--|-----------------------------|
| | | the LPA cannot demonstrate a five-year supply of deliverable housing sites. | |
| | | Where a 5 year land supply cannot be demonstrated Areas of Special Reserve, as part of the allocated supply of sites could be required to come forward ahead of the completion of the Local Plan review. | |
| BAS S5 | <u>Compliant</u> | Para 50 supports the inclusion of affordable housing with development in accordance with set policies. Favours on-site provision but where robustly justified, can be supported off-site or by way of a financial contribution. | |
| BAS C1 | <u>Compliant</u> | Paragraph 109 provides support for protecting and enhancing the natural environment. However, in stating that major developments should be refused in National Parks, the Broads and Areas of Outstanding Natural Beauty it may be interpreted to weaken the protection of areas with a lesser designation. Nevertheless, there are other paragraphs that reinforce the need to minimise impacts on biodiversity and geodiversity and to promote preservation, restoration and re-creation of priority habitats. Mitigation is encouraged with compensation regarded as a last resort. | |
| BAS C2 | <u>Compliant</u> | | |
| BAS C5 | <u>Compliant</u> | | |
| BAS C7 | <u>Compliant</u> | | |
| BAS C13 | <u>Compliant</u> | | |
| BAS C15 | <u>Compliant</u> | NPPF para 172 in its guidance on plan preparation states that policies should be based on up-to-date information on the location of major hazards and on the mitigation of the consequences of major accidents. | |
| BAS C16 | <u>Compliant</u> | | |
| BAS E1 | <u>Generally Compliant</u> | Paragraph 9 of the NPPF promotes sustainable development, which includes making it easier for jobs to be created, replacing poor design with better design and improving the conditions in which people live, work, travel and take leisure. Para 19 stresses that significant weight should be placed on the need to support economic growth. | |

| Saved Policy | Conformity | Observations in relation to NPPF | Whether supported on appeal |
|---------------|---|--|---|
| | | <p>Para 21 determines that Local Plans should set criteria, or identify strategic sites for local inward investment to meet anticipated needs over the plan period. Para 22 does stress however that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose.</p> <p>Site BAS E1 is subject to an adopted Supplementary Planning Guidance in 2003 and a hybrid outline planning permission (subject to a s.106 agreement) in 2005 for a mixed use scheme of employment, residential and recreation uses; however its delivery in this form is not viable and therefore it has not been built. Para 22 advises that in circumstances where sites allocated have no reasonable prospect of being used for that purpose, Local Planning Authorities need to consider the merits for alternative uses for land or buildings having regard to market signals and the relative need for different land uses.</p> <p>The Council resolved to grant planning permission for a 15 pitch Gypsy and Traveller site subject to certain agreements was made in December 2012 given that its development would not prejudice the wider, comprehensive development of the site.</p> | |
| BAS E2 | <u>Proposed Employment Sites – Terminus Drive</u> | <u>Compliant</u> | |
| BAS E3 | <u>Proposed Employment Sites – land north of Courtauld Road, opposite Repton Close.</u> | <u>Compliant</u> | |
| BAS E4 | <u>Existing Employment Areas</u> | <u>Compliant</u> | |
| BAS E5 | <u>Ford Research and Technology Centre -</u> | <u>Generally Compliant</u> | Paragraph 9 of the NPPF promotes sustainable development, which includes making it easier for |

| Saved Policy | Conformity | Observations in relation to NPPF | Whether supported on appeal |
|--|----------------------------|--|--|
| Restrictive Automotive Research and Development Uses | | <p>jobs to be created, replacing poor design with better design and improving the conditions in which people live, work, travel and take leisure.</p> <p>Para 22 stresses that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose – and that in these circumstances alternative uses for land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses.</p> <p>Planning permission was granted for residential development on the eastern part of this site, where other material considerations such as the demands for housing, the lack of a 5 year land supply and particular circumstances of the application, justified a departure from the adopted policy.</p> <p>For the remainder of the site the policy is still compliant and covers the existing Ford Technical Centre cluster of buildings, test tracks and expansion land.</p> | |
| BAS E6 | <u>Compliant</u> | The NPPF's commitment to economic growth in order to create jobs and prosperity, (paras 18 – 22), is seen as support for the provision and protection of employment areas to meet future needs for the area. Local policy encourages good design of new development reinforced in the general approach to design and improving the environment contained within section 7. Flexibility to accommodate alternative use is encouraged, but still seen to be compatible with BAS E7. | |
| BAS E7 | <u>Compliant</u> | | |
| BAS E10 | <u>Compliant</u> | | Tested on appeal, that although allowed, gave support, just different interpretation/judgement |
| BAS SH1 | <u>Generally Compliant</u> | In Section 2, ensuring the vitality of town centres, the concept of the sequential approach to sites is | |

| Saved Policy | Conformity | Observations in relation to NPPF | Whether supported on appeal |
|----------------|--|---|-----------------------------|
| | | supported with the caveat on existing plans being up-to date. The NPPF defines what is meant by the terms edge of centre, out of centre and out of town. | |
| BAS SH3 | Town Centre Retail Development Sites – land allocations <u>Generally Compliant</u> | Whilst the NPPF supports ensuring the vitality of town centres and therefore a degree of compliance with the local policy, there may be other competing land uses, such as residential development or a mixed use, that may also be supported in these locations where seen as aiding economic recovery. | |
| BAS SH4 | Town Centre Shopping Frontages – primary shopping frontages 1999 Alterations <u>Generally Compliant</u> | Whilst the NPPF supports ensuring the vitality of town centres and therefore a degree of compliance with the local policy, some flexibility may be required and consideration given to viability issues where a change of use is restricted. | |
| BAS SH5 | Town Centre Shopping Frontages – areas outside primary shopping frontages <u>Generally Compliant</u> | | |
| BAS SH6 | Retailing on Industrial Estates <u>Compliant</u> | This policy is consistent with the NPPF in supporting economic growth whilst protecting town centres. | |
| BAS SH7 | Local Shopping Centres – new developments and extension to existing <u>Compliant</u> | The local policy adopts a flexible approach and applies to small scale development serving local communities that is consistent with creating sustainable neighbourhoods. | |
| BAS SH8 | Local Shopping Centres – protection of their retail function <u>Compliant</u> | Consistent with the guidance in section 2 of the NPPF, however, consideration will need to be given to viability issues in considering changes of use. | Yes |
| BAS SH9 | Temporary Retail Uses – boot sales Sunday markets etc. <u>Generally Compliant</u> | The NPPF is silent on this matter, however, as these often occur in the Green Belt in Basildon Borough, the NPPF Green Belt policies and those of the Local Plan Saved Policies would be material in decision making.. If they are located within town centres however, they would be seen to contribute to the vitality of the area. (par 23). | |
| BAS TC1 | District Wide Town Centre Policy <u>Generally Compliant</u> | Aim of local policy is to protect town centre, however, greater attention may now be given to economic viability in assessing schemes with some loss of existing retail space potentially being accepted. | |

| Saved Policy | Conformity | Observations in relation to NPPF | Whether supported on appeal |
|--|----------------------------|--|-----------------------------|
| BAS TC3 Wickford Town Centre – site allocation | <u>Compliant</u> | Policy refers to 2 sites where comprehensive development compatible with a town centre will be supported. This is seen as consistent with paragraph 23 of the NPPF that seeks to ensure the vitality of town centres. | |
| BAS TC4 Pitsea Town Centre – site allocation | <u>Compliant</u> | Part of this site has already been developed as a mixed use scheme, (residential and retail). However the remainder lends itself to uses appropriate to a town centre and consistent with paragraph 23 of the NPPF that seeks to ensure the vitality of town centres. | |
| BAS TC5 Markets – protection for Basildon, Pitsea and Wickford market sites | <u>Compliant</u> | In ensuring the vitality of town centres, (para 23), it states that local planning authorities should retain and enhance existing markets and, where appropriate, re-introduce or create new ones ensuring the markets remain attractive and competitive. | |
| BAS TC6 Residential Development in Town Centres – allows residential development in the town centres whilst protecting ground floor retail units from conversion to housing. | <u>Generally Compliant</u> | Section 2 of NPPF supports ensuring the vitality of town centres, the intent of the local policy. However, recent legislative changes promote a more flexible approach such that less support is given to the loss of ground floor shop units. | |
| BAS R1 Open Space - protection | <u>Generally Compliant</u> | Section 8 of the NPPF deals with promoting healthy communities, with high quality open space which encourage the active and continual use of public areas included as part of the criteria. This provides support for their protection, albeit this will need to be balanced with the need to accommodate more housing to meet demand. | |
| BAS R4 Proposed Open Space – Hannkens Farm, Billericay | <u>Generally Compliant</u> | Section 8 of the NPPF deals with promoting healthy communities, with high quality open space which encourage the active and continual use of public areas included as part of the criteria. This provides support for the provision of new open space in Billericay. | |
| BAS R11 Sports Facilities | <u>Limited</u> | The biodiversity qualities now present on this site | |

| Saved Policy | | Conformity | Observations in relation to NPPF | Whether supported on appeal |
|-----------------|---|----------------------------|--|--|
| | Allocation – Church Road/Basilston Road, Laidon | <u>Compliance</u> | may conflict with previous aspirations to develop the land for sporting facilities, but this would need to be assessed in accordance with detailed ecology surveys and the need to examine the potential for mitigation. | |
| BAS R15 | Golf Courses –golf driving ranges design and siting considerations | <u>Compliant</u> | Local policy sets out need for minimising impact on visual and residential amenity which is consistent with the broader objectives of the NPPF. | |
| BAS R16 | Noisy and Disturbing Sports - protects local amenity | <u>Compliant</u> | Whilst there appears to be no special reference to noise pollution and disturbance, design Para 17 seeks good standard of amenity for all existing and future occupants of land and buildings | |
| BAS T5 | Public Transport – improved facilities at public transport interchanges | <u>Compliant</u> | Paras 29 – 41 focus on promoting sustainable transport which provides good support for local policy. | |
| BAS BE12 | Development Control | <u>Compliant</u> | Section 7 of the NPPF focuses on the requirement for good design. Para 17 seeks good standard of amenity for all existing and future occupants of buildings. Paragraph 58 determines that policies and decisions should aim to ensure developments will function and will add to the overall quality of the area, establish a strong sense of place, respond to local character and history and be visually attractive as a result of good architecture and appropriate landscaping. | Support given on appeal, (including related DC guidelines) |
| BAS BE13 | Areas of Special Development Control Policy - Ramsden Bellhouse | <u>Generally Compliant</u> | Within Section 7 relating to good design, is the recognition that development should respond to local character and history and reflect the identity of local surroundings and materials whilst not preventing or discouraging appropriate innovation. Whilst the NPPF supports the use of design codes, it insists that local policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, landscape, materials and access of new development in relation to neighbouring buildings and the local area more generally. | |
| BAS BE14 | Areas of Special Development Control Policy – Sugden Avenue Wickford | <u>Generally Compliant</u> | | Yes |
| BAS BE15 | Areas of Special Development Control Policy – Bowers Gifford | <u>Generally Compliant</u> | | |

| Saved Policy | | Conformity | Observations in relation to NPPF | Whether supported on appeal |
|-----------------|--|------------------|---|-----------------------------|
| BAS BE17 | Shop Fronts | <u>Compliant</u> | Section 7 of the NPPF focus on the requirement for good design, whilst section 2 seeks to ensure the vitality of town centres. Local policy is therefore seen to accord with these broader principles. Protection of local heritage and character is also a feature of the NPPF, (section 12), and this reinforces design control in Conservation Areas and for Listed Buildings. | Yes |
| BAS BE18 | Advertisements – general | <u>Compliant</u> | Paragraphs 67 – 68 indicate the level of control that should apply to advertisements, in the interests of amenity and public safety. It is not specific on those located in the Green Belt, but the broader general NPPF Green Belt considerations will apply. | |
| BAS BE19 | Advertisements – Green Belt | <u>Compliant</u> | | |
| BAS BE20 | Telecommunications | <u>Compliant</u> | Paragraphs 42 – 46 support a high quality communications infrastructure that is consistent with the criteria applied in local policy. | |
| BAS BE21 | Healthcare Developments – new primary & community facilities | <u>Compliant</u> | Paragraph 69 provides general support for promoting healthy communities. It recognises the importance of social, recreational and cultural facilities and services the community needs, without specific reference to healthcare developments. Guidance on plan preparation, (para 171), advises working with public health leads and health organisations to understand and take account of health status and health needs of the local community. | |
| BAS BE22 | Healthcare Developments – Extensions to Hospital facilities | <u>Compliant</u> | | |
| BAS BE24 | Crime Prevention | <u>Compliant</u> | Paragraphs 58 & 69 promote the creation of safe and accessible environments where crime and disorder and the fear of crime, do not undermine quality of life or community cohesion. | |

AGENDA ITEM 5c

DR/05/14

committee DEVELOPMENT & REGULATION

date 28 February 2014

MINERALS AND WASTE DEVELOPMENT – ENFORCEMENT ITEM

Proposal: **The change of use of land and the erection of buildings, hardstanding, roadways, parking and storage areas to enable the use of the site as a waste recycling and materials recovery facility.**

Location: **Land to the south of Terminus Drive, Pitsea Hall Lane, Pitsea, SS16 4UH**

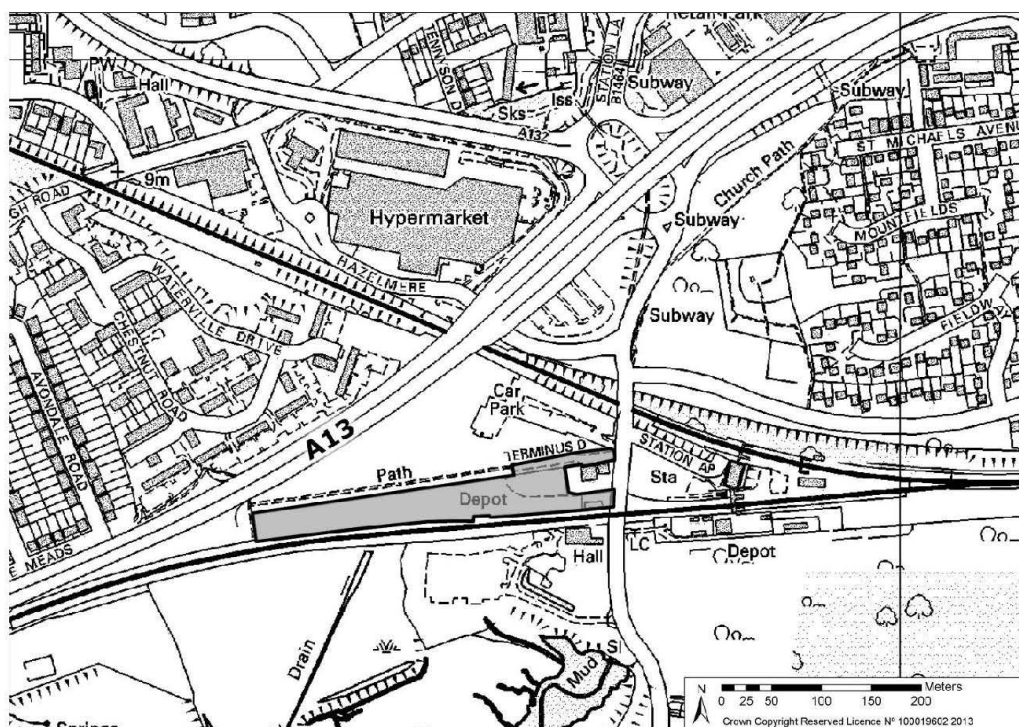
Ref: **ESS/69/12/BAS**

Applicant: **Heard Environmental**

Report by Director of Operations: Environment and Economy

Enquiries to: Claire Tomalin Tel: 03330 136821

The full application can be viewed at www.essex.gov.uk/viewplanning



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1. BACKGROUND

Members will recall the application was considered May 2013. The Committee resolved to grant planning permission subject to conditions. Planning permission was subsequently issued on the 11 June 2013.

2. SITE

The site is located south of Pitsea, south of the A13 on Pitsea Hall Lane. The site is accessed via Terminus Drive a no through road. The site itself covers an area of approximately 1.24 hectares. The site is located immediately north of the London to Shoeburyness railway line (the Loop which goes via Rainham) and south east of the London to Shoeburyness main line, with the two lines converging at Pitsea station to the east.

To the southwest, beyond the Loop railway line (approximately 10m), is the Vange Creek Marshes (Local Wildlife Site) and to the south east (approximately 10m) is Cromwell Manor (formerly Pitsea Hall), which is a Grade II listed building used as a wedding and conference venue.

3. PROPOSAL SUMMARY

The application is for the change of use of land to enable the use of the site as a waste recycling and materials recovery facility for mainly commercial and industrial (C & I) waste and construction & demolition (C&D) waste.

The annual throughput of waste proposed to be handled at the site would be 49,000 tonnes per annum. Of this total approximately 10% would be household waste, 60% C & I waste and the remaining 30% would consist of C & D.

The proposal includes the erection of a building within which waste would be sorted and materials recovered, with associated offices and hardstanding.

4. UPDATE SINCE DETERMINATION OF THE APPLICATION

Judicial Review Challenge

On 31 July 2013 the authority were given prior notification by way of a letter before action of the intention of the owner, tenant and operators of Cromwell Manor (formerly known as Pitsea Hall) to submit a Judicial Review (JR) challenge to the decision of the authority to grant planning permission.

A JR is primarily concerned with whether an error has occurred in the decision making process – not necessarily what the actual decision was. The court in considering a JR will not substitute what it thinks is the 'correct' decision.

The main substance of the JR challenge related to the way in which the authority had considered the impact of the proposals on the Listed Building. The authority responded to this prior notification defending its position with respect to determination

of the application.

The formal JR challenge was received on 30 August 2013 and was subject of 5 grounds of challenge, which are set out in Appendix 1. In summary it was challenged that the authority had not properly considered the impact of the proposals on the Listed Building in accordance with planning legislation and policy and therefore the decision was unlawful.

In preparing a response to the JR challenge it came to light that there had been some confusion over the drawings forming part of the application. Some superseded versions of the drawings with respect to the main building had been presented at Committee and it was unclear whether all consultees had commented on the original or revised drawings. In addition it was noted that an error had occurred in the drafting of the decision notice such that part of a condition wording was missing.

The authority sought counsel's advice and it was recommended that, taking the matters as a whole, (those forming the JR challenge and the errors noted since the submission of the JR) the authority should agree to the quashing of the planning permission. The claimant with respect to the JR agreed to consent to the quashing of the planning permission. The planning applicant also agreed to the quashing of the planning permission.

A signed consent order to this effect dated the 17 September was sent to the court and was approved by the court on 10 January 2014.

Effect of quashing the permission: The effect of quashing the planning permission is that the application is now undetermined and the authority must reconsider the application. The applicant has provided additional information, in particular a Heritage Statement, and has revised the main building by adding a screen to the front of the main building. In addition, supporting information has been updated in light of these changes and information supplied with respect to some of the pre-commencement conditions of the now quashed planning permission.

The revised application is now the subject of full re-consultation; the 21 day period for consultation will end on the 7 March 2014.

Upon completion of the consultation and consideration of the application, the matter will be referred back to the Committee for determination.

Activity on site and enforcement: The applicant, Heard Environmental, commenced construction of the main building in August 2013, without having discharged pre-commencement conditions of the now quashed planning permission. The applicant/agent were notified of this breach of planning control and the agent submitted the outstanding details in relation to the pre-commencement conditions in September 2013. However, in light of the JR challenge the applications to discharge conditions were withdrawn. The outer shell of the building has been completed.

The operator has not brought the building into use for waste recycling. The operator has imported waste wood into the site, which has been deposited at the west end of the site. This wood has been sorted by grab and by hand and different qualities of

wood exported from the site. There has been some storage of empty skips at the east end of the site.

The site has been the subject of complaints from the occupiers of Cromwell Manor with respect to vibration. Vibrations were felt when the waste site operator was scraping and levelling the roadway of Terminus Drive, but this was a short-term temporary activity. Other periods of vibration have been reported but it has not been possible to substantiate that the vibration can be directly attributed to the operations at the waste site. The occupiers of Cromwell Manor have been asked to maintain a log of impacts should they experience disturbance in the future.

Development has therefore taken place on site, however, in view of the outstanding application (now remaining to be determined) it is considered that it would not be appropriate to take enforcement action seeking removal of the unauthorised development at the current time. Relevant government Guidance is found in the National Planning Policy Framework (NPPF) which states that; Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and the local planning authorities should act proportionately in responding to suspected breaches of planning control. In accordance with the Council's Local Enforcement and Monitoring plan negotiation should always be the first step in resolving any breach of planning control.

The operator has submitted an application and therefore prior to deciding whether or not it would be expedient to take formal enforcement action, it is considered that time should be allowed for the determination of the application and for consideration of the impacts of the proposals. In the event that planning permission is granted this would regularise the building and the use of the site as a waste recycling site. In the event that planning permission is refused then the need for formal enforcement action would need to be reconsidered at that time, should it be considered expedient.

In the interim it is considered appropriate to continue to monitor activities and review the need for enforcement action, dependent on whether there are significant changes in the level of activity at the site which give rise to unacceptable impacts or upon determination of the application.

5. RECOMMENDED

That no enforcement action is undertaken in respect of the existing breach of planning control (against the unauthorised development) pending the determination of the extant planning application (ref ESS/69/12/BAS), subject to the Waste Planning Authority continuing to monitor activities on site to ensure that no injury to local amenity takes place.

BACKGROUND PAPERS

Consultation replies
Representations
JR submission and responses

LOCAL MEMBER NOTIFICATION

BASILDON – Pitsea

Grounds of JR Challenge by Owners & Operators of Cromwell Manor

Ground 1

Failure to comply with the duty to have special regard to the desirability of preserving the listed building or its setting as required by the Planning (listed Buildings and Conservation areas) Act 1990, ss. 16(2) and 66(1) and in consequence applying a test which was wrong in law when considering the application.

Ground 2

Failure to require a report from the applicant on the significance of the listed building as a heritage asset as required by para. 128 of the National Planning Policy Framework (NPPF) and failure to identify and assess the particular significance of the heritage asset as required by para. 129 of the NPPF.

Ground 3

Misinterpretation and misapplication of the tests provided in the NPPF, paras 131-134 and in particular failure to determine whether there would be substantial harm to the heritage asset, as required by paras. 131-134.

Ground 4

Failure to comply with the publicity and notification requirements under the Planning (Listed Buildings and Conservation Areas) Regulations 1990, reg. 5A in view of the acknowledged fact that the development would affect the setting of a listed building.

Ground 5

Failing to undertake a lawful screening exercise in accordance with reg. 4 and Schedule 3 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Accordingly planning permission was granted without requiring and taking into account an environmental Statement and other environmental information, in breach of reg. 3(4). This resulted in a failure (Inter alia) to consult English Heritage and a failure to undertake a systematic and cumulative assessment of all the likely significant effects of the proposed development on the listed building and its setting.

**Appendix
B**

TOWN AND COUNTRY PLANNING ACT 1990 (As amended)
TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)
REGULATIONS 2011

PROPOSAL: Screening Opinion on revised application: Change of use to waste recycling and materials recovery facility and erection of buildings, containment walls, hardstanding, roadways, fencing, parking, storage areas and ancillary development (part retrospective)

LOCATION: Land to the south of Terminus Drive, Pitsea Hall Lane, Pitsea, SS16 4UH

APPLICATION NO: ESS/69/12/BAS

JUSTIFICATION FOR SCREENING OPINION THAT ENVIRONMENTAL IMPACT ASSESSMENT IS NOT REQUIRED

Is the proposal in Schedule 1?

The proposal does not fall within Schedule 1 of the Regulations that would require a mandatory Environmental Impact Assessment (EIA).

Is the proposal in Schedule 2?

It does fall within column 1 of Schedule 2 under paragraph 11 (b) Installations for the disposal of waste.

Is the proposal in a sensitive area?

The site lies within 200m of the Pitsea Marsh SSSI which is located to the south east of the site. 300m to the south west lies Vange and Fobbing Marsh SSSI

The site is therefore considered to lie within a statutory 'sensitive area' as defined in paragraph 2 of the Regulations.

National Planning Policy Guidance (NPPG) states that in certain cases other statutory and non-statutory designations, which are not included in the formal definition of 'sensitive areas' in the regulations, but which are nevertheless environmentally sensitive may be relevant in determining whether significant environmental effects are likely and therefore whether an EIA is required and this includes County Wildlife Sites. On the south side of the railway line to the west is the Vange Creek Marsh County Wildlife Site approximately 20m from the site.

Does it meet criteria in Column 2 of Schedule 2

The applicable threshold/criteria that triggers the need to consider whether an EIA is required are:

- I. The disposal is by incineration
- II. The area of the development exceeds 0.5 hectare
- III. The installation is sited to be within 100 metres of any controlled waters.

With respect to the above, the proposal is not for incineration, but is within 100 metres of any controlled waters and the site is above 0.5 hectare in area, it is defined as a 'Schedule 2 project' and therefore the need for EIA must be further considered.

Are there likely to be significant environmental effects

It is the Secretary of State's view (NPPG) that in relation to Schedule 2 paragraph 11 (b) Installations for the disposal of waste, the likelihood of significant effects will generally

depend on the scale of the development and the nature of the potential impact in terms of discharges, emissions or odour. For installations (including landfill sites) for the deposit, recovery and/or disposal of household, industrial and/or commercial wastes (as defined by the Controlled Waste Regulations 1992) EIA is more likely to be required where new capacity is created to hold more than 50,000 tonnes per year, or to hold waste on a site of 10 hectares or more. Sites taking smaller quantities of these wastes, sites seeking only to accept inert wastes (demolition rubble etc.) or Civic Amenity sites, are unlikely to require EIA.

Schedule 3 of the Regulations sets out criteria that should be used to help identify whether a Schedule 2 development is likely to have significant environmental effects and therefore require EIA, as follows:

Location of development

The site is located south of Pitsea, south of the A13 on Pitsea Hall Lane. The site is accessed via Terminus Drive a no through road. The site itself covers an area of approximately 1.24 hectares. The site is located immediately north of the London to Shoeburyness railway line (the Loop which goes via Rainham) and south east of the London to Shoeburyness main line, with the two lines converging at Pitsea station to the east. Pitsea Hall Lane crosses the main line railway line by means of a bridge north east of the site and the Loop by a level crossing south east of the site.

To the southwest, beyond the Loop railway line (approximately 10m), is the Vange Creek Marshes (County Wildlife Site) and to the south east (approximately 10m) is Cromwell Manor (formerly Pitsea Hall), which is a Grade II Listed building used as a wedding and conference venue.

To the north of the site is the A13 flyover, which is closer to the site at its western end. Residential flats lie to the north east of the site beyond the A13 flyover. The nearest of which are 60m from the north west corner of the site on Chestnut Road and the Glen. Pitsea Mount residential area is located approximately 200m to the northeast.

On the north side of the site, at the eastern end of the site, Terminus Drive abuts a car park, the remaining land to the north between the site and the main line railway line is vacant. Beyond the mainline to the north is a Tesco Superstore and associated parking.

Directly east of the site is a fencing business and a residential property permitted for use as offices.

Pitsea Hall Lane is a no through road but gives access to Wat Tyler Country Park, Vange Creek RSPB reserve, Tuskit Works Industrial Area, an ECC Household Waste Recycling Centre and Pitsea sewage treatment works, Pitsea Landfill among others.

Footpath Vange 136 is adjacent to the northern boundary of the site and runs parallel with the site access and then along the northern boundary of the site, where it meets a path that can be used to go north to the residential area of Pitsea or south across the railway line to the marshes.

The site is allocated as Employment Area within the Basildon District Local Plan (adopted 1998)(BDLP). The land immediately to the south is designated as Green Belt (including the railway line) and also as "Marshes Area" within the BDLP.

The Marshes Area is subject of several separate designations. The closest is Vange Creek Marshes County Wildlife Site that lies south west of the site on the southside of the railway line and Vange Creek Marsh SSSI and Pitsea Marsh SSSI which respectively lie to the south east 200m and southwest 300m

The site was vacant prior to the applicant commencing waste storage and sorting on the site. The site was previously permitted as a minerals yard, such that it is likely mineral was imported by road and potentially rail, stored and then distributed from the site by road.

Characteristics of development

Size - The proposed throughput would be 49,000 tonnes per annum which is just less than the capacity which is more likely to require EIA according to the indicative thresholds and criteria in the NPPG.

The waste would consist of construction and demolition, commercial and industrial waste and household waste. 60% by weight would be soils, clays, hardcore, concrete and rubble, 40% would be timber, wood, plastics and some mixed wastes from domestic, commercial and industrial skips.

The majority of the waste would be inert and the NPPG suggests EIA is more likely to be required for non-inert waste.

The proposal is for a change of use to a waste recycling and materials recovery facility, the erection of an industrial type building with associated offices, hard-standing and vehicle movements consisting of staff vehicles, HGVs and skip lorries.

The application site covers an area of approximately 1.24 hectares and the NPPG suggests EIA is more likely to be required for new sites greater than 10ha.

The proposal involves the erection of a single waste processing building on the northern boundary of the site. This building would be constructed from corrugated steel and measure 19 metres deep, 30 metres long and 9 metres to eaves, with a shallow pitched roof over. The ridge, running from east to west would be 11.4 metres in height. The building would face south into the centre of the site. In front of the building would be a screen creating an open topped lobby area.

The materials would enter the site passing to the south of the building and screen to the weighbridge, vehicles would turn around in the west of the site and then approach the building from the west deposit there load in the building and then exit the building to the west turning round in the west of the site before exiting the site passing in front of the building and lobby.

Within the building waste would be loaded onto a feed belt to a trommel and picking station. Waste would either be sorted mechanically or by hand; recovering the following materials metals; brick, concrete and stone; plastics; paper; cardboard; green waste; wood and associated materials.

Sorted materials would be placed in either skip lorries or on fork lift trucks, depending on their type. Wood and hardcore and soil would be removed from the building and placed in the walled storage bays to be created at the western end of the site other materials would be placed in skips and stored within the building before export from the site for

reprocessing. The waste residue would be taken to the landfill potentially Pitsea Landfill located south of the south.

In addition there would be administration offices within portacabins, a weighbridge, lorry, car, motorcycle and bicycle parking and a storage area for skips south of the access.

Cumulation with other development - To the east of the site is a fencing supply business, supplying wood, concrete panels and posts and security fencing. The construction of panels is undertaken within the buildings, but some surplus materials are stored in the open on north side of Terminus Drive. This existing business does generate some noise and dust.

The railway line south of the site gives rise to noise both from the trains themselves, the warning siren on the level crossing on Pitsea Hall Lane and the train horn (required to be sounded due to the footpath crossing the line south west of the site). The trains potentially also give rise to vibration.

Cromwell Manor to the south of the site could be considered a sensitive use as it is used as a wedding and conference facility as well as a residential property. The venue up until June 2014 also had a marquee to extend capacity of the venue. Planning permission to retain the marquee was refused by Basildon Borough Council in March 2014. It is acknowledged that this use could be affected by noise, dust and vibration, but in the context of existing uses, including the railway line, level crossing and proximity of Pitsea Hall Lane (10m west of Cromwell Manor) already subject to HGV traffic (generating noise and vibration) it is not considered the impacts would be such significance alone or cumulatively that the proposal would warrant an EIA.

The development proposes 100 movements a day (50 in and 50 out). Pitsea Hall Lane gives access to an industrial area, sewage treatment works, Wat Tyler Country Pak and Pitsea Landfill (HGV movements to the landfill are limited to 1100 movements a day 550 in 550 out). It is therefore considered that, in the context of the overall traffic on Pitsea Hall Lane, the traffic movements associated with the waste development would not be significant.

Use of natural resources- The proposed development would not use significant quantities of natural resources other than those required in the construction of the building and a small quantity of water for use in dust suppression.

It is not considered there would be a significant impact arising as a result of the use of natural resources.

Production of waste - As a waste recycling business, its main purpose is to recover recyclable/reusable materials from the waste stream, therefore reducing the amount of waste. There would be an element of the waste material important that could not be recycled/reused and this would be required to be exported for landfill, but is considered this would not give rise to significant environmental effects.

Pollution and nuisances -

The site is, without prejudice to any formal decision, suitably located in planning policy terms due to its employment location.

Discharges, emissions and odour are noted as important considerations in NPPG.

Discharges – Surface water runoff would be generated from hard surfaces, the railway line and associated ballast provides an obstruction to surface water. There is no visible or known drainage pathway from the site to the south towards the CWS and SSSI and the controlled water.

The majority of the waste imported to the site would be largely inert, although wood, cardboard, paper and plastics are not totally inert they are not biodegradable in the same manner as putrescible such as household/food waste and are unlikely to give rise to significant leachate.

Drainage to sewer is proposed.

Surface water runoff would be generated from hard surfaces, the railway line and associated ballast provides an obstruction to surface water. There is no visible or known drainage pathway from the site to the south towards the CWS and SSSI and the controlled water. Drainage to sewer is proposed.

Emissions - The importation of waste would be by road such that there would be emissions to air from vehicles. Proposed vehicle movements are 100 HGV movements (50 in 50 out per day), however, it is likely any use of this land allocated for employment use would involve some vehicular usage and as stated above the proposed traffic movements are not considered to be significant in the context of traffic using the Pitsea Hall Lane and the A13, Pitsea Landfill for example is permitted to receive 1100 HGV movements per day.

Odour - The majority of the waste imported to the site would be largely inert, although wood, cardboard, paper and plastics are not totally inert they are not biodegradable in the same manner as putrescible such as household/food waste and are unlikely to give rise to significant odour.

The sorting of waste is likely to give rise to dust and noise. The nearest residential property is Cromwell Manor to the south of the railway, which is also a wedding and conference venue. In addition there are residential properties to the north west on Chestnut Road and the Glen and at Pitsea Mount. While there is potential for impacts from noise and dust it is not considered that these would be of more than local importance that would warrant an EIA.

There is potential for generation of vibration from the operation of plant and machinery, but in view of existing vibration from existing adjacent road traffic, which cross the level crossing in close proximity to the site and trains on the adjacent line, it is not considered this would give rise to significant environmental effects that warrant an EIA.

There would be a requirement for an Environmental Permit. Whilst this is not relied upon as a reason not to require EIA, it does provide assurance that the environment would be properly protected through the pollution control regime.

The site is separated from the County Wildlife Site and SSSIs by the railway, which creates a physical barrier. The SSSIs to the south west is 200m from the proposed site, while the SSSI to the south east is 300m from the site and is also separated from the site by Pitsea Hall Lane. It is considered due to the position of the railway and the disturbance that already exists due to the railway line, level crossing and traffic on Pitsea Hall Lane and the inert nature of the waste proposed to be sorted and stored on site it is considered that there would not be significant environmental effects resulting from the development on the

CWS or SSSI that warrant an EIA.

Risk of accidents – The proposed development would require an Environmental Permit and environmental controls would be monitored by the Environment Agency.

The proposed waste recycling plant and machinery is in common usage and therefore the potential for accidents is low.

Characteristics of the potential impact

The potential significant effects of the development must be considered in relation to criteria set out above, and having regard in particular to the extent of the impact, the magnitude and complexity of the impact; the probability of the impact; the duration, frequency and reversibility of the impact.

It is not considered that the potential impacts, namely, visual, noise, dust and vibration are likely to effect more than the immediate area surrounding the site. In addition these impacts are not considered of a magnitude or complexity that warrants an EIA and there are known techniques to minimise noise and dust.

In addition, there are a total of 3 SSSI, 6LNR / LoWs and 1 country park within 2km of the proposed site. However due to the nature of the proposal and the fact that it is adjacent to an existing industrial development and railway line it is considered that there will not be significant environmental effects, in part because there are no direct links to these designated sites due to the location of the railway line.

The proposals are within 10m of a Grade II Listed Building (c 16th century) and the proposals have the potential to impact upon the setting to the rear of the Listed Building, although it has to be acknowledged that the railway and Pitsea Hall Lane have in the past degraded the setting of this building. Cromwell Manor has also been extended in the 1990s on its west side, such that its appearance on the west side has been significantly changed. As the proposals do not involve changes to the Listed Building itself and are not within the curtilage of the Listed Building and due to the existence of the railway line behind it is not considered that the effects on this heritage asset from the proposal are of such significance that it would warrant an EIA.

In addition vibration could potentially impact upon the structure of the Listed Building. However, in view of the proximity of Pitsea Hall Lane and the uneven surface of the level crossing north-east of the LB and the railway line, it is considered that the LB is already subject to vibrations and the proposals would not result in a significant change in vibration that would warrant an EIA.

Conclusion

The proposed development would not exceed the thresholds set out in NPPG because it would be located on a site of approximately 1.24ha in size and would have capacity of less than 50,000tonnes and would handle mainly inert waste. The proposed non-inert waste would not be of a nature that would normally create significant odour.

However the site is located within "sensitive area", but in view of the railway line and or road between the designated sites it is not considered there would be significant environmental effects on these designated sites.

NPPG states that, in general, EIA will be needed for Schedule 2 developments for major development of more than local importance, for developments which are proposed for

particularly environmentally sensitive or vulnerable locations, and for developments with unusually complex and potentially hazardous environmental effects.

Advice in the NPPG has not been relied upon solely. Schedule 3 of the Regulations has been taken into account with the result that the development is not considered to be of more than local importance (in the context of EIA legislation), would not have significant environmental effects on nearby CWS and SSSIs or Listed Building and would not have unusually complex/hazardous environmental effects either alone or in combination with other existing or approved developments.

Based on the consideration of criteria for Schedule 2 11) – Installations for the disposal of waste guidance within the NPPG it is considered that **EIA WOULD NOT BE REQUIRED.**

Documents submitted with the Application and taken into account in this Opinion:

Letter and appendices from Smart Planning dated 03/02/2014
Planning, Design and Access Statement and appendices Ref SPL12.1831
Noise Assessment – Integrated Acoustics date 22/01/14
Heritage Statement

Drawings as follows:

| | |
|--------|--------------------------------------|
| M001 | Location Map |
| M002D | Location map |
| E101A | Existing Site Plan |
| P201Q | Proposed Site Plan |
| P202C | Proposed Floor Plan |
| P203D | Proposed Roof Plan |
| P204E | Proposed Front and Side Elevation |
| P206E | Historical Access Route Plan |
| P207A | Proposed Portakabin |
| P208A | Proposed Portakabin Elevations |
| SK-GO1 | Proposed Screen General Arrangements |

Signed: 
Planning Manager/ Senior Planner

Date: 27/6/14

DR/38/14

committee DEVELOPMENT & REGULATION

date 26 September 2014

MINERALS AND WASTE DEVELOPMENT

Proposal: The winning and working of sand and gravel and associated dry screen processing plant, temporary storage of minerals and soils and associated infrastructure. In addition backfilling of the void with soils and overburden arising from the development of mixed uses (Ref. 09/01314/EIA) on land adjacent to the mineral working.

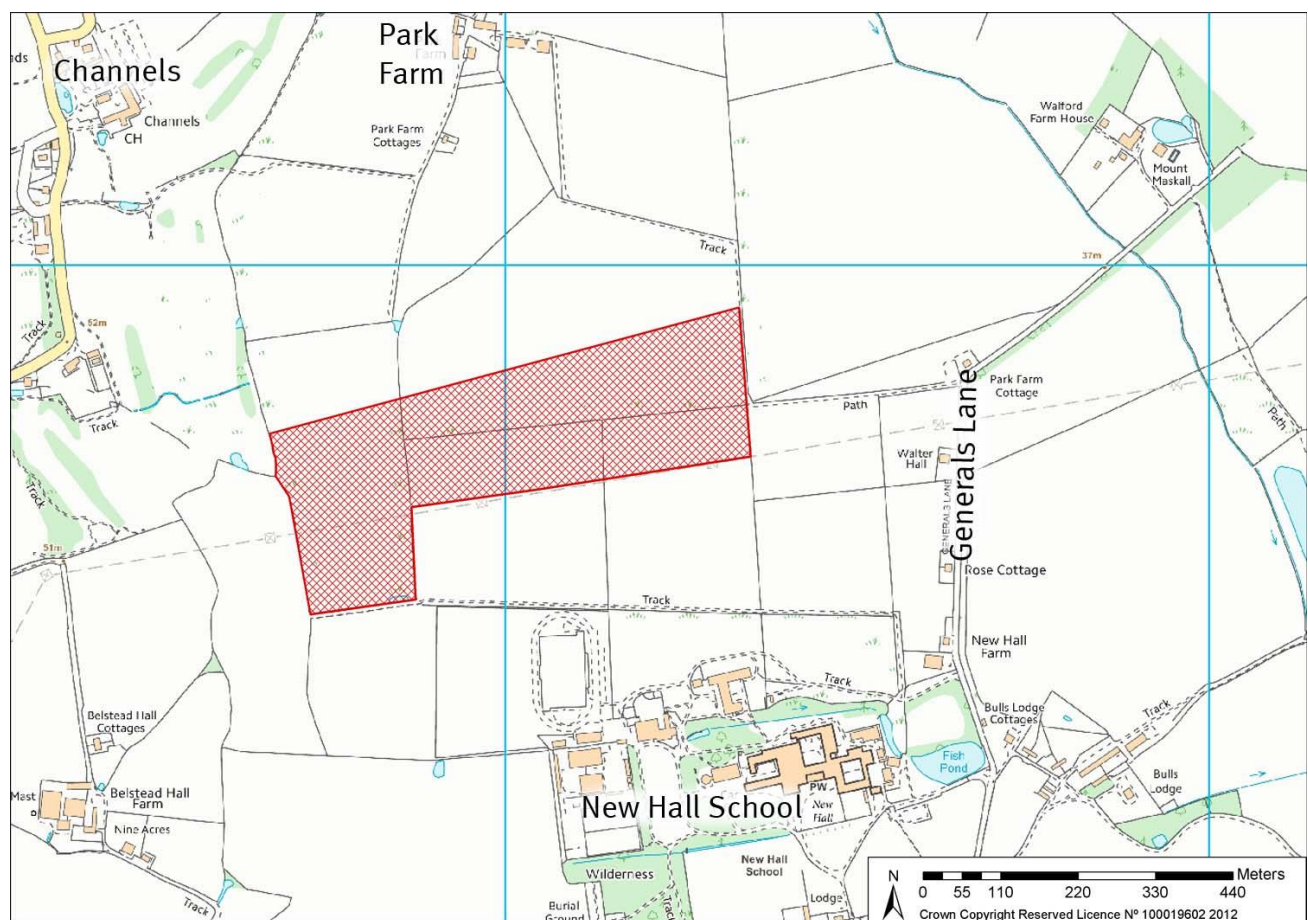
Location: Land to the South of Park Farm, Springfield, Chelmsford.

Ref: ESS/21/12/CHL

Applicant: Countryside Zest

Report by Director for Operations: Environment and Economy

Enquiries to: Claire Tomalin Tel: 03330 136821



1. BACKGROUND

On the 23rd November 2012 the Committee resolved to grant planning permission for the above development to allow the extraction of minerals and infilling of the resulting void with overburden arising from the mixed use development proposed at Greater Beaulieu Park Development. The resolution was subject to completion of legal agreements by November 2013. The agreements had not been completed by November 2013 and therefore Members re-considered the resolution in November 2013 (Committee report at Appendix 1 including November 2012 Committee report), including a number of minor changes to conditions requested by the applicants.

The Greater Beaulieu Park development was subject of a separate outline planning permission (CCC Ref. 09/01314/EIA) dealt with by Chelmsford City Council which was issued on 7 March 2014.

The principle of mineral extraction in the application area has already been established through the grant of planning CHL/1890/87 in June 1990. The mineral reserve was originally to be worked as part of the Bulls Lodge Quarry. The application site is within the area identified by Chelmsford Borough Local Development Framework - North Chelmsford Area Action Plan for mixed use development. The application was brought forward to ensure the mineral reserve is worked prior to the development of land as part of the mixed use development i.e. the Greater Beaulieu Park (GBP). Reserved Matter applications have now been determined by Chelmsford City Council with respect to elements of the outline planning permission and work has commenced on the Greater Beaulieu Park development.

The County's resolution to grant planning permission was subject to conditions and all relevant landowners/interested parties entering into necessary legal agreements.

The heads of terms resolved in Nov 2013 are set out below.

The prior completion, within 6 months, of Legal Agreements under the Planning Acts to secure obligations or such alternative forms as may be agreed by the Director for Operations: Environment and Economy and the County Council's Legal Officer, following further discussions with the applicant to cover the following matters:

- The scheme of obligations relating to the application site as currently set out within the existing s52 legal agreement associated with planning permissions CHL/1890/87 and CHL/1019/87 will require to be altered and/or restructured or a new legal agreement agreed to take account of the proposals.
- Not to commence implementation of the mineral/backfill development until lawful commencement of GBP development (CCC application ref: 09/01314/EIA).
- Prior to commencement of the mineral/backfill development to obtain

approval from ECC of the habitat management plan as required by CCC application reference ref: 09/01314/EIA, subject to Chelmsford City Council confirming they intend to approve the same habitat management plan.

- Prior to commencement of the mineral development to obtain approval from ECC of the construction and environmental management plan as required by CCC application ref: 09/01314/EIA, subject to Chelmsford City Council being in a position confirming they intend to approve the same construction and environmental management plan.
- Prior to commencement of dewatering of the application site to obtain approval from ECC of the drainage management system (in particular with respect to the settlement pond and discharge of water resulting from dewatering and surface water from the application site) as required by CCC application Ref. 09/01314/EIA, subject to Chelmsford City Council confirming they intend to approve the same drainage management system.
- Groundwater monitoring outside the application site as described within the application and Environmental Statement
- Scheme of mitigation to be submitted should the water level in ponds outside the site drop significantly due to activities associated with the mineral/backfill development.
- Requirement for applicant to serve Unilateral Undertakings (UU) (the wording of which to be agreed in advance with MPA) on licensed abstractors. The UUs obligating to put licensed abstractors on mains water supply should there be significant detrimental impact upon water abstractions resulting from the mineral/backfill development.
- Early implementation of planting on the north and west boundary of New Hall School, as proposed by planning application CCC Ref: 09/01314/EIA.
- Access/egress to and from the public highway for vehicles associated with the mineral/backfill development only at locations as approved under planning application CCC Ref: 09/01314/EIA

2. CURRENT POSITION

The authority has been progressing the completion of the legal agreements as required by the previous resolution.

One of the heads of terms of the legal agreement required as part of the resolution that ECC were consulted on the Greater Beaulieu Park (GBP) development's Ecological Management Plan (EMP) as the plan was to provide ecological management for the mineral development as well as the GBP development. An EMP is now to be provided in relation to the each of the various stages of the GBP development and thus the obligation has been replaced by an additional condition to the mineral planning permission requiring an EMP with respect to the mineral development prior to commencement of material operations.

The applicant completed the agreements with Chelmsford City Council associated with GBP in March 2014 and since then has been progressing the agreements associated with the mineral permission. The wording of the agreements was largely completed by May 2014, but unfortunately it has taken time to obtain all the necessary signatories. The agreement is now at a stage that the agreement can be completed imminently, all parties other than ECC having signed.

Discussions are on-going with the applicants to progress a separate legal agreement to amend the requirements of the original legal agreement associated with the Bulls Lodge planning permission. This later agreement is not necessary prior to issuing of the planning permission, but is necessary to ensure there are no obligations on the land remaining from the original legal agreement associated with the Bulls Lodge Quarry, it's "a legal tidying up" rather than associated with controlling development. Hence the heads of terms have been amended to allow completion of this agreement within a further 12 months.

Since the last resolution of the Committee the Minerals Local Plan 2014 was adopted in July 2014. The original application was determined against policies of the Minerals Local Plan 1996 and the submission revised Regional Spatial Strategy 2010 and Structure Plans (saved policies 2007) both the later have since been abolished. However, while the documents have changed the underlying principles of the policies have not changed and are embodied within the Minerals Local Plan 2014.

The principle of not allowing non-mineral development to sterilise permitted reserves is set out within MLP policy S8, replacing policy MIN4 of the Replacement Structure Plan. Policy DM1 of the MLP replaces MLP13 of the MLP 1996, seeking to minimise the impact of the development on the environment and local amenity. Policy S12 replaces MLP8 and MLP9 but still seeks to ensure timely restoration to a beneficial after use. DM2 seeks to ensure minerals are processed on site as was the case with MLP10. The proposal is considered to comply with the aforementioned policies.

In addition Chelmsford City Council (CCC) has undertaken a Focused Review of its adopted Core Strategy and Development Control Policies in light of the Framework and paragraph 214. The Core Strategy and Development Control Policies Focused Review Development Plan Document (CCSFR) was adopted by the City Council on 4 December 2013 and the CCSFR now forms part of the statutory development plan for CCC. It replaces specific policies and text in the existing Core Strategy and Development Control Policies Document (adopted in 2008) and also introduced some other changes. The affected policies previously referred to in the consideration of the application include CP1, DC2, DC6 however the changes have been reviewed, it is not considered that the review of the policies materially alters consideration of the application.

Relevant policies with respect to the waste element of the proposal are unchanged, PPS10 is still the most up-to-date national policy on waste and the Waste Local Plan remains the adopted local waste policy document.

As stated above while the policy documents have changed the issues requiring consideration with respect to the application have not and therefore the

recommendation remains unchanged. In addition there are no further material considerations affecting the original resolution to grant permission that have arisen since the Committee last considered the proposal.

3. **RECOMMENDED**

- 1 The Committee re-endorse the previous decision to grant planning permission subject to the amended head of terms for the legal agreements and planning conditions (with additional condition for EMP) as set out below.

Heads of terms of the legal agreement(s)

A) Within 1 month the prior completion of a S106 Legal Agreement to secure obligations to cover the following matters:

- Not to commence implementation of the mineral/backfill development until lawful commencement of GBP development (CCC application ref: 09/01314/EIA).
- Prior to commencement of the mineral development to obtain approval from ECC of the construction and environmental management plan as required by CCC application ref: 09/01314/EIA, subject to Chelmsford City Council being in a position confirming they intend to approve the same construction and environmental management plan.
- Prior to commencement of dewatering of the application site to obtain approval from ECC of the drainage management system (in particular with respect to the settlement pond and discharge of water resulting from dewatering and surface water from the application site) as required by CCC application Ref. 09/01314/EIA, subject to Chelmsford City Council confirming they intend to approve the same drainage management system.
- Groundwater monitoring outside the application site as described within the application and Environmental Statement
- Scheme of mitigation to be submitted should the water level in ponds outside the site drop significantly due to activities associated with the mineral/backfill development.
- Requirement for applicant to serve Unilateral Undertakings (UU) (the wording of which to be agreed in advance with MPA) on licensed abstractors. The UUs obligating to put licensed abstractors on mains water supply should there be significant detrimental impact upon water abstractions resulting from the mineral/backfill development.
- Early implementation of planting on the north and west boundary of New Hall School, as proposed by planning application CCC Ref: 09/01314/EIA.

- Access/egress to and from the public highway for vehicles associated with the mineral/backfill development only at locations as approved under planning application CCC Ref: 09/01314/EIA.

B) Within 12 months, the completion of a legal agreement under the Planning Acts or such alternative forms as may be agreed by the Director for Operations: Environment and Economy and the County Council's Legal Officer, to amend the scheme of obligations relating to the application site as currently set out within the existing s52 legal agreement associated with planning permissions CHL/1890/87 and CHL/1019/87 to take account of the proposals.

Planning permission be granted subject to the conditions

Conditions relating to the following matters:

- COMM1 Commencement within 5 years
- COM3 Compliance with Submitted Details
- PROD 1 Export restriction - no greater rate than 325,000 tonnes per annum
- CESS5 Cessation of Mineral Development within 4 years, cessation of landfilling and restoration within 8 years except for restoration of boundary with Bulls Lodge Quarry extraction
- CESS3 Removal of Ancillary Development
- CESS7 Revised Restoration in Event of Suspension of Operations
- HOUR2 Hours of working (Mineral Specific)
07:00 to 18:30 hours Monday to Friday
07:00 to 13:00 hours Saturdays
and at no other times or on Sundays, Bank or Public Holidays.
- The schedule of work and timescales shall be carried out to accommodate the infrastructure delivery plan set out in the proposal of application ref. 09/01314/EIA
- South and east facing slopes of stores of overburden and subsoil shall be no greater than 1:3 and shall be topsoiled and seeded in first available planting season and subject to a programme of maintenance
- LGHT1 Fixed Lighting Restriction
- ECO3 Protection of Breeding Birds
- Submission of method statement with respect to removal of hedgerow
- Scheme of mitigation should ponds within the site dry due to mineral operations
- 10m standoff to all retained hedgerow and hedgerow trees
- NSE1 Noise Limits
- NSE2 Temporary Noisy Operations
- NSE3 Monitoring Noise Levels
- NSE5 White Noise Alarms
- NSE6 Silencing of Plant and Machinery
- HIGH3 Surfacing/Maintenance of Haul Road
- HIGH2 Vehicular Access
- DUST1 Dust Suppression Scheme – including source of water for dust suppression

- POLL6 Groundwater Monitoring
- Flood risk mitigation in accordance with FRA Dec 2011
- Details of method of soil stripping and placement
- LS4 Stripping of Top and Subsoil
- LS5 Maintenance of Bunds
- LS8 Soil Handled in a Dry and Friable Condition
- LS10 Notification of Commencement of Soil Stripping
- LS12 Topsoil and Subsoil Storage
- ARC1 Advance Archaeological Investigation
- No material other than overburden, subsoils and excavation waste (except topsoils) shall be disposed in the void
- POLL 4 Fuel/Chemical Storage
- POLL 8 Prevention of Plant and Machinery Pollution
- Scheme for removal of suspended solids from surface water run-off
- RES4 Final Landform
- Interim restoration scheme to rough grassland for phases where infilling complete, but redevelopment under GBP development not planned within 6 months
- Submission of restoration details for northern boundary area as indicated hatched on ES4.16 ensuring levels tie in with those permitted as part of CHL/1890/87 or any subsequent amendment
- Nature and use of infilling materials in accordance with report by URS Mineral Extraction and Backfill dated May 2012 and ensure the made up ground over which the Radial Distributor Road associated with application Ref 09/01314/EIA being dealt with by CCC is backfilled with appropriate material and compacted to finished levels to support the new RDR design requirements.
- MIN1 No Importation
- WAST6 No Crushing of Stone
- GPDO2 Removal of PD Rights
- Scheme of mitigation should ponds inside the site dry due to mineral operations
- No extraction or infilling at the site 4 years after commencement until the submission and approval of a reassessment of the impact of the proposals on ecology and the water environment.
- Submission of details of use of surplus topsoils
- Submission and approval of Ecological Management Plan prior to commencement of material operations

BACKGROUND PAPERS

Consultation replies

Ref: P/DC/Claire Tomalin/ESS/21/12/CHL

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.

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

The proposed development would not be located within the screening distance for SACs/SPAs and the nature of the development is such that it would not adversely affect the integrity of such sites, either individually or in combination with other plans or projects. Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required.

STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER

Essex County Council has worked with Chelmsford City Council, the applicant and other interested parties, during the preparation and adoption of the Chelmsford North Area Action Plan, to ensure that permitted minerals resources were protected from sterilisation by facilitating its early extraction so as to assist in the delivery of the development of this area for mixed uses. Subsequent to this ECC has been engaged in pre-application discussions with the applicant, including the issue of EIA Screening and Scoping Opinions to ensure all issues were appropriately addressed within the application and Environmental Statement to minimise delays in its determination.

During determination of the application ECC forwarded on all statutory consultation responses received in a timely manner to the applicant. This provided the applicant with the opportunity to see and comment on any and all issues which were raised and provided additional information where necessary. ECC has continued to liaise with CCC with respect to the interrelationship between the mineral application and the GBP application.

LOCAL MEMBER NOTIFICATION

CHELMSFORD Broomfield & Writtle
CHELMSFORD – Chelmer
CHELMSFORD - Springfield

DR/53/13

committee DEVELOPMENT & REGULATION

date 22 November 2013

MINERALS AND WASTE DEVELOPMENT

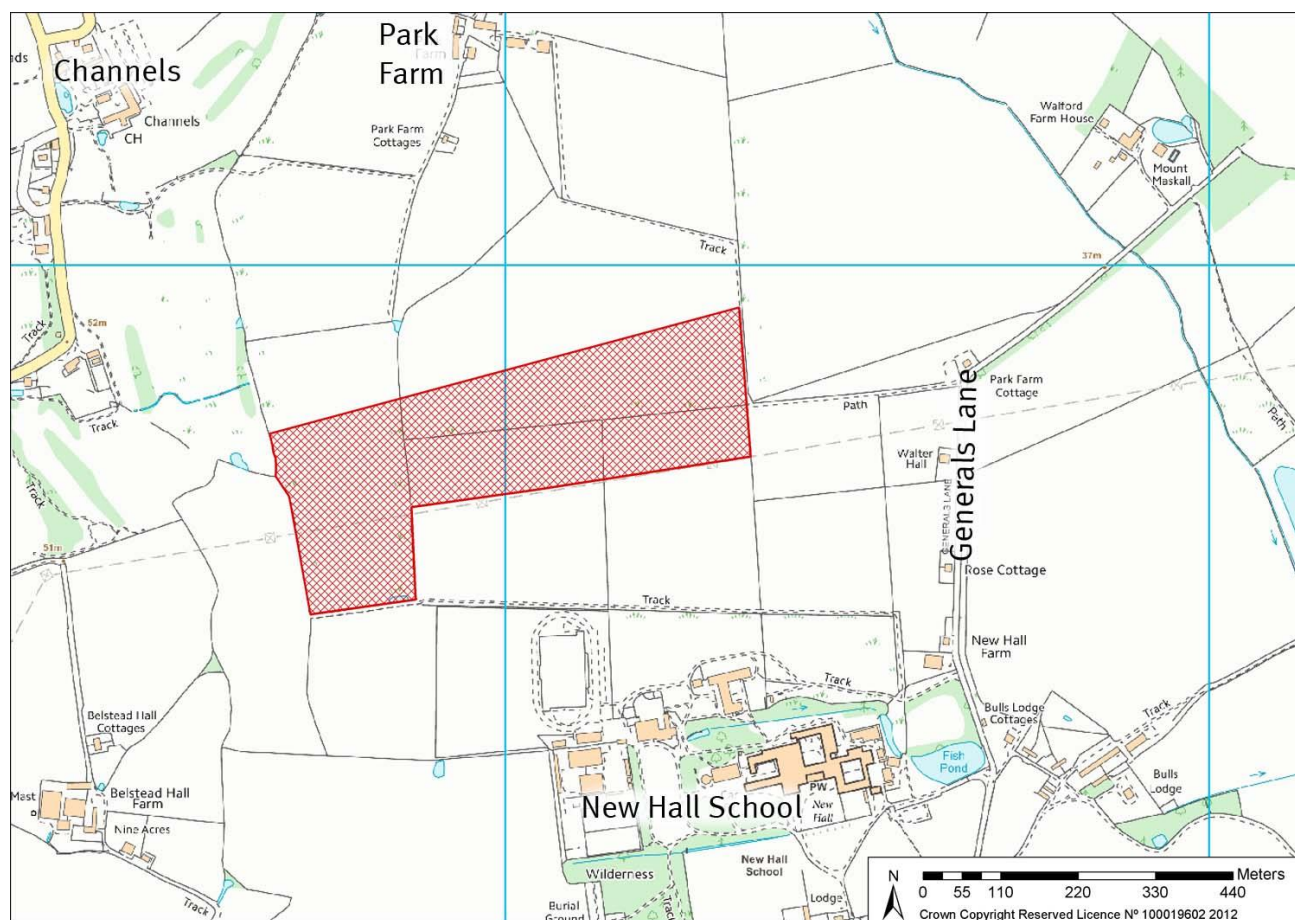
Proposal: The winning and working of sand and gravel and associated dry screen processing plant, temporary storage of minerals and soils and associated infrastructure. In addition backfilling of the void with soils and overburden arising from the development of mixed uses (Ref. 09/01314/EIA) on land adjacent to the mineral working.

Location: Land to the South of Park Farm, Springfield, Chelmsford.

Ref: ESS/21/12/CHL

Report by Director for Operations, Environment and Economy

Enquiries to: Claire Tomalin Tel: 01245 437541



4. BACKGROUND

On the 23rd November 2012 the Committee resolved to grant planning permission for the above development to allow the extraction of minerals and infilling of the resulting void with overburden arising from the mixed use development proposed at Greater Beaulieu Park Development. The Greater Beaulieu Park Development is subject of a separate planning application (CCC Ref. 09/01314/EIA) being dealt with Chelmsford City Council, this application has been resolved to be granted outline planning permission, subject to legal agreements and conditions. CCC is continuing to have positive discussions with the applicant to complete the legal agreements.

The principle of mineral extraction in this area already been established through the grant of planning CHL/1890/87 in June 1990. The mineral reserve was originally to be worked as part of the Bulls Lodge Quarry. The application site is within the Chelmsford Borough Local Development Framework - North Chelmsford Area Action Plan identified for mixed use development. The application was brought forward to ensure the mineral reserve is worked prior to the development of land as part of the mixed use development i.e. the Greater Beaulieu Park (GBP).

To the west of the site planning permission has already been granted by Chelmsford City Council for residential and leisure use on land north and south of Belsteads Farm and Channels Golf Club and work has commenced on the access arrangements from Essex Regiment Way.

The County's resolution to grant planning permission was subject to conditions and all relevant landowners/interested parties entering into necessary legal agreements.

The resolution was updated to include changes set out within the November 2012 Addendum and changes made at committee at that time.

5. CURRENT POSITION

The authority has been progressing the completion legal agreements as required by the resolution.

Drafts of both the legal agreements and conditions have been exchanged and discussions are on-going with the applicants to progress this draft. The need for this application for the separate and early extraction of the mineral is only necessitated by the mixed use development, thus the applicant has been focussing their attention on completing the legal agreements with Chelmsford City Council, with respect to the mixed use development, possibly to the detriment of the minerals application.

The applicant has through discussions requested that certain conditions that would normally be worded as details being required prior to commencement of development, that the details are required at an early stage, but not necessarily tied to the commencement date, to allow greater flexibility. Subject to the details

being approved at an appropriate stage to ensure that the details are in place to ensure that there are no adverse impacts from the development, it is considered that this is acceptable and in accordance with principles of the NFFP to facilitate development.

Since the original resolution of the mineral application Chelmsford City Council have reviewed their Core Strategy Policies in light of the NPPF, no policies have been amended that are relevant to the determination of this application.

There are no material considerations affecting the original resolution to grant permission that have arisen since the Committee last considered the proposal.

6. RECOMMENDED

- 2 The Committee re-endorse the previous decision to grant planning permission subject to the head of terms of the legal agreement and planning conditions as set out below, and;
- 3 A further report be submitted to the Committee should negotiations not proceed towards signing the necessary legal agreement by the end of May 2014 to allow Members to review progress.

Heads of terms of the legal agreement(s)

The prior completion, within 6 months, of Legal Agreements under the Planning Acts to secure obligations or such alternative forms as may be agreed by the Director for Operations, Environment and Economy and the County Council's Legal Officer, following further discussions with the applicant to cover the following matters:

- The scheme of obligations relating to the application site as currently set out within the existing s52 legal agreement associated with planning permissions CHL/1890/87 and CHL/1019/87 will require to be altered and/or restructured or a new legal agreement agreed to take account of the proposals.
- Not to commence implementation of the mineral/backfill development until lawful commencement of GBP development (CCC application ref: 09/01314/EIA).
- Prior to commencement of the mineral/backfill development to obtain approval from ECC of the habitat management plan as required by CCC application reference ref: 09/01314/EIA, subject to Chelmsford City Council confirming they intend to approve the same habitat management plan.
- Prior to commencement of the mineral development to obtain approval from ECC of the construction and environmental management plan as required by CCC application ref: 09/01314/EIA, subject to Chelmsford City Council being in a position confirming they intend to approve the same construction and environmental management plan.
- Prior to commencement of dewatering of the application site to obtain

approval from ECC of the drainage management system (in particular with respect to the settlement pond and discharge of water resulting from dewatering and surface water from the application site) as required by CCC application Ref. 09/01314/EIA, subject to Chelmsford City Council confirming they intend to approve the same drainage management system.

- Groundwater monitoring outside the application site as described within the application and Environmental Statement
- Scheme of mitigation to be submitted should the water level in ponds outside the site drop significantly due to activities associated with the mineral/backfill development.
- Requirement for applicant to serve Unilateral Undertakings (UU) (the wording of which to be agreed in advance with MPA) on licensed abstractors. The UUs obligating to put licensed abstractors on mains water supply should there be significant detrimental impact upon water abstractions resulting from the mineral/backfill development.
- Early implementation of planting on the north and west boundary of New Hall School, as proposed by planning application CCC Ref: 09/01314/EIA.
- Access/egress to and from the public highway for vehicles associated with the mineral/backfill development only at locations as approved under planning application CCC Ref: 09/01314/EIA

Planning permission be granted subject to the conditions

Conditions relating to the following matters:

- COMM1 Commencement within 5 years
- COM3 Compliance with Submitted Details
- PROD 1 Export restriction - no greater rate than 325,000 tonnes per annum
- CESS5 Cessation of Mineral Development within 4 years, cessation of landfilling and restoration within 8 years except for restoration of boundary with Bulls Lodge Quarry extraction
- CESS3 Removal of Ancillary Development
- CESS7 Revised Restoration in Event of Suspension of Operations
- HOUR2 Hours of working (Mineral Specific)
07:00 to 18:30 hours Monday to Friday
07:00 to 13:00 hours Saturdays
and at no other times or on Sundays, Bank or Public Holidays.
- The schedule of work and timescales shall be carried out to accommodate the infrastructure delivery plan set out in the proposal of application ref. 09/01314/EIA
- South and east facing slopes of stores of overburden and subsoil shall be no greater than 1:3 and shall be topsoiled and seeded in first available planting season and subject to a programme of maintenance
- LGHT1 Fixed Lighting Restriction
- ECO3 Protection of Breeding Birds

- Submission of method statement with respect to removal of hedgerow
- Scheme of mitigation should ponds within the site dry due to mineral operations
 - 10m standoff to all retained hedgerow and hedgerow trees
 - NSE1 Noise Limits
 - NSE2 Temporary Noisy Operations
 - NSE3 Monitoring Noise Levels
 - NSE5 White Noise Alarms
 - NSE6 Silencing of Plant and Machinery
 - HIGH3 Surfacing/Maintenance of Haul Road
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 - DUST1 Dust Suppression Scheme – including source of water for dust suppression
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- Details of method of soil stripping and placement
- LS4 Stripping of Top and Subsoil
- LS5 Maintenance of Bunds
- LS8 Soil Handled in a Dry and Friable Condition
- LS10 Notification of Commencement of Soil Stripping
- LS12 Topsoil and Subsoil Storage
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- No material other than overburden, subsoils and excavation waste (except topsoils) shall be disposed in the void
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- Scheme for removal of suspended solids from surface water run-off
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- MIN1 No Importation
- WAST6 No Crushing of Stone
- GPDO2 Removal of PD Rights
- Scheme of mitigation should ponds inside the site dry due to mineral operations
- No extraction or infilling at the site 4 years after commencement until the submission and approval of a reassessment of the impact of the proposals on ecology and the water environment.

- Submission of details of use of surplus topsoils

DR/41/12

committee DEVELOPMENT & REGULATION

date 23 November 2012

MINERALS AND WASTE DEVELOPMENT

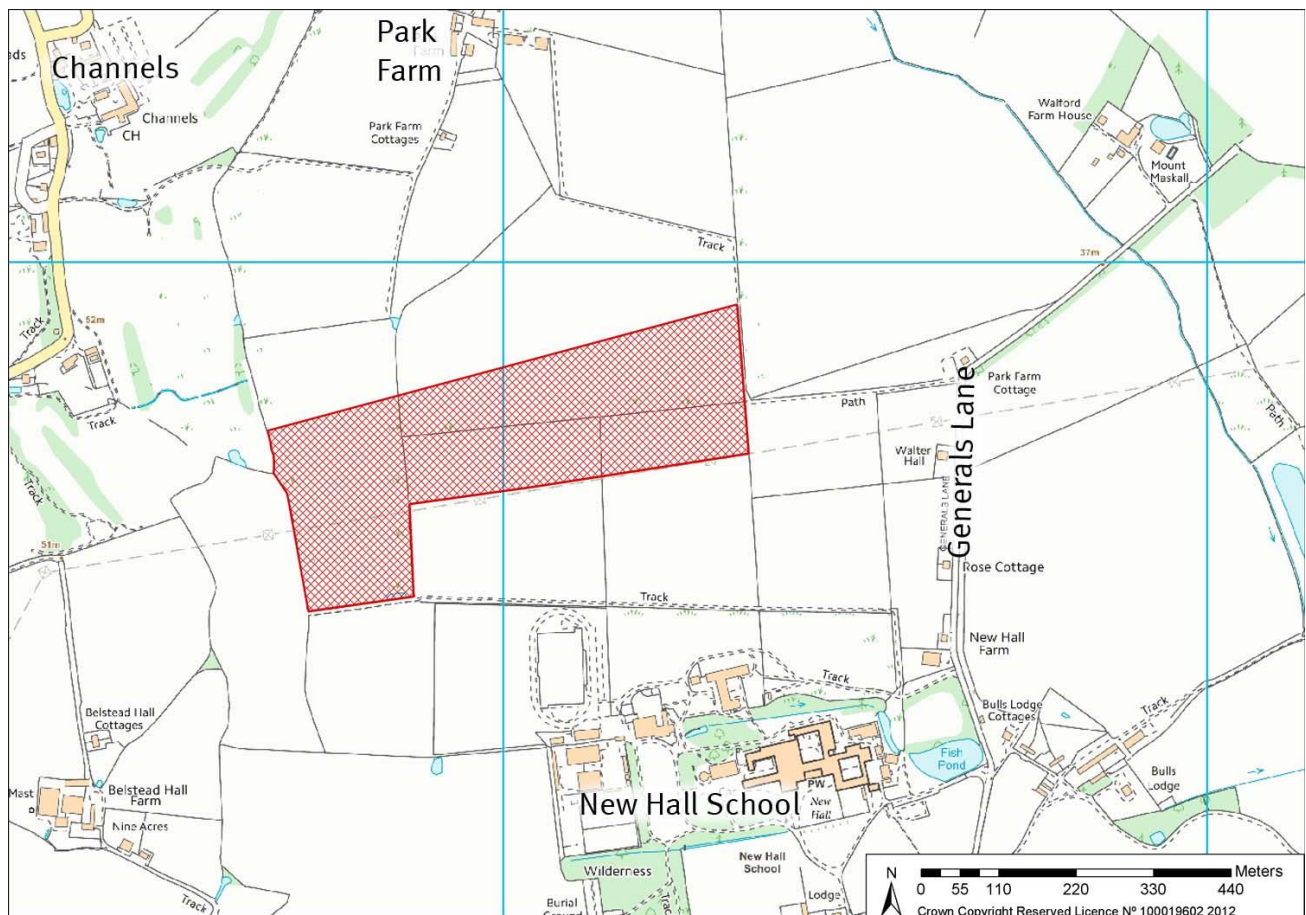
Proposal: The winning and working of sand and gravel and associated dry screen processing plant, temporary storage of minerals and soils and associated infrastructure. In addition backfilling of the void with soils and overburden arising from the development of mixed uses (Ref. 09/01314/EIA) on land adjacent to the mineral working.

Location: Land to the South of Park Farm, Springfield, Chelmsford.

Ref: ESS/21/12/CHL

Report by Head of Environmental Planning

Enquiries to: Claire Tomalin Tel: 01245 437541



7. BACKGROUND AND SITE HISTORY

The principle of mineral extraction has already been established through the grant of planning CHL/1890/87 in June 1990. This mineral reserve is currently permitted to be worked as part of the Bulls Lodge Quarry, but is not phased to be worked for a number of years. The application site is within the Chelmsford Borough Local Development Framework - North Chelmsford Area Action Plan identified for mixed use development. This application has been brought forward to ensure the mineral reserve is worked prior to the development of land as part of the mixed use development i.e. the Greater Beaulieu Park (GBP) development currently subject of an application to Chelmsford City Council (Ref. 09/01314/EIA). To the west of the site planning permission has already been resolved to be granted by Chelmsford City Council for residential and leisure use on land north and south of Belsteads Farm and Channels Golf Club.

The proposals were subject to a request for an EIA Screening Opinion (Ref ESS/61/10/CHL and an EIA Scoping Opinion (ref ESS/48/11/CHL/SPO)

8. SITE

The site is located north east side of Chelmsford, approximately 800m from the urban edge (existing Beaulieu Park) of Chelmsford. The land is currently in agricultural use and is made up of parts of three fields, divided by hedgerows. The nearest properties are New Hall School (Listed Building and Registered park & garden), the school boundary at approx. 70m at the closest point, the nearest school building at 300m to the south east, which includes residential properties for staff and accommodation for boarding pupils. In addition there are properties along Generals Lane to east, the closest being Park Farm Cottages at 300m and Walter Hall at 270m and Park Farm at 490m to the north and Belstead Hall Cottages and Belstead Hall Farm 380m and 350m respectively to the south west. Abutting on the north west corner of the site lies Channels Golf Club and 600m to the west north west lies Falcon Bowling and Social Club.

The application site is wholly located within the adopted Chelmsford Borough Local Development Framework - North Chelmsford Area Action Plan area; the majority of the site is within site allocation 11 – Land north of the new road and part within Site Allocation 8 – Land North of New Hall School. To the west of the site lies Site Allocation 6 - Land north and south of Belsteads Farm Lane and Channels Golf Club.

There is public footpath Springfield No. 4 which lies to the south of the site and forms part of the Centenary Circle Trail around Chelmsford. An electricity power lines crosses, the southern part of the site, but no pylons are within the site.

The site lies within Springfield Parish, but lies adjacent to 3 other Parish Councils, Boreham, Broomfield and Little Waltham.

9. PROPOSAL

The proposal is to work 325,000 tonnes (203,000m³) of sand and gravel over a 2 - 3 year period. The sand and gravel would be dry screened using a mobile

screening plant. The plant would be located below natural ground levels, after the initial excavation of overburdens to make a void.

The sand and gravel would be utilised in the construction of the adjacent GBP development, such that would be no need for sand and gravel to be exported via the public highway. Vehicle movements to and from the public highway would be limited to staff and plant. Access from the site to the GBP development would be in the lower south east corner of the site via a haul road and access for staff and plant to the public highway would be controlled by the planning permission for GBP development (Chelmsford Borough Council Ref. 09/01314/EIA).

The site would be worked in 13 phases working in an east to west direction. The base of the sand and gravel and the thickness of the seam ranges significantly across the site from 4.7m to 16.5m below ground, the thickness ranging from 0.4m to 8.4m. Approximately 30% of the sand and gravel is saturated with water; such the site would require to be dewatered to allow extraction below the water table. The water would be discharged to the west to a settlement pond forming part of the drainage system for the GBP development.

Soils and overburden would be stored on the south side of the site which dual as screening bunds. These bunds rise up to 5 m above natural ground levels.

It is proposed to use soils and overburden generated by the adjacent GBP development to partially infill the mineral void approximately 131,000m³, bringing the site levels to existing natural ground levels in the south east of site and then sloping down towards the south, the Radial Distributor Road part of the GBP development to be located 3m below natural ground levels and then dropping to 6m below ground levels, such that it would in the future tie in with the low level restoration of Bulls Lodge Quarry. The applicant anticipates that sufficient material would have been generated by 2016 from the GBP development.

The northern edge of the site would be restored at the time Bulls Lodge Quarry completes its extraction to the north of the application site.

The applicant has proposed that the while it is anticipated that the extraction would take 2 to 3 years and restoration with backfilling complete in the fourth year, due a range of factors that could influence the programme of development of the GBP development (and therefore the rate at which mineral would be used and backfill materials generated) and the uncertainty as to when Bull Lodge Quarry operators extraction and restoration to the north would be completed, a period of 8 years has been proposed to complete the extraction and restoration.

The application is accompanied by an Environmental Statement submitted under the EIA Regulations 2011.

10. POLICIES

The following policies of the:

- Regional Spatial Strategy for the East of England, adopted May 2008 and Submission Revised Regional Spatial Strategy (sRSS) for the East of England (sRRS) submitted 2010,

- Essex and Southend on Sea Replacement Structure Plan (RSP), adopted 2001 (saved policies September 2007),
- Minerals Local Plan, adopted 1997 (saved policies September 2007)
- Essex and Southend Waste Local Plan (WLP), adopted 2001 (saved policies September 2007)
- Chelmsford Borough Development Framework 2001-2021 Core Strategy and Development Control Policies (CBDF - CSDC) the adopted Feb 2008
- The North Chelmsford Area Action Plan adopted July 2011

provide the development plan framework for this application. The following policies are of relevance to this application:

11.

| | <u>sRSS</u> | <u>RSP</u> | <u>MLP</u> | <u>WLP</u> | <u>CCBD</u> <u>F-</u> <u>CSDC</u> |
|--|-------------|------------|---------------|------------|---|
| Achieving Sustainable Development | SS1 | | | | CP1 |
| Strategic and Regional Road Networks | T6 | | | | |
| Landscape Conservation | ENV2 | | MLP13 | W10E | |
| Biodiversity and Earth Heritage | ENV3 | | MLP13 | W10E | |
| Agriculture, Land and Soils | ENV4 | | | | |
| The Historic Environment | ENV6 | | MLP13 | W10E | |
| Ground water protection | WAT3 | | MLP13 | W4B | |
| Flood Risk Management | WAT4 | | | | |
| Regional aggregates supply | M1 | | MLP1 | | |
| Sterilisation & safeguarding of Mineral Sites | | MIN4 | | | |
| Mineral working at preferred sites | | | MLP2 | | |
| Preferred methods of access to highway network | | | MLP3 MLP13 | W4C | DC6 |
| Restoration and aftercare | | | MLP8 | | |
| Feasible & timely restoration scheme | | | MLP9 | W10 C | |
| Location of processing plant | | | MLP10 | | |
| Environmental Standards | | | MLP13 | W10E | |
| Sustainable waste management | | | | W3A | |
| Protection of water environment | | | | W4A | CP10 |
| Protection of groundwater | | | | W4B | |
| Landfill on non-preferred sites | | | | W9B | |
| Conditions & legal agreements | | | | W10A | |
| Hours of operation | | | | W10F | |
| Protect & enhance Rights of Way | | | | W10 H | |
| Securing Sustainable Development | | | | | CP1 |
| The Borough-Wide Spatial Strategy | | | | | CP2 |
| Protection of Historic Environment | | | | | CP9 |
| Minimising Environmental Impact | | | | | CP13 |
| Environmental Quality and Landscape Character | | | | | CP14 |

| | | | | | |
|--------------------------------|--|--|--|--|------|
| Development in the Countryside | | | | | DC2 |
| Protection of amenity | | | | | DC4 |
| Health Impact Assessments | | | | | DC8 |
| Biodiversity | | | | | DC13 |
| Listed Buildings | | | | | DC18 |
| Registered Parks and Gardens | | | | | DC20 |
| Archaeology | | | | | DC21 |
| Amenity & pollution | | | | | DC29 |
| Traffic Management | | | | | DC41 |

It is noted that the Localism Act includes a Government commitment to revoke Regional Plans. Until the Regional Spatial Strategy for the East of England has been revoked, it remains part of the development plan. However, the Government's intention to revoke the plan is a material consideration in planning decisions.

The National Planning Policy Framework (NPPF), published in March 2012, sets out requirements for the determination of planning applications and is also a material consideration.

Paragraph 214 of the National Planning Policy Framework (NPPF) states that for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 (i.e. Development plan documents adopted in accordance with the Planning & Compulsory Purchase Act 2004 or published in the London Plan) even if there is a limited degree of conflict with the Framework.

It is considered that the Chelmsford Borough Development Framework 2001-2021 Core Strategy and Development Control Policies (adopted Feb 2008) and The North Chelmsford Area Action Plan (adopted July 2011) fall within the meaning of paragraph 214 and should be given full weight even if there is a limited degree of conflict with the Framework.

Paragraph 215 of the NPPF states, in summary, that due weight should be given to relevant policies in existing plans and for 12 months following publication of the NPPF, according to their degree of consistency with the Framework. The level of consistency of the policies contained within the Essex & Southend-On-Sea Structure Plan, Minerals Local Plan and the Essex and Southend Waste Local Plan is considered at **Appendix 1**.

12. CONSULTATIONS

CHELMSFORD CITY COUNCIL – No objection, subject to planning conditions, requiring mitigation as set out in the Environmental Statement, full details of the restoration programme, including that restoration levels are capable of accommodating the Radial Distributor Road (forming part of the GBP development) and the levels marry with the restoration levels of Bulls Lodge Quarry.

Further that the applicant should be asked to demonstrate that the GBP development, would generate enough surplus material in the infill the void to the proposed restoration levels.

Comment: Additional information was submitted to demonstrate that would be adequate material generated within the GBP development to achieve the proposed restoration levels.

ENVIRONMENT AGENCY: No objection subject to imposition of conditions to address the following matters:

- Groundwater – Due to potential for dewatering to impact upon private groundwater abstraction points, groundwater monitoring is required both prior to dewatering, during operations and post restoration. Preferably monitoring also undertaken at private abstraction points to establish pre-extraction conditions;
- Flood risk – Flood risk mitigation measures described in the Flood Risk Assessment should be secured by condition;
- Scheme for removal of suspended solids from surface water run-off

NATURAL ENGLAND: No objection, subject to conditions to

- ensure proposed mitigation with respect to protected species is in accordance with that proposed in the ES;
- protect the soil resource, in terms of soil handling , storage and afteruse.

ESSEX WILDLIFE TRUST: No comments received.

ENGLISH HERITAGE: No objection, subject to the application being considered in the context of the mixed use development 09/01314/EIA due to the setting of New Hall grade 1 Listed Building.

NATIONAL GRID: No comments received.

NATIONAL PLANNING CASEWORK UNIT: No comments.

CPRE: No comments received.

CHELMSFORD BOROUGH RAMBLERS ASSOCIATION: No comments received

HIGHWAY AUTHORITY – No objection, subject to conditions to:

- ensure the made up ground over which the Radial Distributor Road associated with application Ref 09/01314/EIA being dealt with by CCC is backfilled with appropriate material and compacted to finished levels to support the new RDR design requirements;
- The schedule of work and timescales shall be carried out to accommodate the infrastructure delivery plan set out in the proposal of application ref. 09/01314/EIA.

HIGHWAY AUTHORITY (Public Rights of Way) – No objection, as the route of the public right of way is not directly affected. Protection and future enhancement would be delivered through the GBP development.

COUNTY COUNCIL'S NOISE CONSULTANT – No objection, consider that the proposed development is unlikely to result in adverse impact, due largely to the separation distances. Consider it would be appropriate to impose maximum noise

limits for nearby properties and require monitoring as necessary to demonstrate compliance.

PLACE SERVICES (Ecology) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection. Comments that the ES relies upon ecological mitigation provided within the ES of the GBP development ES, the mitigation should have been presented within the ES for this development, in particular with respect loss of 50m hedge protection of veteran trees. Essential mitigation proposed within the GBP development is secured as part of these proposals. Welcomes the potential for Biodiversity off-setting.

PLACE SERVICES (Landscape) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – Raises concern that the landscape and visual assessment does not appear to have assessed the impact of the workings on all the adjacent properties. Screening is not provided on all the boundaries of New Hall School, particularly that adjacent to the playing fields.

PLACE SERVICES (Archaeology) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection. The ES has identified a number of archaeological sites will require excavation and recording secured through appropriate conditions.

PLACE SERVICES (Historic Buildings) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection. Mineral extraction and the wider development are undesirable in the context of a Tudor palace at New Hall and its former parkland, the ES and mitigation are appropriate response in the circumstances.

SPRINGFIELD PARISH COUNCIL – No comments received.

LITTLE WALTHAM PARISH COUNCIL (adjacent) – No comments received.

BOREHAM PARISH COUNCIL (adjacent) – No objection.

BROOMFIELD PARISH COUNCIL (adjacent) – No comments received.

LOCAL MEMBER – CHELMSFORD – Springfield: No objection.

LOCAL MEMBER – CHELMSFORD – Broomfield & Writtle (adjacent): Any comments received will be reported.

LOCAL MEMBER – CHELMSFORD – Chelmer (adjacent): Any comments received will be reported.

13. REPRESENTATIONS

No properties lie within 250m of the boundary and therefore no properties were directly notified of the application. No letters of representation have been received as a result of site or press notices.

14. APPRAISAL

The key issues for consideration are:

A Need & Principle of the Development

- B Relationship With Mixed Use Development And Legal Agreements
- C Landscape and visual Impact
- D Impact on Residential & Local Amenity – air quality, dust and noise
- E Ground & Surface Water
- F Ecology
- G Historic Environment
- H Traffic and Highways
- I Agriculture and Soils
- J Public Rights Of Way
- K Phasing, Reinstatement/Restoration & Timescale

A NEED & PRINCIPLE OF THE DEVELOPMENT

The application site already has an extant planning permission for sand and gravel extraction (Ref: CHL/1890/87). At that time the site was a preferred site in the Minerals Subject Plan (Adopted 1991) and the reserves within the site form part of the Landbank of sand and gravel for Essex. Therefore the principle of mineral extraction is already accepted and established and therefore the proposals are in accordance with M1 and MLP2.

The application site also lies within Site Allocations 8 and 11 of the adopted North Chelmsford Area Action Plan (NCAAP)(which allocates the land for mixed use development). At the preparation stage for this document it was highlighted that it was essential that the mineral within the site should be worked prior to the mixed use development to prevent its sterilisation. This was accepted by all parties, landowner, mineral owner, District and County Council, to ensure it's conformity with MIN4 of the Replacement Structure Plan and protect the permitted mineral reserves of Essex. Under the existing mineral permission CHL/1890/87 the mineral is not phased to be worked for a number of years, beyond the timescale for the mixed use development. A Statement of Common Ground was submitted to the Examination In Public with respect to NCAAP, with agreement that an application to work this area for minerals prior to the mixed use development would be made; hence the current application has been submitted. The application meets the requirements of the North Chelmsford Area Action Plan which requires prior extraction and is in accordance with MLP policy MIN4.

The current application also proposes the partial infilling of the void created by mineral extraction to enable the levels to be blended with the adjacent unworked land to the south and ensure the Radial Distributor Road forming part of the mixed use development was not required to have unnecessary slopes. The inert waste to infill the void would utilise overburdens and soils generated by the excavations required as a result of the adjacent mixed use development. The site would be restored to pre-existing ground levels in the southern half of the site, the northern half would be restored at 3m below natural ground levels and utilised to locate the Radial Distributor Road for the GBP development and remainder dropping to 6m below existing ground levels, such that in the future it would tie with the low level restoration of Bulls Lodge Quarry.

WLP policy W9B seeks to minimise landfilling and landraising for it's own sake, the amount of landfilling permitted only being that necessary and essential to achieve satisfactory restoration. It is considered that while low-level restoration had been

proposed under the original restoration scheme permitted under CHL/1890/87, this was appropriate with respect to agricultural restoration, but due to its proposed afteruse for mixed development, including the radial distributor road the proposed partial reinstatement of levels is necessary. It is therefore considered the proposals accord with W9B. In addition by utilising waste overburdens and subsoils from the adjacent site, it avoids the need for this material to be disposed of elsewhere and the associated HGV movements. It is therefore considered that the development is considered to be sustainable development as set out in NPPF meeting the economic role, by assisting in providing infrastructure, while ensuring extraction of a valuable mineral resource, the social role helping to deliver housing and environmental role finding a sustainable use for waste materials arising from the development.

The sand and gravel would be processed through a mobile dry screen plant to be located within the void; this is conformity with MLP policy MLP10 which seeks to locate primary processing plant within the mineral extraction site. Mineral at Bulls Lodge Quarry is currently processed through a wet screen process, while this ensures the best use of the quality of the material, there is nothing to prevent sand and gravel being exported direct from the Bulls Lodge Quarry without processing, such that while the current proposals would not result it the most beneficial processing and maximising of value of the mineral resource than if it had been processed through the Bulls Lodge Quarry Plant, it has to be recognised that this could have happen even if worked as a phase of Bulls Lodge Quarry rather than separately. In addition because this section of reserve is being worked in isolation of the bigger reserve in Park Farm, it is economically unviable to establish either a haul road or conveyor to Bulls Lodge Quarry processing plant and transportation by road would have increased road miles. On site wet processing would require disposal of silt which could potentially lead to instability in the restored land which would be subject to built development, therefore dry screening is considered acceptable in the circumstances.

The dry screened minerals are proposed to be used in the construction of the mixed use development, reducing the amount of mineral requiring to be imported to the GBP development and reducing the number of vehicle movements associated with both export of the processed mineral.

It is therefore considered that the use of dry screening accords with MLP policy MLP10 and is sustainable in that it is meets the NPPF economic role by co-ordinating development requirements and the environmental role by using natural resources prudently.

While the principle of the development is accepted it is necessary to consider whether there would be any significant adverse environmental effects or other material considerations that would prevent the grant of planning permission.

B RELATIONSHIP WITH MIXED USE DEVELOPMENT AND LEGAL AGREEMENTS

As explained above, the need for this application and early working of this mineral is a direct result of the requirement to ensure the mineral is worked prior to its redevelopment for mixed use development. The mineral application area is only a

small part of the application area of the GBP development. In addressing the impacts for the mineral/waste development the ES has it relied upon mitigation proposed as part of the ES for the GBP development. In order to ensure this mitigation is deliverable it is essential that the mineral development can only be commenced when the GBP development has commenced.

In addition as the mineral is to be wholly used within the GBP development, with no proposed export of minerals from outside the GBP development, it is essential to ensure that the GBP development is commenced prior to mineral extraction to ensure there is a use for the mineral.

To address these two matters it is necessary for the developer to provide a legal obligation through a legal agreement not to commence the mineral development until the GBP development has lawfully commenced (the developer is the same for both developments), both CCC and ECC would be a party to the legal agreement. The developer is willing to enter into such an agreement, subject to planning permission being granted.

There is an existing legal agreement (Section 52) signed in 1990 associated with the Bulls Lodge Quarry permissions to which the application land is subject, which involved various parties including all landowners, the mineral company and both Chelmsford Borough Council and Essex County Council. This existing legal agreement covered a number of matters, including protection of the North East Chelmsford By-Pass route (at that time), restoration obligations and all the conditions of the two Bulls Lodge Quarry permissions. Subject to planning permission being granted, there would need to be a legal agreement to address the existing agreement and carrying forward and update any relevant clauses of the s52 agreement to the application site, as to whether this is a separate legal agreement or part of S106 is a matter being resolved by the applicant and County's legal team.

Also through this report other matters requiring legal obligations as a result of the mineral/waste development have also been identified.

The need for such an agreement meets the key dimensions of sustainable development set out within the NPPF by achieving the economic role supporting growth through co-ordinating development and the environmental role contributing to protecting and enhancing the environment.

C LANDSCAPE AND VISUAL IMPACT

The landscape is characterised by medium fields with hedgerows, with small copses and concentrated isolated farmsteads. The surrounding land consists mainly of urban fringe (existing Beaulieu Park housing development); land in rural use and of note is the Grade 1 Listed New Hall Buildings and associated registered park and garden which contribute to the value placed on this landscape. However, the Boreham airfield and past and current mineral workings to the north east and west have eroded the landscape quality through loss of hedgerows. The site itself is not subject to any National or local landscape designations. The ES concluded the impact would be low adverse.

Policies MLP13, W10E, ENV2, CP9, CP13, DC18 and DC20 seek to protect and enhance the landscape, countryside and historic landscape character, including Listed Buildings and Historic Parks and Gardens.

The elements of the proposal most likely to impact on the landscape character are the storage bunds, plant and equipment. Storage bunds have been located on the southside of the development to screen views of the mineral extraction and the processing plant is to be located below natural grounds levels to reduce its impact.

Concern has been expressed by the County's landscape officer that the ES could have more thoroughly considered the landscape and visual impact particularly with respect to New Hall School and nearest residential properties. The applicant was requested to provide additional bunding to supplement that proposed but is unable due to the need to retain stand offs from existing vegetation and ponds. The applicant states that no advanced planting has been proposed as part of the development, due to the short-timescale of the development. Landscaping on the boundary of New Hall School is proposed as part of the GBP development and in order to ensure this is planted at an early stage a commitment for such could be required through a legal obligation, should planning permission be granted.

The proposed storage bunds in themselves would introduce features into the landscape and in order to soften their impact it is considered that where the storage mounds face south and east their slopes should be slackened from 1:1 to 1:3 and topsoiled to ensure successful grass seeding to soften their impact, this could be secured by condition.

With respect to the visual impact the ES included a visual impact assessment. The ES concluded that the development would result in a slight significant impact, with the main impact being on users of the PROW, from most residential properties in most cases it was concluded within the ES that the development would not be visible.

Policies MLP13, W10E, CP13 and DC4 seek to protect local and residential amenity from adverse effects of visual intrusion.

The nearest residential properties are within the New Hall School grounds to the south, along Generals Lane to the east and at Belsteads Farm to the south west. In addition footpath Springfield 4 runs outside the site but along the southern boundary. The ground in the vicinity of the site is relatively flat, but does fall to the south towards New Hall School. Views are interrupted by hedgerows and hedgerow trees. All hedgerows, apart from a 50m section which does not provide screening to nearby residents, would be retained and protected on site. Proposed bunding would further prevent views of the extraction areas from residential properties. Views from the public right of way would in part be obscured by the existing hedgerow and copse to its north and an overburden bund is proposed in the south west of the site screening views of the majority of the south west area of the mineral extraction and processing area, apart from views of the haul road and entrance to mineral void (which lies between the screening bunds). However the hedge and copse in the south east of this part of the site would screen views to a certain extent.

It is considered subject to the slackening of outwards faces of the bunds and grass seeding of the bunds and early planting of vegetation as part of the GBP development, as described above, the development would not result in an adverse landscape or visual impact. It is therefore considered the proposals would be in accordance with policies MLP13, W10E, ENV2, CP9, CP13, DC4, DC18 and DC20. It is considered subject to the suggested conditions and obligations there would be no significant adverse landscape and visual impact and the proposals comply with NPPF objectives with respect to its social and environmental role, supporting healthy communities and protecting the natural and historical environment.

D IMPACT ON RESIDENTIAL & LOCAL AMENITY – AIR QUALITY, DUST AND NOISE

The ES included a noise impact assessment of the proposals and impact upon air quality assessment which addressed dust only. The matter of vehicle emissions was not considered as the urban fringe location was likely to have low pollutant levels such that increase caused by the development would be unlikely to exceed national air quality levels.

Policies MLP13, W10E, CP13, DC8, and DC29 seek to protect residential and local amenity from the adverse impacts of noise and dust.

Dust

The nearest residential properties are at Belsteads Farm (240m), New Hall School (270m) and properties on Generals Lane (approximately 300m). In addition the playing fields of New Hall School are located within 100m of the extraction area. The Channels Golf Course lies within approximately 70m of the extraction, although this area is now in principle resolved to be redeveloped for housing, in order to protect the residential amenity of the occupants of these new houses (from both dust and noise disturbance) the nearest areas to the mineral working are either areas of public open space or occupation of residential properties within 100m of the mineral working are to be controlled by condition, through the housing permission, to be only occupied after completion of permitted mineral extraction.

It was concluded within the ES that with respect to residential amenity due to the distances of greater than 100m and prevailing winds from the south-west, subject to utilisation of standard dust suppression measures (which could be secured by condition) the ES concluded there would negligible adverse effects.

In order to protect the residential amenity of the occupants of properties to be built as part of the GBP development a condition would be imposed by CCC on the GBP planning permission preventing occupation of any new houses within 100m of the proposed mineral extraction.

It is therefore considered subject to appropriate conditions with respect to dust suppression the proposal are in accordance with policies MLP13, W10E, CP13, DC8, DC29 and proposals comply with NPPF objectives with respect to its environmental role, by minimising pollution.

Noise

The nearest noise sensitive residential properties are as those described above with respect to dust, in addition within the grounds of New Hall School the closest residential property is 300m from the mineral working. The noise assessment calculated likely noise levels during the proposed operations in relation to the surrounding properties.

Policies MLP13, W10E and DC29 seek to protect residential and local amenity from adverse noise impact.

The noise assessment demonstrated that the mineral and infilling operations could be carried out such that the recommended increase in noise levels above background would not be exceeded, except for temporary operations, such as soil stripping and bund formation which are permitted for a limited period each year at a high noise levels. The noise would in part be minimised by the construction of the proposed overburden/soil storage mounds between the mineral/landfill workings and the residential properties.

The County Council's Noise consultant has raised no objection to the application, subject to appropriate conditions setting the maximum noise limits for the nearest noise sensitive properties, setting the maximum temporary noise level limit and requiring noise monitoring as necessary to show compliance with the permitted levels. It was noted that the noise assessment was made against guidance within MPS2 which has now been superseded by the NPPF, but it is considered that the noise assessment is still appropriate and meets the noise requirements of the NPPF.

With respect to both noise and dust it would be appropriate to impose hours of operation conditions to protect residential amenity from disturbance outside normal operating hours.

It is therefore considered subject to securing the conditions with respect to the proposed bunding and noise limits, noise monitoring and hours of operation; the proposals would accord with policies MLP13, W10E and DC29. Also that the proposals deliver sustainable development meeting the environmental role of the NPPF by minimising pollution

E GROUND & SURFACE WATER

The ES includes a hydrogeological assessment, surface water assessment and Flood Risk Assessment. The proposal would require dewatering of the mineral void to enable full extraction of the reserve.

Policies WAT1, WAT3, WAT4, MLP13, W10E, W4A, W4B, CP13 and DC29 seek to protect groundwater, prevent increased flood risk and ensure sustainable drainage systems.

The hydrogeological assessment identified that there appeared to differing zones of saturation with partial saturation in the north and full saturation of the sand and gravels in the south. In addition that there appears hydraulic barrier in a general south west and north east direction. There are 5 licensed abstractions: 3 are located in New Hall School and the others at New Hall Farm and Walter Hall Farm

on Generals lane, and these are understood to be for domestic or agricultural uses. It is unclear the general flow of the groundwater, a number of different investigations having concluded different directions. The effect of dewatering and the potential draw down impact has been assessed and there is potential for impact upon the licensed abstraction points. The applicants have proposed mitigation would be to connect the users to mains water supply should serious degradation be caused. The applicant has been reluctant to investigate these private abstractors to ascertain existing conditions, due to the fact that it is unlikely there would be an adverse impact. Investigations by the MPA indicate that the abstractors are already connected to mains water, but it is considered appropriate to require groundwater monitoring in and outside the site, to assess the extent of any impact and through a legal obligation to provide connection to the mains, should this prove necessary, should planning permission be granted.

There are seven ponds within the vicinity of the site (considered important due to the potential for Great Crested Newts) including that within Channels LWS. These were assessed not to be in hydraulic connectivity with the groundwater and therefore would be unaffected by the dewatering. It was assessed that groundwater was likely to have connectivity to springs in the south west and Boreham Brook in the northwest, but the distance to these features was such that the impact was not significant.

Water from the dewatering of the site is proposed to be discharged into the surface water system drainage system proposed as part of the GBP development, which would go via a settlement pond within the Neighbourhood development before being discharged to River Chelmer. Groundwater quality in the site was assessed to be good such that it would have no adverse impacts when discharged to the River Chelmer. The settlement pond would ensure that suspended solids would have settled before being discharged to the River Chelmer.

The site in terms of surface water straddles a watershed boundary, whereby water to the south and west drains to the River Chelmer, while water to the northeast drains to the Boreham Brook and then to the River Chelmer. As water from dewatering would be discharged to the River Chelmer while there might be some reduction due to evaporation, there was unlikely to be an adverse impact on flows within the River Chelmer.

With respect to Flood Risk Assessment the site is located within Flood Zone 1 with the River Chelmer 1.2km to the west, such that no flood risk issues would arise as a result of the development.

The EA have raised no objection to the proposals, subject to appropriate condition/obligations to control the impact of the development with respect to dewatering controlling the rate of discharge, ground water monitoring to assess the impact on groundwater levels and drawn down effects. The EA has advised the applicant should contact current holders of abstraction licence in the area to establish current conditions of the abstraction, such should there be degradation it can be established whether this is associated with the mineral working or not.

It is considered subject to appropriate conditions as required by the EA (as described above) and with respect to good site practice, the quality of ground and

surface water could be protected. It would be necessary to secure mitigation with respect to ground water abstraction users through a legal agreement, as well as for the management of surface water which is proposed to be discharged off site within the GBP development. Subject to such controls it is considered the proposals are in accordance with Policies WAT1, WAT3, WAT4, MLP13, W10E, W4A, W4B, CP13 and DC29 and meet the environmental objectives of the NPPF.

F ECOLOGY

The ES included an ecological assessment. The only locally designated nature conservation site is LWS Channels Golf course, abutting the site on the north west boundary. Notable habitats and species within the site were assessed to be ponds that could support GCN populations species rich hedgerow, with mature tress, that could support bats and breeding birds

Policies ENV3, MLP13, W10E, and DC13 seek in combination to maintain and enhance sites of biodiversity and geological value.

The ponds identified as potential GCN habitat are considered not to be in hydraulic connectivity with the groundwater and would therefore be unaffected by the dewatering operations. However, if upon implementation this was found not to be the case, topping up of the ponds could be controlled through condition/obligation utilising water within the GBP development. A 10m standoff is proposed from field margins to protect hedgerows and hedgerow trees to be retained and newly planted trees belts which contain slow worms and lizards. A section of "important hedgerow" to be lost contains no veteran trees and subject to avoiding bird nesting season and bio-diversity mitigation proposed within the GBP development, there would be no significant adverse impact from the loss of this potential habitat corridor.

The cumulative effects of the mineral development, Belsteads Farm Development (Channels Golf Club land) and the GBP development have been considered, few habitats of high conservation value would be directly affected, however loss of linear features such as hedges and stream channels would result in fragmented habitats and corridors, which could result in significant impact. Mitigation is proposed through the master plan process for the developments, which includes retention of the majority of ponds, key wildlife corridors and utilising water drainage to feed ponds and recharge groundwater. An ecological Management Plan is required as part of the GBP development. In order to ensure this is in place, a legal obligation could be required as it relates to development not in the control of the Mineral Planning Authority.

Natural England has raised no objection to the application, subject to the interconnection of the mitigation proposed within the two application minerals and mixed use development being appropriately secured. The County's ecologist has also raised no objection, although did comment that while it's appreciated that mitigation is to be provided via the GBP development, the ES should have specifically set out the mitigation necessary for the minerals development within the minerals development ES.

It is considered, subject to conditions and a legal obligation to ensure proposed

mitigation is secured, it is considered there would not significant adverse impact on bio-diversity and the proposals are in accordance with policies ENV3, MLP13, W10E, and DC13 and meets the NPPF requirements with respect to achieving an environmental role, protecting and enhancing our natural environment.

G HISTORIC ENVIRONMENT

The application was supported by an historic environment assessment including archaeological assessment, historic built heritage and historic landscapes. The archaeological assessment identified some archaeological remains of Iron Age and Roman British rural settlement and mitigation is proposed through preservation by recording. No Listed Buildings are within the site and eleven Listed Buildings were noted, in particular New Hall Grade 1 Listed Building and New Hall Grade II registered park and garden. It was noted that New Hall Tudor palace has been substantially altered by truncation and addition, but does retain considerable architectural and historical value. The outlook to the north towards the mineral site is considered not to contribute to the asset as there are modern school developments. Other Listed Buildings are at such a distance with intervening vegetation that there was considered to be no adverse impact on their setting.

Policies ENV6, MLP13, W10E, CP9, DC13, DC20 and DC 21 seek to protect, enhance and preserve the historic environment, including archaeological remains and the setting of Listed Buildings, Registered Parks & Gardens.

The county's historic environment team have raised no objection, subject to an appropriate archaeological assessment. It was commented by the County's Historic building officer that the impact of mineral extraction was undesirable on the New Hall Tudor Palace, but in the context of the GBP development the assessment and mitigation proposed was an appropriate response.

It is considered subject to appropriate conditions to ensure archaeological assessment and an obligation for early planting on the northern boundary of New Hall School proposed as part of the GBP development the proposals would not have a significant adverse impact on the archaeological remains or setting of the surrounding listed buildings provided the site is operated as proposed. It is therefore considered the proposals are in accordance with ENV6, MLP13, W10E, CP9, DC13, DC20 and DC 21 and is in compliance with the NPPF in that the proposals achieve the social role supporting the cultural well-being and protecting and the environmental role enhancing the built and historic environment.

H TRAFFIC AND HIGHWAYS

The application would generate only limited traffic movements. Mineral extracted from the site is proposed to be utilised in the construction of the GBP development, while fill material to restore the void is to also be sourced from the construction works from excavations, such that there would be no need for HGV's exporting mineral outside the confines of the GBP development scheme for which there are internal haul roads proposed.

Policies T6, MLP3, MLP13, W4C and DC6 seek to ensure that suitable safe access is provided onto the public highway and that sustainable forms of transportation are

utilised.

The only traffic to be generated would be the initial bringing on site of necessary plant and machinery and daily movements associated with staff. Access to the public highway would be controlled through the traffic and access arrangements for the GBP development. Appropriate conditions could be imposed to ensure access from the site is only from the proposed internal haul roads and through an obligation in a legal agreement that access to the public highway only via those routes/access points approved under the GBP development.

It is considered that there would be no adverse impact on the highway network and that the utilisation of minerals and disposal of materials in association with GBP development ensures a sustainable use of mineral resources and a sustainable means of disposing of excavation waste minimising the need for HGV movements to the public highway. It is considered that the proposals are in accordance with policies T6, MLP3, MLP13, W4C and DC6 and meet the NPPF aim for planning to sustainably develop through co-ordinating development requirements, its economic role, and reducing carbon emissions from vehicles achieving its environmental role.

I AGRICULTURE AND SOILS

The proposal would result in the loss of agricultural land; however, the principle of this loss of agricultural land has already been established and accepted through the adoption of the Chelmsford North Area Action Plan.

Policies MLP8 and MLP9 seek to ensure restoration to a beneficial after-use and where appropriate return best and most versatile land to agricultural. Policies MLP8 and W10E seek to protect best and most versatile agricultural land. Since preparation of the MLP and WLP the emphasis on restoration to agriculture has been amended through both the sRSS policy ENV6 and the NPPF (paragraph , such that while agricultural land should be protected more importantly it is the soil resource that should be protected, such that should it be required for agriculture it is still available. The NPPF refers to the protection of soils.

Natural England in their consultation response has highlighted the need for protection of soils and their sustainable after-use.

The soils stripped from the mineral working are proposed to be stripped according to best practice and stockpiled on site and conditions to secure such could be controlled through conditions. Topsoil is a valuable resource that should be protected, it is considered appropriate to impose a condition requiring the applicant to demonstrate that topsoil would be utilised in a sustainable manner in the GBP development such that they are protected for future use, should planning permission be granted.

It is considered subject to the above suggested conditions that there would not be a significant adverse effect on agricultural soils and the proposals would be in accordance with policies MLP13, W10E, ENV6 and the NPPF supporting sustainable development achieving the environment role through protecting rural resources.

J PUBLIC RIGHTS OF WAY

Footpath Springfield 4 (part of the Chelmsford Centenary Circle trail) runs along the southern boundary outside of the application site, such that it would only impact on users of the footpath rather than its actual route.

The ES considered the visual impact of users of the footpath is was acknowledged that there would be some adverse impact, but that existing hedges and a copse on the southern boundary when combined with proposed soil and overburden storage bunds would screen the majority of the operations from users of the path. It also has to be acknowledged that the impact of the mineral working is relative in the context of the development of the GBP development. The footpath is proposed to be incorporated into the GBP development within areas of public open space.

Policies MLP13, W10E, W10G and DC41 seek to protect and enhance public rights of way. It is considered that with the proposed screening bunds that would not be a significant adverse impact on users of the public right of way and would not be contrary to the planning policies.

K PHASING, REINSTATEMENT/RESTORATION & TIMESCALE

The site is proposed to be worked in a phased manner establishing the processing plant at low level in the east of the site, the initial stripped material to be used to form soil storage and overburden bunds. The site would then be worked in 14 phases working in a west to east direction across the site with infilling following extraction. It is anticipated that sufficient material would have been generated by the GBP development in 2016 complete the restoration. The application site is phased to be the last area for development as part of the GBP development anticipated to be developed in 2020. As there is likely to be a potential delay between completion of infilling and redevelopment for mixed use it would be appropriate to require an interim restoration scheme that would require phased interim restoration scheme for the site, such that the land is restored to rough grassland in order to minimise its impact upon the countryside and subject to such conditions would be in accordance with MLP9 and W10C.

On the northern boundary, the site abuts the land still in the control of Bull Lodge Quarry operator which will be worked under the existing permission, but not planned currently to be worked for a number of years. This land is also within of the Chelmsford North Area Action Plan, and it is understood Bull Lodge Quarry operator do intend to come forward with an application to work this land at an earlier stage than currently planned. It would be necessary to leave a face/slope on the northern boundary of the current application site such that the operators of Bulls Lodge Quarry can work through this face when working mineral to the north. The restoration scheme for the land to the north is permitted to be restored at low level; the levels within the current application and within the Bull Lodge Quarry operator would have to be reconciled in the future to provide an acceptable landform which enables mixed use development. As the restoration levels to merge the two sites are not known at this time it is considered that the final restoration levels along this northern boundary could by condition to be submitted prior to completion of mineral extraction in the control of Bulls Lodge Quarry's

operator. Subject to such conditions the proposals would be in accordance with policies MLP8 and W10C and ensure the landform is suitable for built development as part of the NCAAP.

The application anticipates a timescale of 4 years for mineral extraction and restoration, but requests that the planning permission be granted for 8 years to allow greater flexibility as progress of the extraction and infilling is dependent on the rate of progress within the GBP development. The ES has been based on the proposals being implemented over a 4 year period many of the impacts would remain the same but occur over a longer period, however there is potential of adverse impact with respect to ecology and hydrogeology if the extraction/infilling were to be undertaken for a longer period. Therefore if extraction and or infilling is not completed within 4 years of commencement it is considered appropriate to require review of the impact of the proposals on the ecology and water environment and require any necessary mitigation prior to further working, this could be achieved by condition.

It is acknowledged that reinstatement/restoration on the northern boundary is dependent on Bull Lodge Quarry operators completing their extraction, over which the applicant has no control and therefore it is considered reasonable that details with respect to restoration of this area could be required over a longer period.

All of the above factors meet the NPPF objectives for planning achieving the economic role supporting growth through co-ordinating development including infrastructure, social role facilitating delivery of housing and environmental role ensuring prudent use of resources in this case minerals.

15. CONCLUSION

The principle of mineral extraction had already been established through the grant of planning for Bulls Lodge Quarry in 1990 and therefore in conformity with policy MLP1. The need for its early extraction ensures the mineral is not sterilised by the GBP development and therefore meets the requirements of both policy MIN4, while enabling the implementation of the North Chelmsford Area Action Plan.

With respect to environmental and other considerations, subject to legal obligations and conditions to control the environmental impacts and other materials matters it is considered there would be no adverse impact, in particular:

- restructuring or alteration of obligations within the existing s52 that relate to the application land;
- conditions to control screening of the development and protection of existing vegetation to minimise visual and landscape impact, in particular New Hall Tudor Palace, in accordance with policies MLP13, W10E, DC18, DC20;
- conditions to control noise and dust impact to minimise impact on residential and local amenity in accordance with policies MLP13, W10E, W10G, DC8, DC29 and DC41;
- conditions and legal obligations are required to minimise the impact of the development on the water environment, in particular with respect to monitoring of groundwater and mitigation if adverse impact results on existing water abstraction licence holders or ecologically sensitive areas and

an obligation to ensure the off site water management mitigation provided within the GBP development is secured in accordance with policies WAT1, WAT3, WAT4, MLP13, W10E, W4A, W4B, CP13 and DC29;

- obligations to ensure delivery of ecological mitigation provided for through the GBP development and conditions to ensure protection of habitats and species including stand offs to hedgerows, timing of operations and removal of the hedgerow, in accordance with policies ENV3, MLP13, W10E, DC13;
- conditions to ensure recording of archaeological remains and an obligation for early planting north of New Hall School the proposals would be in accordance with policies ENV6, MLP13, W10E, CP9, DC13, DC20 and DC 21;
- conditions to ensure protection soils and an obligation to utilise topsoils sustainably within the GBP development, the proposals would be in accordance with policies MLP13, W10E, ENV6; and
- conditions to ensure logical phasing and timely working and restoration within 4 to 8 years, the re view of impacts on ecology and water environment in year 4 and a longer period for restoration of the northern boundary which will dependant of the adjacent area being worked by Bulls Lodge Quarry operators.

By requiring the above conditions and obligations it is considered the development could be properly controlled and would achieve the social and environmental roles as set out in the NPPF by protecting the health, social and cultural well-being, protecting and enhancing the natural, built and historic environment, enabling growth and co-ordinating developments, the economic role.

It is considered in conclusion the proposals including the mitigation proposed which could be secured through conditions and obligations would achieve sustainable development in accordance with the NPPF.

16. RECOMMENDED

That planning permission be **granted** subject to

i) The prior completion, within 12 months, of Legal Agreements under the Planning Acts to secure obligations covering the following matters:

- The scheme of obligations relating to the application site as currently set out within the existing s52 legal agreement associated with planning permissions CHL/1890/87 and CHL/1019/87 will require to be altered and/or restructured or a new legal agreement agreed to take account of the proposals.
- Not to commence implementation of the mineral/backfill development until lawful commencement of GBP development (CCC application ref: 09/01314/EIA).
- Prior to commencement of the mineral/backfill development to obtain approval from ECC of the habitat management plan as required by CCC application reference ref: 09/01314/EIA, subject to Chelmsford City Council confirming they intend to approve the same habitat management

plan.

- Prior to commencement of the mineral development to obtain approval from ECC of the construction and environmental management plan as required by CCC application ref: 09/01314/EIA, subject to Chelmsford City Council being in a position confirming they intend to approve the same construction and environmental management plan.
- Prior to commencement of dewatering of the application site to obtain approval from ECC of the drainage management system (in particular with respect to the settlement pond and discharge of water resulting from dewatering and surface water from the application site) as required by CCC application Ref. 09/01314/EIA, subject to Chelmsford City Council confirming they intend to approve the same drainage management system.
- Groundwater monitoring outside the application site as described within the application and Environmental Statement
- Scheme of mitigation to be submitted should the water level in ponds outside the site drop significantly due to activities associated with the mineral/backfill development.
- Requirement for applicant to serve Unilateral Undertakings (UU) (the wording of which to be agreed in advance with MPA) on licensed abstractors. The UUs obligating to put licensed abstractors on mains water supply should there be significant detrimental impact upon water abstractions resulting from the mineral/backfill development.
- Early implementation of planting on the north and west boundary of New Hall School, as proposed by planning application CCC Ref: 09/01314/EIA.
- Access/egress to and from the public highway for vehicles associated with the mineral/backfill development only at locations as approved under planning application CCC Ref: 09/01314/EIA

ii) And conditions relating to the following matters;

- COMM1 Commencement within 5 years
- COM3 Compliance with Submitted Details
- PROD 1 Export restriction - no greater rate than 325,000 tonnes per annum
- CESS5 Cessation of Mineral Development within 4 years, cessation of landfilling and restoration within 8 years except for restoration of boundary with Bulls Lodge Quarry extraction
- CESS3 Removal of Ancillary Development
- CESS7 Revised Restoration in Event of Suspension of Operations
- HOUR2 Hours of working (Mineral Specific)
07:00 to 18:30 hours Monday to Friday
07:00 to 13:00 hours Saturdays

- and at no other times or on Sundays, Bank or Public Holidays.
- The schedule of work and timescales shall be carried out to accommodate the infrastructure delivery plan set out in the proposal of application ref. 09/01314/EIA
- South and east facing slopes of stores of overburden and subsoil shall be no greater than 1:3 and shall be topsoiled and seeded in first available planting season and subject to a programme of maintenance
- LGHT1 Fixed Lighting Restriction
- ECO3 Protection of Breeding Birds
- Submission of method statement with respect to removal of hedgerow
- Scheme of mitigation should ponds within the site dry due to mineral operations
 - 10m standoff to all retained hedgerow and hedgerow trees
 - NSE1 Noise Limits
 - NSE2 Temporary Noisy Operations
 - NSE3 Monitoring Noise Levels
 - NSE5 White Noise Alarms
 - NSE6 Silencing of Plant and Machinery
 - HIGH3 Surfacing/Maintenance of Haul Road
 - HIGH2 Vehicular Access
 - DUST1 Dust Suppression Scheme – including source of water for dust suppression
- POLL6 Groundwater Monitoring
- Flood risk mitigation in accordance with FRA Dec 2011
- Details of method of soil stripping and placement
- LS4 Stripping of Top and Subsoil
- LS5 Maintenance of Bunds
- LS8 Soil Handled in a Dry and Friable Condition
- LS10 Notification of Commencement of Soil Stripping
- LS12 Topsoil and Subsoil Storage
- ARC1 Advance Archaeological Investigation
- No material other than overburden, subsoils and excavation waste (except topsoils) shall be disposed in the void
- POLL 4 Fuel/Chemical Storage
- POLL 8 Prevention of Plant and Machinery Pollution
- Scheme for removal of suspended solids from surface water run-off
- RES4 Final Landform
- Interim restoration scheme to rough grassland for phases where infilling complete, but redevelopment under GBP development not planned within 6 months
- Submission of restoration details for northern boundary area as indicated hatched on ES4.16 ensuring levels tie in with those permitted as part of CHL/1890/87 or any subsequent amendment
- Nature and use of infilling materials in accordance with report by URS Mineral Extraction and Backfill dated May 2012 and ensure the made up ground over which the Radial Distributor Road associated with application Ref 09/01314/EIA being dealt with by CCC is backfilled with appropriate material and compacted to finished levels to support the new RDR design requirements.
- MIN1 No Importation

- WAST6 No Crushing of Stone
- GPDO2 Removal of PD Rights
- Scheme of mitigation should ponds inside the site dry due to mineral operations
- No extraction or infilling at the site 4 years after commencement until the submission and approval of a reassessment of the impact of the proposals on ecology and the water environment.
- Submission of details of use of surplus topsoils

BACKGROUND PAPERS

Consultation replies

Ref: P/DC/Claire Tomalin/ESS/21/12/CHL

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.

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

The proposed development would not be located within the screening distance for SACs/SPAs and the nature of the development is such that it would not adversely affect the integrity of such sites, either individually or in combination with other plans or projects. Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required.

STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER

Essex County Council has worked with Chelmsford City Council, the applicant and other interested parties, during the preparation and adoption of the Chelmsford North Area Action Plan, to ensure that permitted minerals resources were protected from sterilisation by facilitating its early extraction so as to assist in the delivery of the development of this area for mixed uses. Subsequent to this ECC has been engaged in pre-application discussions with the applicant, including the issue of EIA Screening and Scoping Opinions to ensure all issues were appropriately addressed within the application and Environmental Statement to minimise delays in its determination.

During determination of the application ECC forwarded on all statutory consultation responses received in a timely manner to the applicant. This provided the applicant with the opportunity to see and comment on any and all issues which were raised and provided additional information where necessary. ECC has continued to liaise with CCC with respect to the interrelationship between the mineral application and the GBP application.

LOCAL MEMBER NOTIFICATION

CHELMSFORD Broomfield & Writtle
CHELMSFORD – Boreham
CHELMSFORD - Springfield

Consideration of Consistency of Policies

| Essex & Southend-On-Sea Replacement Structure Plan adopted April 2001 | | |
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| Ref: | Policy | Consistency with NPPF and PPS10 |
| MIN4 | Wherever possible, potentially workable mineral deposits will be safeguarded from surface development that would sterilise the minerals or prejudice their working. If, in the opinion of the Mineral Planning Authority, surface development should be permitted, consideration will be given to the prior extraction of the minerals to the extent that such extraction would not be likely to render the site unsuitable for the development proposed, and that the deposit is, or may become, economically significant. | <p>Paragraph 142 of the NPPF requires MPAs to set out policies to encourage the prior extraction of minerals, where practicable and environmentally feasible, if it is necessary for non-mineral development to take place.</p> <p>Paragraph 142 of the NPPF places an obligation on MPAs to define Minerals Safeguarding Areas to prevent needless sterilisation of known locations of specific mineral resources.</p> <p>In addition Paragraph 144 of the NPPF requires MPAs in determining applications to not normally permit non-mineral development where this would constrain future working of the minerals.</p> <p>Policy MIN4 is therefore considered to be in conformity with the NPPF.</p> |
| Minerals Local Plan Adopted January 1997 | | |
| Ref: | Policy | Consistency with NPPF |
| MLP1 | The Mineral Planning Authority will endeavour to ensure that reserves of land won sand and gravel are always available, with planning permission, sufficient for at least seven years' extraction or such other period agreed as National Policy based on the production level that may be periodically agreed by them as part of the Regional apportionment exercise. | <p>Paragraph 145 of the NPPF places an obligation on the MPA to plan for a steady and adequate supply of aggregates using landbanks as an indicator of the security of aggregates supply and making provision for maintenance of at 7 years for sand and gravel.</p> <p>Policy MLP1 is therefore considered to be in conformity with the NPPF</p> |
| MLP2 | <p>Mineral working will be permitted only where there is an identified national, regional or local need for the mineral concerned.</p> <p>In the case of preferred sites the principle of extraction has been accepted and the need for the release of the mineral proven.</p> | <p>Paragraph 145 of the NPPF places an obligation on MPAs to take account of National and Sub National guidelines when planning for the future demand for and supply of aggregates.</p> <p>Landbanks are stated as being</p> |

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| | Applications would be allowed unless the proposal fails to meet a pre-condition or requirement in Schedule 1 or there are unforeseen unacceptable environmental or other problems. | <p>“principally an indicator of the security of supply” in paragraph 145 of the Framework, whereas policy MLP2 treats it as the only indicator.</p> <p>At paragraph 11 & 12 the NPPF states that “the development plan as the starting point for decision making...unless other material considerations indicate otherwise.</p> <p>The NPPF leaves the MPA to identify sites.</p> <p>It is considered that MLP2 is in conformity with the NPPF</p> |
| MLP3 | <ol style="list-style-type: none"> 1. Access from a mineral working will preferably be by a short length of existing road to the main highway network, defined in Structure Plan policy T2, via a suitable existing junction, improved if required, in accordance with Structure Plan policies T4 and T14. 2. Proposals for new access direct to the main highway network may exceptionally 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. There is a presumption against new access onto motorways or strategic trunk roads. 3. Where access to the main highway network is not feasible, access onto a secondary road before gaining access onto the network may exceptionally be accepted if in the opinion of MPA the capacity of the road is adequate and there will be no undue impact on | <p>Paragraph 32 of the NPPF requires LPAs decisions to take account inter alia that “...safe and suitable access to the site can be achieved for all people...” and in Paragraph 35 developments should be located and designed where practical to...” inter alia “...create safe and secure layouts”</p> <p>It is therefore considered that MLP3 is in conformity with NPPF has it seeks to provide safe and suitable accesses.</p> |
| MLP8 | 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 afteruse. Where planning permission for mineral working is given on Grade 1, 2 and 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 | <p>Paragraph 144 of the NPPF 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 NPPF requires protection of soils.</p> |

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| | <p>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, conditions will be imposed to secure:</p> <ul style="list-style-type: none"> i) progressive working and restoration; and ii) aftercare and maintenance of the restored land for not less than 5 years, and iii) a beneficial afteruse of the restored land including the use of areas that remain waterfilled. | <p>The NPPF 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>It is therefore considered that MLP8 is largely in conformity with the NPPF</p> |
| MLP9 | <p>In considering planning applications for mineral working or related development, the Mineral Planning Authority will permit only those proposals where the provisions for working and reclamation contained in the application are satisfactory and the implementation of the proposals is feasible.</p> | <p>The NPPF at Paragraph 144 requires when LPAs are determining planning applications to "...provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards...". To ensure such restoration can be achieved applications need to demonstrate any restoration scheme is feasible.</p> <p>It is therefore considered that MLP9 is in conformity with the NPPF</p> |
| MLP10 | <p>The primary processing plant will normally be expected to be located within the limits of any mineral working at either a low level or with the step being taken to mitigate its visual and aural impact. Sites with their own processing plant will be preferred to minimise movement of material on public roads and, by conditions imposed on permission, plant will not normally be available for material imported on to the site.</p> | <p>The NPPF at Paragraph 144 requires when LPAs are determining applications to ensure applications do not cause inter alia "...unacceptable adverse impacts on the natural and historic environment, human health..." In addition Paragraph 4 requires "...decisions should ensure developments that generate significant movement are located where the need to travel will be minimised..."</p> |

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| | | <p>MLP10 seeks to reduce the environmental impact of mineral processing plant, by locating it at low level.</p> <p>MLP10 also seeks to co-locate mineral extraction with the primary processing plant, reducing unnecessary traffic movements.</p> <p>It is therefore considered that MLP10 is in conformity with the NPPF</p> |
| MLP13 | <p>Planning applications for mineral extraction and related development will be refused where there would be an unacceptable effect on any of the following:</p> <p>The visual and aural environment; Local residents' (or others') amenity; Landscape and the countryside; The highway network; Water resources; Nature conservation.</p> | <p>The NPPF at Paragraph 144 requires when LPAs are determining applications to ensure applications does cause inter alia "...unacceptable adverse impacts on the natural and historic environment, human health..." and</p> <p>In addition in paragraph 144 "...that any unavoidable noise, dust and particle emissions and blasting vibrations are controlled...and establish appropriate noise limits..."</p> <p>The NPPF supports sustainable transport including requiring development to have safe and suitable access (Paragraph 32) and locating development to "...accommodate the efficient delivery of good and supplies..." (Paragraph 35)</p> |
| Essex & Southend Waste Local Plan adopted 2001 | | |
| Ref: | Policy | Consistency with NPPF and PPS10 |
| W3A | <p>The WPAs will:</p> <p>In determining planning applications and in all consideration of waste management, proposals have regard to the following principles:</p> <ul style="list-style-type: none"> Consistency with the goals and principles of sustainable development; Whether the proposal represents the | <p>Paragraph 6 of the NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development.</p> <p>PPS10 supersedes 'BPEO'.</p> <p>PPS10 advocates the movement of the management of waste up the waste hierarchy in order to break</p> |

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| | <p>best practicable environmental option for the particular waste stream and at that location;</p> <ul style="list-style-type: none"> • Whether the proposal would conflict with other options further up the waste hierarchy; • Conformity with the proximity principle. <p>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/composting, energy recovery from waste and waste disposal in that order of priority.</p> <p>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.</p> | <p>the link between economic growth and the environmental impact of waste.</p> <p>One of the key planning objectives is also to help secure the recovery or disposal of waste without endangering human health and without harming the environment, and enable waste to be disposed of in one of the nearest appropriate installations.</p> <p>See reasoning for Policy W8A.</p> <p>Therefore, Policy W3A is considered to be consistent with the NPPF and PPS10.</p> |
| W3C | <p>Subject to policy W3B, in the case of landfill and to policy W5A in the case of special wastes, significant waste management developments (with a capacity over 25,000 tonnes per annum) will only be permitted when a need for the facility (in accordance with the principles established in policy W3A) has been demonstrated for waste arising in Essex and Southend. In the case of non-landfill proposal with an annual capacity over 50,000 tonnes per annum, restrictions will be imposed, as part of any planning permission granted, to restrict the source of waste to that arising in the Plan area. Exceptions may be made in the following circumstances:</p> <ul style="list-style-type: none"> • Where the proposal would achieve other benefits that would outweigh any harm caused; • Where meeting a cross-boundary need would satisfy the proximity principle and be mutually acceptable to both WPA5; • In the case of landfill, where it is | <p>Paragraph 3 of PPS 10 highlights the key planning objectives for all waste planning authorities (WPA). WPA's should, to the extent appropriate to their responsibilities, prepare and deliver planning strategies one of which is to help implement the national waste strategy, and supporting targets, are consistent with obligations required under European legislation and support and complement other guidance and legal controls such as those set out in the Waste Management Licensing Regulations 1994.</p> <p>The concept of the proximity principle has been superseded by the objective of PPS10 to enable waste to be disposed of in one of the nearest appropriate installations.</p> |

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| | shown to be necessary to achieve satisfactory restoration. | Therefore, as Policy W3C is concerned with identifying the amount of waste treated and its source the policy is considered consistent with the requirements of PPS10. |
| W4A | <p>Waste management development will only be permitted where:</p> <ul style="list-style-type: none"> • There would not be an unacceptable risk of flooding on site or elsewhere as a result of impediment to the flow or storage of surface water; • There would not be an adverse effect on the water environment as a result of surface water run-off; • Existing and proposed flood defences are protected and there is no interference with the ability of responsible bodies to carry out flood defence works and maintenance. | <p>Paragraph 99 of the NPPF states that 'Local Plans should take account of climate change over the longer term, including factors such as flood risk, coastal change, water supply and changes to biodiversity and landscape. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure'. In addition Annex E of PPS10 highlights at section <i>a. protection of water resources</i> that 'Considerations will include the proximity of vulnerable surface and groundwater. For landfill or land-raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The suitability of locations subject to flooding will also need particular care'.</p> <p>Therefore, as policy W4A seeks to only permit development that would not have an adverse impact upon the local environment through flooding and seeks developments to make adequate provision for surface water run-off the policy is in conformity with PPS10 and the NPPF.</p> |
| W4B | Waste management development will only be permitted where there would not be an | See above. |

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| | unacceptable risk to the quality of surface and groundwaters or of impediment to groundwater flow. | |
| W4C | <ol style="list-style-type: none"> 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. 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. 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 there would be no undue impact on road safety or the environment. 4. Proposals for rail or water transport of waste will be encouraged, subject to compliance with other policies of this plan. | <p>Paragraph 21 (i) of PPS10 highlights that when assessing the suitability of development the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use modes other than road transport.</p> <p>Furthermore, Paragraph 34 of the NPPF 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 NPPF and PPS10.</p> |
| W9B | 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>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> |

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| | | <p>This is supported by Paragraph 144 of the NPPF which states that when determining planning applications, LPAs should amongst other consideration</p> <p>“... Provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards...” By minimising the amount of landfill, the delivery or restoration would not be unnecessarily delayed.</p> |
| W10A | <p>When granting planning permission for waste management facilities, the WPA will impose conditions and/or enter into legal agreements as appropriate to ensure that the site is operated in a manner acceptable to the WPA and that the development is undertaken in accordance with the approved details.</p> | <p>PPS10 states that ‘It should not be necessary to use planning conditions to control the pollution aspects of a waste management facility where the facility requires a permit from the pollution control authority. In some cases, however, it may be appropriate to use planning conditions to control other aspects of the development. For example, planning conditions could be used in respect of transport modes, the hours of operation where these may have an impact on neighbouring land use, landscaping, plant and buildings, the timescale of the operations, and impacts such as noise, vibrations, odour, and dust from certain phases of the development such as demolition and construction’.</p> <p>Furthermore, paragraph 203 of the NPPF states that ‘Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition’.</p> <p>Policy W10A inter alia only seeks to impose conditions and/or enter into legal agreements when appropriate to ensure that the site is operated in</p> |

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| | | an acceptable manner. Therefore, the policy is in accordance with the requirements of the NPPF and PPS10. |
| W10E | <p>Waste management development, including landfill, will be permitted where satisfactory provision is made in respect of the following criteria, provided the development complies with other policies of this plan:</p> <ol style="list-style-type: none"> 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); 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; 3. The impact of road traffic generated by the development on the highway network (see also policy W4C); 4. The availability of different transport modes; 5. The loss of land of agricultural grades 1, 2 or 3a; 6. The effect of the development on historic and archaeological sites; 7. The availability of adequate water supplies and the effect of the development on land drainage; 8. The effect of the development on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations; and 9. In the Metropolitan Green Belt, the effect of the development on the purposes of the Green Belt. | <p>Policy W10E is in conformity with the NPPF 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.</p> <p>However, with respect to loss of agricultural land it should be noted that the NPPF places both a requirement to protected soils paragraph 109 as well taking account of the economic and other benefits of the best and most versatile agricultural land paragraph 112 when considering non agricultural land uses.</p> <p>The policy overall therefore is linked to the third dimension of sustainable development in the meaning of the NPPF.</p> |
| W10F | 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. | In addition Paragraph 123 of the NPPF 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, |

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| | | <p>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 NPPF.</p> <p>Also see above regarding PPS10 and conditions.</p> |
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APPRAISAL OF ENVIRONMENTAL IMPACT ASSESSMENT (EIA) FOR:

The winning and working of sand and gravel and associated dry screen processing plant, temporary storage of minerals and soils and associated infrastructure. In addition backfilling of the void with soils and overburden arising from the development of mixed uses (Ref. 09/01314/EIA) on land adjacent to the mineral working.

At Land to the South of Park Farm ESS/21/12/CHL

An Environmental Statement (ES) dated February 2012 has been submitted with the application.

The nine key subject areas identified in the ES are:

- Landscape and Visual effects
- Biodiversity (ecology)
- Noise and Vibration
- Historic Environment
- Air Quality (Dust)
- Groundwater
- Surface Water
- Other Issues
- Cumulative Impacts

The Environmental impacts of the proposed scheme have been considered by reference to baseline conditions at the time of the preparation of the ES (2011) based on the requirements of the current planning consents for the site.

The severity or magnitude of environmental impacts are categorised in the ES as “Major/High/Substantial/Severe”, “Moderate/Medium”, “Minor/Low/Slight” or “Negligible”, dependent upon criteria set out in the individual topic chapters. The significance of the potential effect of an environmental impact has then been assessed on the basis of the magnitude of the impact and the sensitivity, importance or value of a resource, receptor or group of receptors. Where impacts have been identified which may give rise to significant effects, mitigation measures are presented as a means of avoiding or reducing or compensating any adverse effects on the environment.

The key environmental issues identified throughout the ES have been presented. This includes those impacts of the proposed scheme that may give rise to significant direct and indirect environmental effects, and identifies whether any residual effects are anticipated once mitigation measures have been taken into account

The residual effects have been presented as well as consideration of whether those effects are direct or indirect; national, regional or local; short or long term; temporary or permanent. Mitigation measures have also been proposed where applicable.

Appraisal of EIA

The following seeks to consider whether the EIA process has adequately addressed all the relevant environmental impacts, particularly those identified in the Scoping Opinion issued

by ECC on the 20 Sept 2011, whether the degree of environmental impacts has been appropriately assessed and the proposed mitigation considered adequate.

Landscape & Visual Effects

Landscape Effects

The ES appropriately assess the baseline landscape character in the context of any relevant landscape designations and National and Local landscape character assessments. There are no national or local landscape designations affecting the site. The site lies within the National Character Area (Natural England) of NCA 86 "South Suffolk and North Essex Claylands" and the application area demonstrates some of the key characteristics. The site lies within the Central Essex Farmlands (B1) of the Glacial Till Plateau character area as set out in the Essex Landscape Character Assessment (2002), this highlights historical features such as New Hall and Boreham Airfield and sand and gravel pits. It notes that these mineral workings have resulted in an erosion of the character of the area due to loss of hedgerows and as a result landscape quality/condition is described as moderate. The site lies within the Boreham Farmland Plateau as described in the "Brentwood, Chelmsford, Maldon, Uttlesford Landscape Character Assessment" 2006. The application site was considered to exhibit the key characteristics of this character area, including medium fields with hedgerows, small copses and concentration of isolated farmsteads.

A site specific landscape character assessment was also undertaken and looked at the key landscape characteristics of the site, the landscape quality, and the sensitivity and capacity to absorb change or development. It is noted that the surrounding land consists mainly of urban fringe and rural land use and the grade 1 listed New Hall and associated registered park and garden also contribute to the value placed on the relatively undisturbed arable fields and are considered to be a local landmark. It was considered that previous sand and gravel operations and construction of the airfield had had a detrimental impact on the overall quality of the landscape, through the removal of characteristic elements and introduction of new land uses. The landscape quality of the development site was assessed as being of medium quality and value.

The application site was assessed as being of low sensitivity to the proposed development and included the following reasons, landscape has accommodate large similar operations, part of a pre-existing planning permission, vegetation loss would be kept to a minimum, development would not be visible due to existing hedgerows.

The site was assessed as having high capacity to accommodate the proposed development within the landscape, due the fact the landscape has historically accommodated similar larger operations and therefore would not introduce an uncharacteristic land use in the area and would only result in the loss of a few characteristics and elements such as hedgerows and therefore was assessed as having high capacity to accommodate the proposed development.

The site was assessed to have medium Tranquillity, the site is in a largely rural landscape but noise from the A130 impacts on the tranquillity.

The potential landscape impacts where assessed based on the storage bunds, plant and equipment required to extract the mineral over a 3 to 4 year period.

The assessment considered both direct (bunds, new permanent landform) and indirect (dust and water) impacts

The proposal includes mitigation to minimise views from the PROW to the south and from New Hall Grade 1 Listed building and registered park and garden. The proposals also include phased working and restoration to limit the extent of working at any one time. The proposals do not include any on or off site planting, justified by the applicant due to the short-timescale of the proposals.

Residual landscape effects the proposals would not result in any landscape elements of value or that cannot be replaced. Overall the impacts of the proposed development during extraction are considered to be low adverse and upon completion very low, due to the short-term nature, that the development does not introduce a new land use. The residual landscape impacts are assessed as being negligible to adverse effect on the baseline landscape character.

Appraisal of Landscape Assessment

The assessment of the baseline landscape character was considered to be sound and the assessment of the landscape quality, landscape sensitivity of the site and landscape capacity to accommodate the proposed development to be fair.

In considering the potential effects, the elements of the proposed development were considered appropriate accept the assessment was based on 4 years as apposed to the proposed potential of 8 years and the timescale for working would ultimately dependent on the progress of the adjacent mixed use development.

Visual Effects

Visual impact was firstly assessed from a desk top study to identify potential viewpoints and the potential theoretical zone of visibility. Photos were taken from publicly accessible view points.

Views were assessed from north south, east and west.

The Zone Of Theoretical Visibility of the proposed development was assessed by a 3D modelling package, but takes no account of existing intervening vegetation.

The combination of the above assessments identified that there were only very localised views into the site.

The nature and sensitivity of the viewpoints was assessed on the functions receptor, degree of exposure to view and period of exposure, the magnitude of the visual impact was assessed based on value of existing view, degree of change, availability and amenity of the alternative views and distance.

11 view points were assessed intended to be representative of likely views from properties, although it was acknowledge that views from the north, Park Farm & Park Farm Cottages and Belstead Farms were unobtainable from publicly accessible locations.

Views from the PROW were considered to be the most significant, particularly Springfield FP4 (Centenary Circle National Trail). Assessment of views of the site from public roads Belstead Farm Lane, Domsey Lane, Cranham Road, Boreham Road or Main Road were

not possible due to intervening existing vegetation. Some views were possible from the A130 and Mill Lane.

Existing screening is identified as established field boundaries along the western & southern boundaries, which provide screening of the site. To the north views are identified as screened by hedgerows and small plots of woodland around Park Farm & Boreham airfield. Views from east & west, apart from those close to the locality are noted as partially or fully obstructed by a combination of landform and vegetation. As a result the development site is assessed as not being well defined in the landscape.

The southern east edge of the site does not benefit from existing vegetation and mitigation is proposed in the form of storage mounds to screen views from the PROW and New Hall.

Overall it was assessed the site was identifiable in the landscape by the pylon features located in the vicinity of the development site. Distant views from west, east & south fringe of the area, such as Broomfield & Springfield were not possible. However, a combination of landform and existing vegetation largely screen contributed to providing screening the site from most directions. Views of the development were noted in close proximity to a very few residences and the PROW.

The potential factors that were likely to give rise to visual effects were, change in view, increased visibility of arable fields particularly from the south, impact of temporary use of plant, upon restoration arising from change in topography, particularly for close receptors.

Mitigation is proposed for views from the east in terms of grassed soil storage bunds. Planting is not proposed.

Appraisal of Visual Impact Assessment

Potential viewpoints were established via a desk top study and the photos taken from publicly accessible view points. It is considered that while this gave a broad indication of the visual impact from visual receptors, attempt should have been made to assess impacts from private property, particularly within the grounds of New Hall School, which was particularly identified within the Scoping Opinion. While screening mounds are located along most of the southern edge there are sections from the south west where there would not be bunding and the visual impact of the 5m high bunding itself has not been considered.

Overall Appraisal of Landscape & Visual Assessment

While screening bunds have been proposed on the eastern area of the development, no screening mounds have been proposed around parts the western half of the site despite this being highlighted in the Scoping Opinion.

It is considered that overall the landscape and visual assessment were adequate.

Biodiversity (ecology)

An ecological Impact Assessment was carried out and formed part of the ES. The assessment included a desk study and consultation and an extended Phase 1 habitat survey was undertaken in 2011, this updated surveys that have been previously undertaken in relation to the Neighbourhood Scheme development which have been undertaken since 2006. Additional surveys were undertaken in 2011 for Great Crested Newts (GCN) and reptiles.

The assessment describes the potential ecological receptors. There are no statutory designations for nature conservation, there is a non-statutory Local Wildlife Site (LWS) adjacent to the western boundary Ch83 (channels Golf Course and 2 other LWS within 2km radius

It was identified that there were the following protected and notable habitats hedgerows and standing water, with potential for protected and notable species as follows: bats, breeding birds, GCN, reptiles and badgers.

The site survey identified that the site consisted of arable fields surrounded by small 1-2m of semi-improved grassland margins and hedgerows. Mature trees were recorded within the hedgerows. Two ponds were recorded, in the site and one approximately 100m north of the northern boundary. Within the site there are areas of newly planted tress (3 to 5 years old).

Protected and notable habitat and species were identified on site as follows: ponds could support GCN; and species rich hedgerows with hedgerow trees with a number of mature and semi mature broadleaf standard trees which could support bats and breeding bird. With respect to bats due to numerous hedges and ponds in the Channels LWS commuting and foraging bats on site was likely. Birds were assessed as being garden, hedgerow and woodland edge with potential for white throat and grey pigeon. The ponds on and off site were found populated with GCN. The fenced off area around new planting had potential for foraging reptiles such as common lizard, slow worm and grass snake, one juvenile grass snake was found during the survey. A known badger sett was identified to be active, while another sett was no longer in use, no other setts were found.

Temporary impacts during extraction, significance & proposed mitigation were assessed as follows

| Receptor & effects | Significance | Mitigation proposed |
|---|--|---|
| <u>Temporary disturbance/damage</u> | | |
| Disturbance to arable field margins | Certain effect significant at Site level | Working corridors demarcated to prevent disturbance |
| Compaction of soils adjacent to trees and hedgerows | Probable effect could be significant at district level | Fencing to protect tree and hedge roots for all retained |
| Light disturbance to bats at dusk impacting upon commuting and foraging | uncertain effect of significance at site level | No night-time working and where lighting required for H & S shall be directional |
| Breeding birds – 3 to 4 breeding seasons disturbed | Probable effect of significance at site level | As above, and no soil stripping hedgerow removal between Mar & Aug unless supervised by ecologist |
| GCN – disturbance to foraging and commuting | Likely effect unlikely significance above local level | AS above |
| <u>Direct & Indirect Mortality</u> | | |
| Bats – no trees to be removed | No significant impact predicted | |
| Badgers – sett not to be directly | No impact | |

| | | |
|--|--|---|
| impacted & no machinery within 30m. Potential for badgers to move into soil mounds. Badgers falling into excavation | Likely significant effect Unlikely, but would be infringement of WCA 1981 | Fencing described above would deter badgers, mammal ramps out of excavation, badger fencing if necessary site monitoring required prior to & during development for badger activity |
| GCN – no ponds to be lost, but potential mortality during hedgerow removal and if hibernate in soils mounds which are subsequently removed | Probable impact significant at site level | Fencing to protect terrestrial habitat required, removal of hedgerow to be undertaken under Method Statement. Also enhancements to existing GCN/reptile habitat through management plan. Translocation programme not anticipated, but would be undertaken in necessary, |
| Reptiles – most habitat to be maintained, but some potential during hedgerow removal and as a result of plant movement | Probable impact significant at site level | See above |
| <u>Hydrological Impacts (Siltation & dewatering)</u> | | |
| Channels LWS | No likely impact | |
| Ponds & ditches – potential for surface water runoff to bring silt from disturbed ground, also loss of water to due to dewatering affecting groundwater levels | Probable impacts of significance at local level | Works compound away from water courses, soil storage covered to prevent runoff. Replaced soil grassed prior to Neighbourhood scheme. |
| GCN – siltation could effect breeding habitat on and off site | Probable impact significant at local level | See above |

The residual temporary effects of the development were considered with respect to temporary effects as relating mainly to be breeding birds, with disturbance insignificant due to habituation to shrub nesting birds, but may be significant for ground nesting birds.

The residual permanent effects related to the loss of 50m of hedge causing loss of commuting routes for bats, loss of nesting sites for birds and commuting and sheltering habitats for GCN/reptiles, but this would be compensated for as part of the proposals within the neighbourhood scheme.

Cumulative effects

The cumulative effects were also assessed as potentially the proposed development would be happening at the same time as the Neighbourhood scheme, both at the Channels Golf Club and GBP development. The developments would mainly affect areas of open arable field, improved grassland and golf course, few habitats of high conservation value would be

directly affected. However, loss of sections of linear features such as hedges and stream channels and as such losses to and fragmentation of habitats and corridors is likely assessed as potentially significant at district level and if all developments take place at once significant at county level.

Mitigation is proposed through the master plan process for the developments, which retains intact the majority of ponds, key wildlife corridors within broad areas of open space, to be managed for public amenity and nature conservation. It is also includes utilising surface water drainage schemes to feed existing ponds and recharge groundwater. An ecological Management Plan is to be required as part of the neighbourhood scheme.

Appraisal of ecological impact assessment

The assessment has appropriately assessed the potential notable and protected habitats and species and proposed mitigation. It is noted that the assessment was based on 4 years of disruption while in fact the application is seeking 8 years. ECC ecologist did find the presentation of the assessment fragmented. The assessment also relies on mitigation to be provided through the Neighbourhood scheme for residual permanent and cumulative effects, which cannot be controlled by condition through this planning application. The assessment was considered adequate.

Noise and Vibration

A noise assessment was carried out for the development. Due to the distance between the site and residential receptors a vibration assessment it was considered highly unlikely that increased vibration would be experienced and was scoped out.

The noise assessment established receptor locations in consultation with CBC and surveys undertaken to establish background noise levels at

| | |
|---|--------------|
| Park Farm – north of site | LA90 dB - 41 |
| Blue Post Cottages – north west of site | LA90 db – 41 |
| Nine Acres/Belstead Hall Farm – south west of site | LA90 dB - 43 |
| Walter Hall, Generals Lane – east of site. | LA90 dB - 38 |
| New Hall School – south east of site (shorter period of monitoring) | LA90 dB - 46 |

Noise modelling software was then used to predict noise from mineral extraction activities and maximum noise limits set for temporary activities and non-temporary activities based on MPS2. While MPS2 has been superseded by the NPPF since preparation of the noise assessment, the acceptable limits have not changed.

The predicted noise levels were modelled for 4 locations within the site, SW corner, NW corner, NE corner mid N area and far E area of the site, both for temporary activities (soil stripping bund formation) and extraction operations (including haulage and operation of processing plant and for simultaneous operations (i.e. temporary operations with extraction operations).

Mitigation measures include the creation of soil storage bunds which were taken account of in the noise modelling. In addition best practice measures would be employed including quieter reserving alarm, maintaining plant and haul roads and minimising drop of materials.

Modelling demonstrated that temporary operations and simultaneous operations were predicted not to exceed 70 dB LAeq, 1h at all noise sensitive receptors and not exceed the maximum noise limits set at the noise sensitive receptors.

Noise impact of proposed operations was concluded to be negligible.

Appraisal of Noise & Vibration Assessment

It is considered acceptable that due to distances involved no vibration assessment was required. It is disappointing that only limited background noise assessment was undertaken and not at the closest location of school buildings to the development, particularly as the background plus 10dB would exceed the maximum noise limit of 55dB, however, the applicant is willing to accept a 55 maximum and predictions have shown this limit would not be exceeded.

Historic Environment

The historic assessment included archaeological assessment and assessment of built and landscape heritage. The assessment sought to

- Identify known archaeological remains, built heritage receptors and historic landscape character
- Assess likely survival significance of archaeological deposits within the site
- Assess the potential impact of the development upon archaeological deposits, cultural heritage assets and their setting
- Propose mitigation

Archaeology

Baseline conditions were established with reference to appropriate national and local data and an updated walkover. Also reference was made to previous studies both intrusive and non-intrusive archaeological surveys undertaken for Neighbourhood scheme. An archaeological trench survey was undertaken in 2011.

The data sets were evaluated utilising a GIS system to enable the character, extent, date and significance of any heritage assets and their settings established and the archaeological potential of the site determined.

The significance of Heritage assets was assessed in line with PPS5, now superseded by the NPPF, but has not changed the overall approach, and the following factors were considered: significance of the heritage asset, magnitude of impact and significance of effect.

No assets of Very High or High or Unknown significance have been identified within the site. Iron Age and Romano–British rural settlement site have been assessed as being of Medium significance and extent defined by the 2011 trial trenching.

Five archaeological assets identified within the site were assessed as being of Low significance, including

- the pond located in the southeast corner possible a feature of the early post-medieval deer park or agricultural feature for watering deer or livestock
- hedge bank forming a surviving section of the later 18th century parks pales
- dense and well established hedgerow with several mature oaks thought to be post-medieval park pales dating from 17th century

- broad, shallow curvilinear crop mark representing course of the former park pale
- two narrow linear features containing bricks (16th to 18th century) and large infilled hollow.

Five archaeological assets were identified as being of negligible significance having no research potential.

The excavation of soils, overburden and sand and gravel would result in direct impacts with total loss or disturbance of known archaeological remains. Mitigation is proposed comprising preservation by record.

The impact upon archaeological of medium significance is assessed with mitigation as Moderate adverse effect. The impact on archaeological assets of low significance would result in slight adverse effects. The impact on archaeological assets of negligible significance would result in slight adverse impact. Overall the proposed development would have a moderate adverse impact.

Built Heritage

There are no designated or undesignated built heritage assets in the site. Within the Study area 11 designated and 8 non-designated heritage assets were identified.

Very High Significance

- New Hall Grade I Listed building
- New Hall Grade II registered park and garden

High Significance -

- Belsteads Farmhouse Grade II Listed building
- Channels Farmhouse Grade II Listed Building
- Mount Maskells Grade II Listed Building
- Old Farm Lodge a collection of Grade II Listed buildings

Four undesignated assets of medium, significance were identified and 3 non-designated assets of low significance

The assessment of impact was restricted to their settings only.

New Hall, Tudor in origin has been substantially altered by truncation and addition, but does retain considerable architectural and historical values. The registered park includes the gardens areas which surround the buildings particularly significant is the avenue that extends south. The landscape beyond the registered park is assessed of little significance and is considered to contribute little historical value to the asses. The outlook to the north is considered not contribute to the asset as there are modern school developments. The mature trees on the north aspect provide a screen to views from the listed building north to the application site. The proposed screening bunds would assist in further screening the development. It is assessed the development would have a minor to negligible impact on the asset.

With respect to all other built heritage assets the impact on setting is assessed as being minor to neutral, mainly due the screening/filtering effect of vegetation.

Historic Landscape Character-

One HLC is defined as 18th century rectilinear enclosure (the field pattern survives with a degree of time depth with relict features from New Hall's historic parkland landscape

incorporated into the late 18th century agricultural landscape) assessed as being of low significance.

The developed is assessed to have a number of direct but short-term impacts on the historic landscape namely soil removal, storage of soils/overburden, extraction and processing of minerals, water management and movement and operation of plant. These would temporarily change the historic land-use pattern and introduce noise & visual disturbance.

The HLC has a moderate sensitivity and capacity to absorb change. The development would preserve the extant relic elements of the historic landscape largely unaltered.

No specific mitigation is proposed but the proposed screening bunds would assist to screen the temporary effects of the development. The magnitude of impact was assessed as being moderate negative resulting in a slight adverse effect following mitigation.

Overall the Heritage Assessment concluded that the highest significance of impact was on New Hall and New Hall Registered Park & Garden with moderate to minor impact, while all other assets were assessed as the impact would be minor to neutral.

Appraisal of Historic Assessment

The appraisal was considered adequate.

Air Quality

The air quality assessment considered dust and vehicle emissions.

Emissions

The need to assess vehicle emissions was not undertaken on the basis that levels of nitrogen dioxide are currently low as the site is edge of urban fringe and additional plant traffic would be unlikely to exceed national air quality levels.

Dust

The dust assessment included consideration of those uses/properties closest to the site, namely Belsteads Farm 240m, New Hall School (270m) and Channels golf course (10m at its closest). The assessment looked at the nature of the activities likely to be undertaken at the, namely soils stripping, mineral extraction and processing movement of plant and vehicles and qualitative estimates based on dust emissions from large construction projects and road building schemes was used. Potentially significant effects from large projects are considered likely in terms of soiling at 100m and impact on vegetation 25m.

The aim of any scheme with mitigation was considered to be to ensure the impacts would give rise to negligible or minor effects.

Metrological data from Luton airport showed prevailing winds are from the west, and southwest and south sector and occasionally from the north.

Mineral operations at any one time would be 100m from residential properties. It was concluded that if standard dust suppressions measures were employed under normal meteorological conditions would be low giving a negligible effect. Subject to best practice

control measures being undertaken even during periods of adverse metrological conditions it is unlikely there would be significant impacts from dust.

Mineral operations are likely to be in close proximity to vegetation; although a 10m unworked margin would be retained around all boundaries

Appraisal of dust and noise

The dust assessment was carried out prior to publication of the NPPF; however, the principles of assessment are very similar in the Technical appendix to NPPF as that set out in MPG2. The assessment utilises metrological data from Luton airport, which while not considered unrepresentative is less representative than Stansted Airport for which there is also metrological data and only 22km away. The assessment did not acknowledge that sometime winds are from the north (7%) of the time. New Hall School is categorised as school buildings, but in fact does include residential both staff and boarding pupils, however the closest residential property is 240 away while residential buildings within the school are 300m away. The mitigation relies on best practice measures being undertaken, the proposed method of working does not include screening bunds around all the working areas, such that dust generated could impact upon the playing fields, athletics track and all weather pitch located from within 100m from the extraction site.

Groundwater

The EIA includes a Hydrological Impact Appraisal in accordance with EA guidance and also seeks to address specific issues raised by the EA at Scoping Opinion Stage.

The assessment methodology used a tiered approach as recommended by the EA and based on certain factors namely, aquifer characteristics, water-dependent conservation sites, water-resource availability status and dewatering quantity, a level 2 tier (intermediate) of assessment was undertaken. A tier 2 assessment includes fieldworks to confirm the aquifer conditions via groundwater level monitoring and pump testing, production of cross-sections and hydrogeological conceptual model and modelling.

The hydrogeology of the area was summarised as the sand and gravel within the site are partially saturated along the northern parts and fully saturated in the central and southern sections. In addition there is a hydraulic barrier (groundwater shed boundary) that appears to cross the site in a general south west to north east direction.

The site is not situated within any Source Protection Zones. There are five licensed abstractions the closet located 570m from the site, three are located within New Hall School, one at New Hall Farm and one at Walter Hall Farm, these are understood to be for domestic or agricultural uses.

The groundwater level was found to be lie at approximately 45.5mAOD. The groundwater flow direction was found to be unclear, with investigations over the years indicating slightly different directions. Flows have been described as to the north/north west, while other investigations would indicate the flow is south east. It has been concluded that there is no overriding regional flow pattern and that local factors play a large part in determining the groundwater flow regime in the sand and gravels.

Surface water features have been investigated. The site has been concluded to straddle a watershed boundary, with surface water to the south and west draining to the south west towards the River Chelmer and the remainder of the site draining to the northeast towards

Boreham Brook (Park Farm Brook) which in turn feeds into the Chelmer. Ponds are located on the southern edge of the site and to the north-east within Channels Golf Course. Due to the thickness of the overlying Boulder Clay it was concluded the ponds within the golf course were unlikely to have hydraulic connection with groundwater. Based on the groundwater elevation the southern pond may be a source of recharge to the sand and gravel aquifer.

The closest water that was concluded to hydraulic connection to the sand and gravel is the tributary of Boreham Brook 500m from the site. To the SW (850m) there are a series of drains and springs.

Other water features in the vicinity of the site are a fishing pond in New Hall School, feed from surface water drains from New Hall School and the Neighbourhood Scheme area and ponds around Bulls Lodge Quarry although these are beyond the Boreham Brook and unlikely to have hydraulic connectivity to the site.

Impact on Surface Water Features

Two surface water features are susceptible to flow impacts the tributary of the Boreham Brook (500m NE) and the drain/springs to the SW. Water dewatered from the site would be discharged to the new improved surface water management system. The flow out from surface water management would be slightly less than the abstraction rate due to evaporation and leakage into ground water from the settlement pond and surface water drains, but this is not considered to be significant. But in general the surface water flow would be greater than the contribution from groundwater flow as it would not only include the base flow but the water extracted from the aquifer. However, the base flow would be reduced upon completion as the base flow recharges the aquifer.

Impact on groundwater

The drawn down effects have been assessed based on natural and man features. Out crops of clay are noted on the north-east, east and south of the site. To the north-west sand and gravel has been extracted and the land infilled. The licensed groundwater and domestic abstractions are identified has being potentially impacted upon. The impact of draw down effects was assessed using modelling and potentially indicated there could be a draw down effect on the water table of up to 0.5m.

The proposed mitigation should serious detrimental effect on the local abstractions occur would be to provide an alternative water supply.

Subsidence & Desiccation

Due the nature of the overlying Boulder Clay it is not considered that dewatering would result in desiccation and therefore subsidence.

Ground water quality

Groundwater analysis indicates the existing groundwater quality across the site is relatively good and therefore no adverse effects are anticipated from discharging the groundwater to surface water courses. Dewatered water is proposed to be discharged to a settlement pond before discharge to surface water, to reduce suspended solids entering the water courses. To minimise risk from spills during operations a minimum of 1m is proposed to be maintained above the groundwater in any quarry operations areas.

Monitoring programme

A programme of monitoring is proposed, including operational monitoring (recording abstraction rates, water quality and monitoring groundwater levels within the site) and impact monitoring (monitoring of groundwater levels and quality at specified locations outside the mineral extraction site boundary.)

Appraisal of Groundwater

The assessment is adequate but relies upon management of water from dewatering to be managed outside the application site.

Surface Water (& Flooding)

The ES assessed the impact upon surface water features. The main features being the Boreham Brook east of the site. The River Chelmer is 1.2km to the west and as it flows into the Blackwater which is classified as Special Area of Conservation the river is considered of high importance. The site is located within Flood Zone 1. There are seven ponds in the vicinity of the site considered to be of high importance due to potential to support Great Crested Newts. There are a network of drainage ditches in the vicinity of the site that are also considered to be of high importance due to their potential to support GCN.

The potential impacts during the development were considered to be suspended solids from dewatering operation; agricultural chemicals mobilised through discharge of water from dewatering into surface waters, discharge from dewatering operation contamination from plant and suspended solids in water runoff.

Mitigation proposed includes a settlement pond to prevent suspended solids entering the water courses. Previous assessments of agricultural chemicals level has shown low levels such that this impact is considered to be negligible

Other Issues

Traffic

No significant traffic generation onto the public highway would result from the proposals and the majority of movements being on internal haul roads within the Neighbourhood Scheme and have been assessed as part of that proposal

Socio-Economic

Socio-economic affects including, impact on residential amenity caused by noise, air quality and visual and landscape impacts have been assessed under the appropriate sections.

Ground contamination

Assessment of contaminants within the soils and overburden on the site showed no evidence of contaminants at levels that would pose a risk when deposited in the void.

Lighting

No working is proposed which would require illumination. If lighting were required details would be submitted for approval.

Cumulative Impacts

Cumulative impacts were considered with respect to the combination of the following development occurring at the same time.

Greater Beaulieu Park Neighbourhood & Railway Station Scheme

Bulls Lodge Quarry – extraction of sand and gravel

Mid Essex Gravels/Channels Area – expansion of existing uses, employment uses, possible indoor recreation uses and extension of existing Channels Golf course

Land at Belsteads Farm Lane – residential lead development as set out in NCAAP site allocation no. 6 and outline application

Boreham Airfield – continued promotion by owners of the site as a strategic location, inter alia residential development.

The cumulative assessment looked at the impact on residential amenity of existing properties, PROW, Landscape Character, setting of New Hall, archaeology, protected species, water resources and quality.

It was concluded that the main sensitive receptors were those affecting habitats, those affecting landscape character particularly setting of New Hall, those affecting PROW and archaeological remains. A Construction Environmental Management Plan, programme of archaeological mitigation and other impacts are addressed through the ES for the GBP development.

Appraisal of Cumulative Impacts

Adequate but relies on mitigation within the ES of the GBP development, rather than set out within the ES in relation to this application. However as the mineral development would not commence without the GBP development this is considered acceptable.

committee DEVELOPMENT & REGULATION

date 26 September 2014

COUNTY COUNCIL DEVELOPMENT

Proposal: **Construction of two storey two form entry Primary School and single storey Early Years Centre with associated hard and soft play space, vehicular accesses, parking and pick up/drop off areas, hard and soft landscaping, drainage, lighting and fencing.**

Location: **Land north of Apprentice Drive, New Braiswick Park, Colchester**

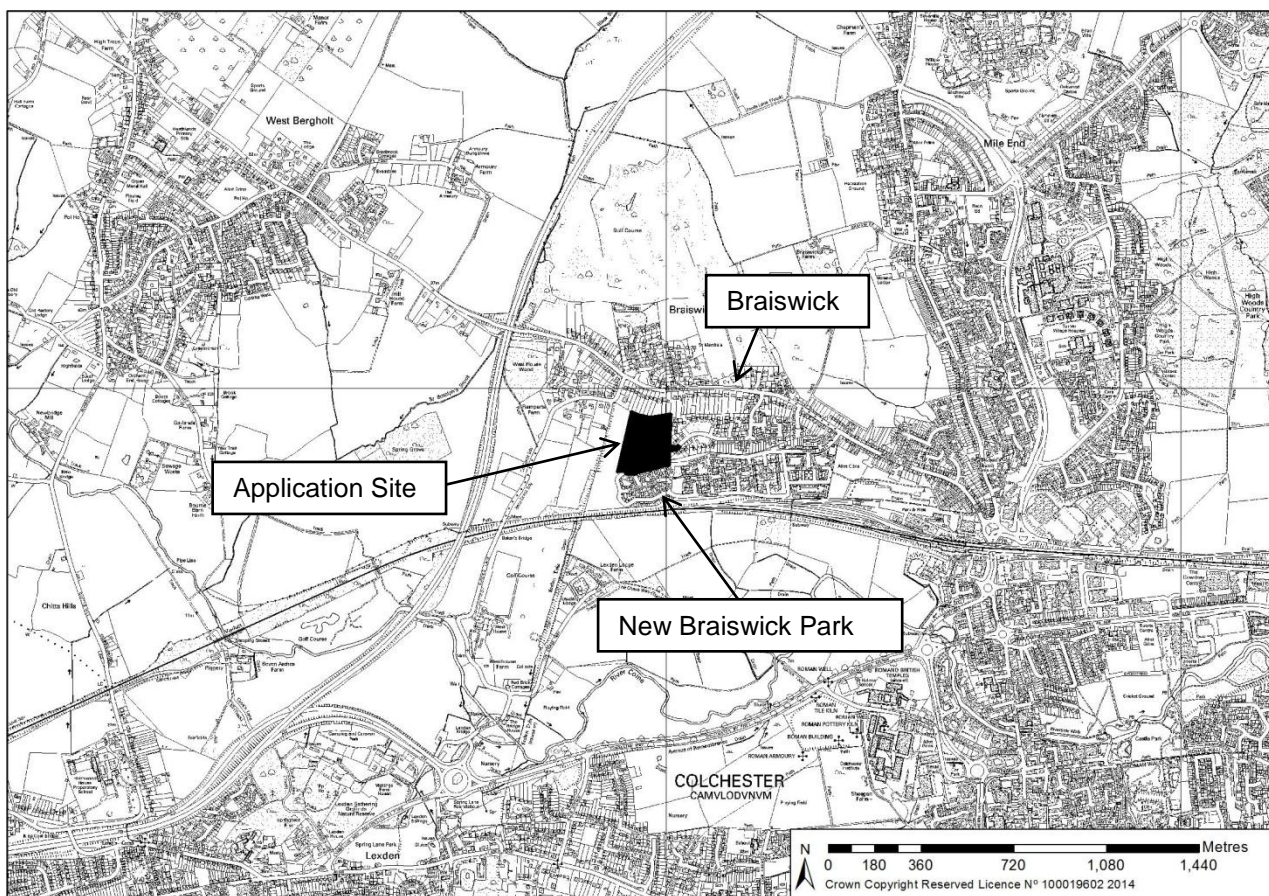
Ref: **CC/COL/34/14**

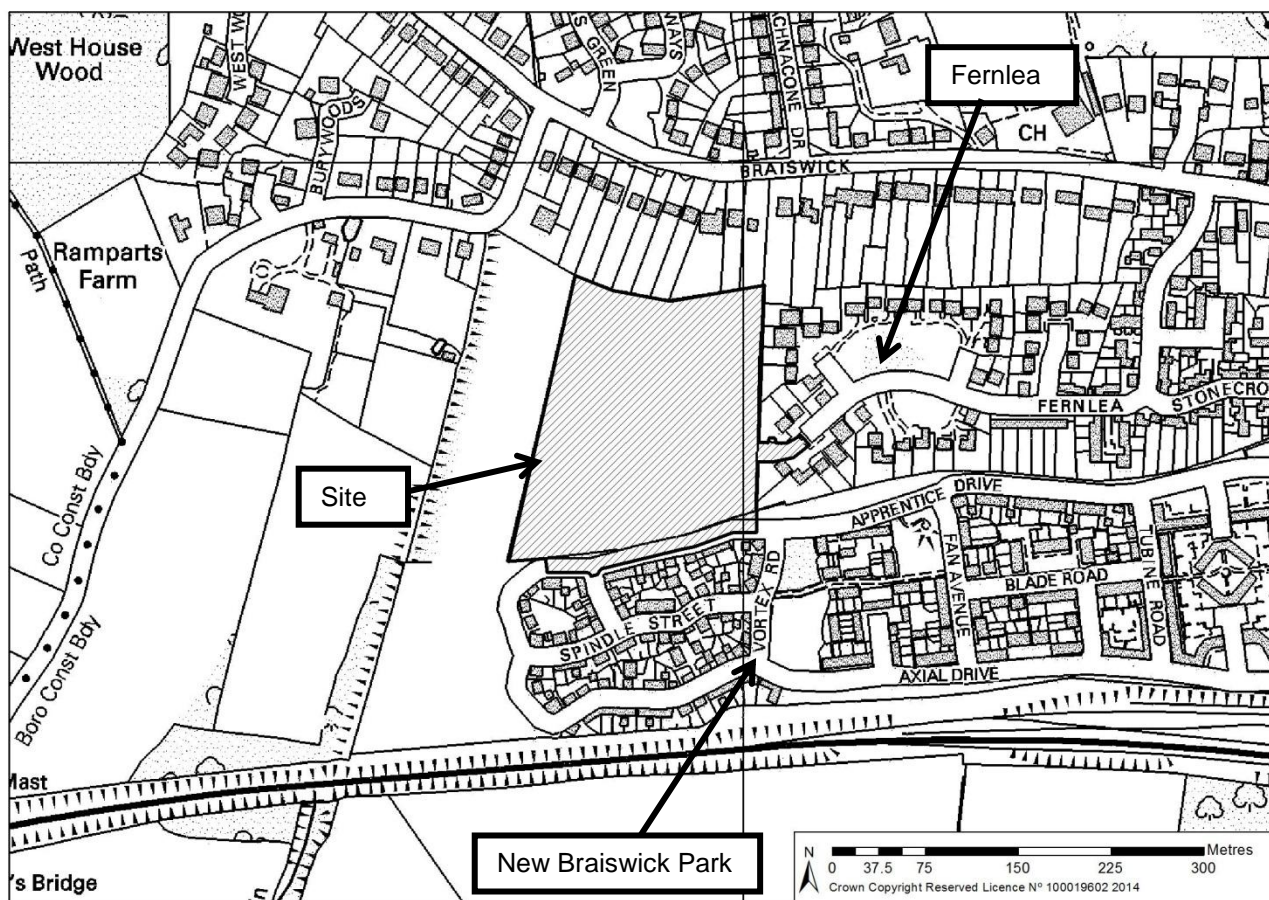
Applicant: **Essex County Council**

Report by Director of Operations, Environment and Economy

Enquiries to: Paul Calder Tel: 03330 136825

The full application can be viewed at www.essex.gov.uk/viewplanning







1. SITE

The application site is approximately 3.82 hectares located to the north east of the main urban area of Colchester, north of Apprentice Drive within the New Braiswick Park (NBP) housing estate, which comprises over 700 properties and is adjacent to the established Fernlea and Braiswick residential areas. Access to the site is via Fernlea with Apprentice Drive being accessed via Tufnell Way/Bergholt Lane onto the B1508 (Bergholt Road).

To the north of the application site are existing residential properties which are located on Bergholt Road with their rear gardens adjoining the site boundary and to the west is open land, which lies adjacent to Bakers Lane. The application site is approximately 1.5 Kms from Colchester Station to the south east. A bus stop is located approximately 100 metres from the proposed application site boundary on Apprentice Drive. The majority of properties within proximity of the site are 2/3 storey, with some 5 and 6 storey apartment buildings located closer to Tufnell Way.

The site currently comprises rough grassland with trees and hedging. The trees are afforded protection by a blanket Tree Preservation Order (TPO) (ref: Number 02/11) issued by Colchester Borough Council.

Approximately 100 metres to the west of the application site running north/south is a Scheduled Monument comprising the rampart and ditch of Moat Farm Dyke. The monument includes the visible and buried remains of the northern part of the late Iron Age linear boundary earthwork (Lexden Dyke).

2. PROPOSAL

The applicant is seeking planning permission for a two storey two form entry Primary School and single storey Early Years Centre with associated hard and soft play space, vehicular accesses, parking and pick up/drop off areas, hard and soft landscaping, drainage, lighting and fencing. The Primary School would accommodate a total of 420 key stage 1 and 2 pupils with the Early Years Centre accommodating 56 children.

The Primary School building would be of a pitched roof design stretching 75m across the east-west axis of the site being 23.1m in width (including overhangs). The height of the classroom block would reach 11.5m, while the hall block would rise a further metre (12.5m in total).

The Early Years Centre would again be of a pitched roof form to continue the design pattern of the adjacent Primary School building and would be 32.4m in length running east to west, 13.3m wide and 5.9m in height to ridge.

The application proposes a one-way road access system with the entry point being from Apprentice Drive and the exit through Fernlea. Two pedestrian access points would be provided off Apprentice Drive towards the south eastern and south western corners of the site. A shared pedestrian and cycle way would also be provided from the Fernlea access. Drop-off and pick-up provision would also be provided within the site with 45 spaces being provided for the Primary School and

Early Years centre. A separate 28 car parking space area for teaching staff would be located to the east of the school site bringing the total of onsite parking provision to 73 car parking spaces.

3. POLICIES

The following policies of the Colchester Focused Review of the Core Strategy and Development Policies, (CFR), Adopted July 2014, the Colchester Core Strategy, (CCS), Adopted 2008, the Colchester Development Policies, (CDP), Adopted 2010, and the Colchester Site Allocations (CSA), Adopted October 2010 provide the development plan framework for this application. The following policies are of relevance to this application:

| | <u>CFR</u> | <u>CCS</u> | <u>CDP</u> |
|--|------------|------------|------------|
| Delivering Facilities and Infrastructure | SD2 | | |
| Community Facilities | SD3 | | |
| Design and Amenity | DP1 | | |
| Community Facilities | DP4 | | |
| Environment | | ENV1 | |
| Built Design and Character | | UR2 | |
| Historic Environment Assets | | | DP14 |
| Accessibility and Access | | | DP17 |
| Parking Standards | | | DP19 |
| Nature Conservation and Protected Lanes | | | DP21 |

The National Planning Policy Framework (the Framework), published in March 2012, sets out requirements for the determination of planning applications and is also a material consideration.

Paragraph 214 of the Framework states that, for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework. This 12 month allowance expired in March 2013.

It is considered that Colchester Borough Council's (CBC) Core Strategy (2008) and the Development Policies DPD (2010) fall within the meaning of paragraph 214. As a result of this Colchester's strategy for maintaining an up-to-date plan entailed a two-stage approach. The Focused Review, the first stage, formed the initial, limited, review of policies which could be readily amended without the need to prepare further extensive evidence in respect of those specific policies. Only those policies that clearly required updating due to non-compliance with the Frameworks paragraph 214 were included at that stage. The second stage will be a Full Review. The Full Review will be a completely new Local Plan and will include amendments to the spatial strategy; housing and employment targets; and site allocations, as these issues require the support of updated evidence base work. The Full Review is programmed for adoption in 2017.

The policies contained within this Focused Review document replace the previous versions of these policies, contained within the adopted Core Strategy (2008) and the Development Policies DPD (2010). All other policies remain unchanged, until they are replaced through the Full Review of the Local Plan.

It should be noted that the main change to the Focused Review document, brought about by the Schedule of Main Modifications, was the removal of all the employment and centres/retail policies from the Focused Review. The result of this is that these policies are not replaced by policies in the Focused Review. The existing employment and centres policies are unchanged, and remain as they exist in the Core Strategy and Development Policies DPD. The Council will continue to use its adopted Centres and Employment policies in the determination of planning applications.

The Local Plan Focused Review, incorporating the Inspector's Schedule of Main Modifications, was adopted by Full Council on 16 July 2014.

4. CONSULTATIONS

COLCHESTER BOROUGH COUNCIL – No objection subject to conditions.

Comment: The Borough Council in their first communication response dated 11 July 2014 (ref: 145086) raised no objection subject to, in summary, highway improvements/assessment of access options, landscape, trees and ecology, noise, community use and contamination.

Following the suggested conditions the applicant submitted amendments and a letter in relation to those points specifically addressing those raised by the Borough Council. Following this additional submission the Borough Council made a second consultation reply dated 3 September 2014 raising no objection to the principle of the application.

ENVIRONMENT AGENCY – No objection subject to conditions.

NATURAL ENGLAND – No objection.

ENGLISH HERITAGE – The application should be determined in accordance with national and local policy guidance, and on the basis of specialist conservation advice.

ESSEX FIRE & RESCUE – Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13.

ESSEX POLICE CRIME PREVENTION – No objection.

ESSEX WILDLIFE TRUST – No comments received.

HIGHWAY AUTHORITY – No objection subject to conditions and a financial contribution.

HIGHWAY AUTHORITY (Public Rights of Way) – No objection.

COUNTY COUNCIL'S NOISE CONSULTANT – Not recommended that planning permission be refused on noise grounds. However, potential adverse noise impacts predicted for residents in the vicinity of the school will have to be recognised.

PLACE SERVICES (Ecology) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection subject to conditions.

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

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

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

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

MYLAND COMMUNITY COUNCIL – Objects, in summary, for the following reasons;

1. Opposes this application on the planning grounds that proposed site is 3.6ha of 'white land' in the adopted CSA which should not have been made available for any development whatsoever;
2. Concerns regarding the application on educational planning grounds;
3. Objects to the application on highway planning grounds; notably the issues surrounding proposed vehicular access/egress to the site; the current vehicular proposals are unacceptable and unworkable, and;
4. Seeks reassurance from ECC/CBC that any spare land on this site would be retained exclusively for future educational or community uses.

BRAISWICK RESIDENTS ASSOCIATION – Objects, in summary, for the following reasons;

- Access/Exit to the school between No's 40 and 57 Fernlea is not suitable;
- Fernlea is not suitable as a Vehicular Access/Exit to the school and also a one way through route for residents of New Braiswick Park;
- Intrusion of Privacy and interference to the Quality of Air and Sound;
- Safety of staff, parents and children within the school site;
- Fernlea is not suitable as an access route for construction traffic;
- Land being offered on license at the rear of properties on the eastern and northern boundaries of the site;
- A new primary school in this area is not justified;
- The site is not suitable for the proposed new primary school;
- Protection of the Essex Design Guide;

- Contrary to policies DP1 of the CDP, DM15 of the Development Management Policy and National Planning Policy Framework, and;
- Misleading information/errors in the documentation provided in support of the planning application.

LOCAL MEMBER – COLCHESTER – Mile End and Highwoods – Any comments received will be reported.

ADJACENT LOCAL MEMBER – COLCHESTER – Abbey – Any comments received will be reported.

5. REPRESENTATIONS

424 properties were directly notified of the application. In total 135 letters of representation have been received. The comments raised by representees from each consultation exercise are summarised in Appendices 1 (first consultation) and 2 (second consultation). In brief the main issues of concern relate to:

- the need for the development;
- the location of the development;
- landscape, design and tree impact;
- visual impact;
- traffic impact and appropriateness of access;
- noise impact, and;
- the soundness of pre-planning consultation/screening opinion.

6. APPRAISAL

The key issues for consideration are:

- A. National Policy Considerations and Consultation Procedure
- B. Need
- C. Principle of Location
- D. Highways Impact and access arrangements
- E. Landscape, Design and Arboricultural Issues
- F. Ecology
- G. Heritage
- H. Impact upon amenity
- I. Human Rights

A NATIONAL POLICY CONSIDERATIONS AND CONSULTATION PROCEDURE

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. Paragraph 7 of the Framework states that ‘these dimensions give rise to the need for the planning system to perform a number of roles:

– *an economic role* – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right

places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

- *a social role* – 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 a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being, and;

- *an environmental role* – 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'.

Paragraph 11 of the Framework states that "Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise"¹.

Paragraph 12 goes on to states that 'This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place'.

As noted within section 3 of this report CBC adopted its Local Plan Focused Review on 16 July 2014. Only those policies that could be readily amended to be consistent with the provisions of the Framework that clearly required updating due to non-compliance with the Framework's paragraph 214 were included within the focused review (see paragraph 3 of section 3 of this report). The report will further consider the proposed development against the CFR, CCS, CDP and CSA and other material considerations.

Public Consultation.

Letters of representation received have raised concerns, in summary, regarding the lack of quality pre-planning consultation; the fact that the final consultation only gave residents 14 days to formal respond to the final public consultation prior to the applicant submitting their application and that the applicant did not correctly notify residents of the first public consultation on the 25th November 2013; that properties adjacent to the site were not notified of the pre-planning consultation and there were significant changes in design layout from 9th January consultation showing access solely from Apprentice Drive to the 27th March consultation showing access from both Apprentice Drive and Fernlea.

Paragraph 189 of the Framework stresses that although developers are not obliged to consult the planning authority before submitting an application, the

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 (as amended by the Localism Act 2011)

planning authority should pro-actively encourage take-up of pre-application assistance.

Furthermore, section 122 of The Localism Act 2011, places a requirement on developers to involve the local community in meaningful pre-application consultation (as discussed with the local planning authority), and to demonstrate how they have taken account of the responses to that consultation in the submitted application. It should be noted however, that this section has to date not been implemented.

Essex County Council's adopted Statement of Community Involvement First Review (December 2012) (SCI) states that 'Early engagement at the pre-application stage has benefits for all parties involved: for the developer, there will be significant savings in time and money if an application can be processed swiftly; there will be improved outcomes for local communities if their concerns can be taken into account before an application is formally submitted; the planning authority will be able to issue timely decisions if all necessary information is provided at the time of application'.

The SCI goes on to state that 'Depending on the level of the proposed application and in accordance with any advice received from the local planning authority, these must include publicity appropriate to the scale of the application and its likely local impact. This Public Involvement Programme may be in the media, by posters and flyers, by public exhibitions and meetings or by direct contact, or any other appropriate methods discussed with planning officers, which will achieve the requirement to bring the proposal to the attention of the majority of those homes and businesses in the vicinity of the proposal (see Table 8). Any consultation material on the proposed application must include details of how individuals should respond and by when.'

Table 8 of ECC's SCI states that 'Applicants are encouraged (or obliged in some circumstances) to carry out a Public Involvement Programme (PiP) by using some or all of the techniques below (in consultation with the planning officer) depending on the size or impact of the application:

- Publishing information on their own websites from the pre-application stage onwards, and providing other easily-accessible information eg CDs using media to raise awareness from pre-application stage onwards;
- Utilising leaflets, flyers etc. as part of their public involvement programme, tapping into the parish newsletter network if appropriate;
- Setting up public exhibitions/displays etc, particularly for major or potentially controversial sites, and;
- Setting up local public meetings to address high levels of concern at an early stage'.

During pre-application discussions the County Planning Authority (CPA) advised the applicant that, due to the proposals size and potential impact, it would be appropriate that a PiP was undertaken prior to formal submission of the application. In response to the CPA's advice, the applicants undertook a PiP which forms part of the application submission. The applicant sets out the pre-

application consultation processes undertaken and the Public Involvement Programme (PiP) undertaken.

The applicants note within their Statement of Community Involvement that proposals for the primary school and early years centre were subject to pre-application discussions with the County Planning Authority, Highway Authority, County and CBC Design Officers, Colchester Borough Council, Councillors, Myland Community Council and Braiswick Residents Association, including with wider community residents.

In addition the applicant's PiP set out the following aims;

- Consult with statutory/non-statutory bodies including the Environment Agency, Natural England, Highways, LEP, Parish and Community Councils, Education, County Planning Authority and Colchester Borough Council;
- Engage with the local community at two exhibition events;
- Publish information about the emerging scheme on its website and other community websites;
- Use media awareness i.e. Heart radio interviews;
- Use leaflets/ letters and Parish websites; and
- Post application submission to assist ECC, provide full access to all submission documents in line with the County's SCI, publication of the submission in the local press, by site notices and through local websites and ECC web pages.

Using the techniques identified above the applicant held two key consultation events with the first in January 2014 and the second in March 2014. Concerns have been raised that the application was submitted shortly after conclusion of the second consultation period (closure on the 10th April 2014) and therefore, the applicant was unable to properly consider the views of the residents which cannot have been fed into the scheme prior to its formal submission.

The application forms submitted with the application were dated 23rd May 2014 and the applicant formally submitted the application to the County Planning Authority on the 5th June 2014. The applicant's Statement of Community Involvement sets out the consultation responses received during two key consultation events and how these comments resulted in amendments/changes to the scheme.

It is considered that although applicants are not currently obliged to undertake pre-application consultation with key stakeholders, the applicant has undertaken pre-application consultations with the County Council and statutory consultees and, through their PiP, has undertaken two consultation events (January 2014 and March 2014) in accordance ECC's SCI adopted December 2012. The applicant has also taken additional steps in accordance with their PiP.

B NEED

Paragraph 72 of the Framework states inter alia that '*The Government attaches*

great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education.....they should give great weight to the need to create, expand or alter schools’.

Letters of representation received have raised concerns to the County Planning Authority that, in summary, other schools within Colchester could be used or expanded to take up pupil increase; that forecast pupil increase is only due to neighbouring Chesterwell and Severall developments; that the main catchment area for the school comprises approximately 381 eligible primary school children within 800 metres of the site; Fernlea residents no longer have children which require a primary school, only 16 pupils will attend from Fernlea area; forecast pupil growth is unfounded.

In November 2013, the County Council as Education Authority published a document entitled ‘*Primary School Places in Colchester*’ which presented the evidenced education need and the school capacity issues within Colchester and its primary schools, including those that are oversubscribed and with no or limited capacity for expansion.

The applicant has stated within their submitted Planning Statement that the identified shortfall of primary school places is established by monitoring birth rates, new housing developments and patterns of parental preference across groups of schools. This information is used to forecast pupil numbers and to ensure there are sufficient school places across the county. It was this information that confirms a deficit of places over the next 4 years across Colchester, based on data provided by the Health Authorities in Essex in January 2013, showing the number of children living in the areas registered with a GP. The deficit currently stands at 138 places in 2014/15, rising to 215 places by 2017/18.

The applicant considers that there is a demonstrable need for additional school places in north Colchester.

The applicant has stated that existing schools nearest to the catchment area of Braiswick and New Braiswick Park have already been expanded where it has been possible to do so. Five schools were expanded to provide 57 additional reception places each year from September 2012 which are as follows;

| School | Previous Reception admission number | Current Reception admission number |
|-------------------------------------|--|---|
| North Primary and Nursery | 45 | 60 |
| Queen Boudica Primary | 45 | 60 |
| Boxted St Peter’s CE (VC) Primary | 18 | 30 |
| Heathlands CE (VC) Primary | 50 | 60 |
| Bishop William Ward CE (VA) Primary | 25 | 30 |

The applicant has gone on to state that 30 additional places have also been provided for Reception admission in September 2014 only at St John's Primary, with the provision of a relocatable class base. The applicant is also considering providing a relocatable classbase at Myland Primary to increase the number of places available in Year 1 by 70 bring total capacity to 340. This is needed because of increased pressure on the schools because of movement into the area. Lengthy discussions have been held with Myland about increasing it in size permanently but this has been ruled out in terms of the difficulty of the site.

The applicant has stated that the proposal would have a priority admission (catchment) area which would be relatively small, covering New Braiswick Park, Fernlea and Bergholt Road up to the A12. Even with this small catchment area, the number of pre-school children in this area is rising and expected to continue to rise as follows;

| Year of entry to school | | 2014/15 | 2015/16 | 2016/17 | 2017/18 |
|---|--|---------|---------|---------|---------|
| Number of Pre-school Children in the area covered by the priority admission area for the new Braiswick School | | 46 | 58 | 62 | 74 |

The applicant purchased the site to provide school accommodation that would enable the local need for the primary school provision in north Colchester to be met.

In March 2013, the Government announced the Targeted Basic Need (TBN) programme, which gave an opportunity for local authorities to bid for additional funding to increase school provision in areas of greatest need. The TBN funding outcomes were announced by the DfE on 18 July 2013, which required successful authorities to invite sponsors for new academy/free school provision by 2 August 2013. Within the planning statement it is noted that ECC undertook consultation with local headteachers regarding primary school needs and the Braiswick site potential. On 29 July 2013 the Cabinet Member for Education and Lifelong Learning approved the publication of a specification inviting proposals to establish a new school on the Braiswick site.

In conclusion, the proposed development would result in the provision of school places, in addition to Early Year's education provision within an area where there is an existing and increasing deficiency in primary school places whereby existing schooling accommodation has been fully expanded to meet the urgent and anticipated increase in pupil place demand. The Framework highlights that great weight should be given to the need to create schools and meet school provision in areas of school accommodation needs. The Planning Statement within the application evidences an increasing need and the proposal would address this need.

Community Use

The proposal has the potential to form a key asset to the surrounding residential

areas and the community to which it is located. Colchester Borough Council has sought that community uses be secured via a legal agreement. It should also be noted that residents have raised concerns regarding the school site being used out of hours and weekends.

In light of the above the applicants stated in response to Colchester Borough Council's request the following *'The school is capable of use to the wider local community by arrangement and agreement with the Academy, however, given the representations from the Fernlea residents, it is clear that they are concerned about the impact that extended use of the school will have on their amenity from noise, light and traffic. Any future consideration of community use by the Academy should therefore arise from further consultation with the residents of the local community.'*

Flexibility of use has been a part of design development and it would be possible to use parts of the school independently of others with access clear and easily managed. The Academy has community use of other schools it manages and will consider what would be appropriate for the proposed school having regard to its impacts on the school and neighbourhood. However, a S106 Agreement would not be lawful for this application, as the County Council cannot enter into a legal agreement with itself.

In addition, the impact of social and community use on the neighbouring residents' amenity that may arise from outside school hours use of the premises, has not been assessed as part of this application. This need to balance school, community use and impacts on local residents was raised in the Borough Council's comments concerning amenities and hours of use'.

Colchester Borough Council responded to the above in its letter of the 3 September 2014 and raised no objection. Therefore, it is considered appropriate that should planning permission be granted an informative be included requiring the applicant to actively engage with the community in relation to assess what level of community use is sought.

Although it is considered that a need exists with regard to providing accommodation for increased pupil numbers within this area of Colchester, consideration of the proposal's location and subsequent environmental/social impacts are considered further within this report.

C PRINCIPLE OF LOCATION

As noted above the Framework, inter alia, states that the Government attaches great importance to ensuring sufficient choice for school places is available to meet the needs of existing and new communities. Local Planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement.

CFR Policy SD2 states, inter alia, that 'The Borough Council will work with partners to ensure that facilities and infrastructure are provided to support sustainable communities in Colchester. New facilities and infrastructure must be

located and designed so that they are accessible and compatible with the character and needs of the local community’.

CFR Policy SD3 states, inter alia, that ‘Community facilities should be located in centres or other accessible locations to maximise community access and build a sense of local community identity.....encourages multi-purpose community facilities that can provide a range of services and facilities to the community at one accessible location’.

The application site falls outside the development boundary, as identified within the CSA Proposals Map. However, the site is located adjacent to the defined settlement boundaries and surrounded by housing developments to the north, east and south with open fields to the west of the site.

Letters of representation received have raised concerns in relation to the location of the school which are, in summary, as follows; the area, prior to New Braiswick Park (NBP), was served by other local Primary Schools; location and access of the school overtly impacts residents within Fernlea; not allocated site within the CSA; cumulative development with respect to the creation of NBP; the failure to expand on existing school places within Chesterwell Development approved in LDF; Chesterwell and Severalls master plans include schools which could provide spaces and site designated as White Land within Colchester Local Plan.

Given the site’s location being outside the defined development boundary of the CSA, it is important to consider whether or not any alternative sites exist which would be better suited for the proposal.

Alternative locations

As noted within Section A of this report, the nearest primary schools to the catchment area of Braiswick and New Braiswick Park are Queen Boudica, North Primary and Myland Primary schools. The applicant has stated that none of these schools have sufficient land or buildings to accommodate primary school needs and none are within walking distance of the Braiswick and New Braiswick Park catchment (800 metres as defined by the applicant’s Transport Assessment). These schools have now reached their maximum site capacity.

The applicant has also confirmed that it plans to open a school on the Severalls site in September 2016. This would be in addition to the current scheme. The school sites which have been reserved on the Chesterwell site are allocated when the housing development within that scheme is implemented. It is the applicant’s view that all of these sites would be needed to cater for the increased number of primary school children in north Colchester and would cater for those developments over the next few years.

The Framework makes it clear that LPAs must give great weight to the need to create schools and meet the school provision needs of existing and new communities. CBC policies are also supportive and the CBC officer committee report dated 10th July 2014, in relation to the proposed adoption of the Local Plan Review states, inter alia, that *‘The Spatial Policy Team has advised that given that*

the adopted Colchester planning policies (and evidence base) do not prevent the development of suitably located development on the edge of Colchester, it is considered that the principle of the development of a primary school and early years centre in this location is acceptable and represents sustainable development'.

It is considered that the proposal would ensure that an education facility and its infrastructure would be in place thus supporting sustainable communities in Colchester, specifically the adjacent Braiswick and New Braiswick Park residential areas in accordance with CFR policies SD2 and SD3.

In relation to assessing alternatives for the proposal's location, as explained earlier in this report, the applicant has expanded all nearest schools within close proximity to the Braiswick and New Braiswick Park catchment areas; future schooling accommodation on the Chesterwell and Severalls site would be used to fulfil the primary school pupil needs of those developments; and the proposal would be located to meet an identified need for school places within the catchment area it serves (Braiswick and New Braiswick Park); the proposed location is in accordance with the requirements of the Framework and CFR policies SD2, SD3 and DP4.

In light of the above, it is also considered that there would be an economic benefit from the proposal through the construction phase of the development as this would provide investment in the form of schooling accommodation which is needed within this area of north Colchester. However, environmental and social impacts are considered further within this report.

D HIGHWAYS IMPACT

Paragraph 32 of the Framework, inter alia, states that 'all developments that generate significant amounts of movements should be supported by a Transport Statement or Transport Assessment.... decisions should take account of whether safe and suitable access to the site can be achieved for all people'. Paragraph 34 states, inter alia, that 'developments should be located and designed where practical to..... give priority to pedestrian and cycle movements, and have access to high quality public transport facilities and create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones'.

The Framework recognises that a key tool to facilitate this will be a Travel Plan and that developments which generate significant amounts of movement should be required to provide a Travel Plan.

Paragraph 39 goes on to state that 'Planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities'.

CDP policy DP17 (Accessibility and Access) requires access to developments to be created in a manner which maintains the right and safe passage of all highway users. Development will only be allowed where there is physical and

environmental capacity to accommodate the type and amount of traffic generated in a safe manner. The access and any traffic generated shall not unreasonably harm the surroundings, including the amenity of neighbouring properties

In summary, representations received have raised strong concerns regarding the adverse impact the proposal would have upon the highway network; the safety capacity of the access onto Fernlea (an existing 'cul-de-sac') is not in accordance with policy documents (Essex Design Guide, Manual for Streets etc); the proposed construction method is incorrect and not possible to complete and that there are better scenarios for the access to the site which have been discounted on false information. In addition, a local resident's action group (FRAG) commissioned an independent Transport Assessment (TA) to assess the TA submitted by the applicant and the scenario chosen.

As noted within the site description of this report the application site is currently accessed off Fernlea which leads onto Bergholt Road (B1508). To the south of the site is Apprentice Drive which connects to Bergholt Road, via Tufnell Way.

Access

The application proposes a one-way access system with vehicles entering from Apprentice Drive and leaving one point of exit through Fernlea. The Apprentice Drive access would be in the form of a T-junction, with footways provided along its access once within the site. Two pedestrian footpaths are proposed off Apprentice Drive. The exit of vehicles would be via Fernlea with the proposal seeking to tie the road into the existing carriageway at the turning head, currently located at the western end of Fernlea. A shared pedestrian and cycle footway would be provided from the Fernlea access along the northern side link to the wider footpath network within the school site.

The applicant, as part of their submission, provided a Traffic Assessment (TA) however, following consideration of the application by the Highway Authority (HA), a number of questions and clarification points was raised before the HA formally considered the merits of the TA and access strategy. In light of this the applicant submitted a revised TA (August 2014) to address the questions.

In relation to vehicular access to the site, the revised TA considered various options. These include the following scenarios:

Scenario 1 – Access and Exit from Apprentice Drive

Scenario 2 – Access and Exit from Fernlea

Scenario 3 - Access from Apprentice Drive, Exit via Fernlea

Scenario 4 - Access from Fernlea, Exit via Apprentice Drive

In addressing the scenarios the TA stated that 'if access Scenario 1 were to be implemented it is likely that some parents wishing to drive to school for dropping-off or picking-up would drive into Fernlea and park on-street before utilising the pedestrian access. This would be particularly attractive to residents to the west of Fernlea on Braiswick (B1508) and side roads. This would enable these parents to avoid any congestion caused on Apprentice Drive. It is also known that Apprentice

Drive is restricted to only 4.8m wide in areas, with little realistic opportunity for widening. It is considered that, with the existing residents on-street parking, Apprentice Drive could become a bottleneck in relation to two-way school traffic flows'.

In relation to Scenario 2 and 3 the TA goes on to state that *'if this were to be implemented a similar parent parking problem is likely from those parents living to the east of Tufnell Way on Bergholt Road (B1508), with parking on the New Braiswick Estate.*

Scenario 3 would offer more of a balance of traffic flows and would alleviate the potential for either Fernlea or Apprentice Drive to suffer from congestion due to two-way flows as prescribed by Scenarios 1 and 2. A small number of parents may still drive into Fernlea and park up, thereby avoiding Apprentice Drive. This number is expected to be small, with adequate drop-off provision formally provided within the site, and will certainly be less intrusive than Scenarios 1 and 2. On-street parent parking is also considered to be less of an issue with this scenario, as the lack of congestion on Apprentice Drive would not lead to other pick-up and drop-off options needing to be considered.

Scenario 4 is essentially the same as Scenario 3 and would have the same benefits. As with Scenario 3, there would be expected to be a small number of parents parking at the end of Apprentice Drive and not within the one-way site operation. Again, it is believed that this number will be small, and less intrusive than Scenarios 1 and 2. A judgement is therefore needed on whether Scenario 3 or Scenario 4 has the greatest benefits.

Whilst the Fernlea / Braiswick and Tufnell Way / Bergholt junctions have ample capacity to cope with the small uplift in traffic, the Fernlea junction has slightly better visibility. The visibility splay in both directions from Fernlea complies with design standards in the Design Manual for Roads and Bridges (DMRB). The visibility to the right from Tufnell Way also complies with the design standards in the DMRB, whereas that to the left is restricted to the lesser Manual for Streets Standard.

It is therefore concluded that Scenario 3 (access from Apprentice Drive and exit via Fernlea) is the best option. It will form a sustainable development in accessibility terms, accommodate safely those trips that must be undertaken by car, reduce the possible on-street parking and alleviate localised congestion at the site access'.

As noted above, the TA assesses a number of alternative access arrangements and on balance, concludes that Scenario 3 (access from Apprentice Drive and exit via Fernlea) would provide the safest and most sustainable access strategy.

Essex Fire and Rescue in its consultation response confirms that access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. It goes on to note that, although the access roads within the development do not meet the minimum required standard, it would accept a road width of 3.6m (as proposed by the applicant) as it would be a one way system,

with double yellow lines on both sides of the road. From the plans provided, it would appear Fire Service Vehicles would have access to 15% of the school buildings/building perimeter for firefighting purposes. More detailed observations on access and facilities for the Fire Service would be considered by CBC at Building Regulation consultation stage.

As noted above, concerns have been raised that the construction method for the Fernlea access is not appropriate, deliverable or in accordance with national or local policy. The Highway Authority comments *'Further to the Transport Assessment submitted with the planning application, Waterman's two response documents received 27th June and 23rd July (responding to my comments dated 17th June and 16th July 2014), I am now content that they have robustly assessed the possible impact of the proposal on the surrounding highway network.*

Also, in my opinion the proposed 'one-way' layout represents the most logical layout in terms of maximising the efficient use of the network, particularly at the Tufnell Way and Fernlea junctions with the B1508 Bergholt Road, but also for drop off and pick up for those using the parallel bays because pupils would be alighting and embarking on the vehicle nearside'.

In addition, the Highway Authority has requested that a contribution is sought to cover the cost of providing additional waiting restrictions on the New Braiswick Park development, Tufnell Way, Fernlea and any of the roads leading off Fernlea be provided. The applicant has agreed to the contribution requested by the Highway Authority therefore, should planning permission be granted, it is considered appropriate for the applicant and the Highway Authority to enter into a memorandum of understanding to secure the contribution.

To ensure that the proposal site does not become a "rat run" for vehicles wanting easy access onto the B1058 (Bergholt Road), the route through the school would operate a one-way system with the entrance on Apprentice Drive and exit on Fernlea being gated. The gates would be in operation at all times and would be open at the start and end of the school day, with the gates shutting during all other times except for deliveries and visitors who would need to contact the school reception in order to gain entry, via an intercom system. It should be noted that emergency services would have access to the keypad number for the school gates allowing ease of access if called to the site. There would be no general public access through the site.

The Planning Statement notes that the proposed access strategy (scenario 3 above) would result in a material change to the existing cul-de-sac character of Fernlea as vehicles would exit the site between 40 and 57 Fernlea. It is important to note that although there would be an impact, the site does have an existing informal access point between 40 and 57 Fernlea and that the one-way system would, in essence, seek to spread the impact between Apprentice Drive and Fernlea. In light of this the TA and Highway Authority (in not raising an objection and considering scenario 3 the safest and most sustainable access option) consider that the highway network can accommodate the vehicular movements associated with the proposal. Both the Fernlea/B1508 Braiswick junction and

Tufnell Way/B1508 Braiswick junction currently operate within capacity and that the additional school traffic would not have a detrimental effect on their operation.

A draft School Travel Plan was submitted with the application, which the school user would adopt and use to work with parents and staff to encourage sustainable transport options to the school. The Highway Authority has not objected to the School Travel Plan however, exceptionally² it is considered appropriate that, should planning permission be granted, a condition be attached requiring submission of an updated agreed Travel Plan prior to beneficial occupation of the school and that it shall be adhered to and its success monitored thereafter. The Plan would specifically require the monitoring of cycle parking, as discussed later in the report.

It is noted that residents raised strong concerns during the public consultation exercise undertaken by the applicant prior to formal submission of the application and objections have been raised in representation letters as noted in Appendix 1 and 2.

The Highway Authority is responsible for providing advice to the County Planning Authority on matters relating to highway capacity and safety. On the basis of the information provided within the application; that the applicant has assessed various scenarios for access arrangements and on balance selected the most sustainable option of the 4 scenarios; the fact that the proposal would use an existing access (Fernlea) which connects to Bergholt Road; and that the Highway Authority has raised no objection to the proposal on safety and capacity grounds, it is considered that the impact would be minimised by the adoption of scenario 3 and associated highway contribution, gating system and Travel Plan. As such it is considered that the proposal complies with the requirements of the Framework as an acceptable TA and Travel Plan have been submitted with the application and the proposal has been designed to allow a safe and suitable access which would also provide for pedestrian and cycle movements and in compliance with CDP policy DP17 as there is physical and environmental capacity to accommodate the type and amount of traffic generated in a safe manner.

Car and Cycle Parking

CDP Policy DP19 (Parking Standards) states, inter alia, *'The Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a supplementary Planning Document (SPD) in November 2009. The SPD sets design standards and provision levels for a comprehensive range of uses and transport modes. The level of parking provision required will depend on the location, type and intensity of useCycle parking will be required for all developments'*.

The Highway Authority Vehicle Parking Standards (adopted September 2009) requires that 1 space per 15 pupils is provided. 28 car parking spaces are

² Normally planning informatives, not conditions, would be imposed requesting an updated School Travel Plan as they are primarily a travel management arrangement between the school and parents and other parties using the school.

proposed on site for staff parking, together with four disabled bays and 41 drop-off/pick-up parking bays which is in accordance with the Parking Standards. The proposed level of cycle parking (30 spaces) is below that required by the Parking Standards however, the Highway Authority and the Sustainable Travel Planning Team have not objected to the level of cycle parking to be provided. Furthermore, the Travel Plan highlights that cycle parking spaces are to be monitored, and should it be identified that they are oversubscribed, the numbers would be increased.

It is considered that the level of parking to be provided is in accordance with the CDP Policy DP19 and the Vehicle Parking Standards. Although the reduction in cycle provision is a departure from the Parking Standards the Highway Authority has not objected. In addition, the applicant would monitor the provision and if necessary provide additional cycle parking facilities when required. It is considered appropriate that, should planning permission be granted, the number of cycle parking spaces should be monitored through the school Travel Plan.

It is important to note that CDP Policy DP17 highlights the importance of access and any traffic generated from a proposal to not unreasonably harm the surroundings, including the amenity of neighbouring properties. Therefore, although the proposed access arrangements are considered acceptable in terms of safety and capacity, it is important to assess the impact of the access on amenity grounds (noise, dust etc). This is further explored in the following sections.

E LANDSCAPE, DESIGN AND ARBORICULTURAL ISSUES

Paragraph 56 of the Framework states that 'The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. Paragraph 61 goes on to state that 'Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment'.

The Framework highlights that when determining applications planning authorities should place great weight on outstanding or innovative designs which help raise the standard of design more generally in the area. It goes on to state at paragraph 65 that 'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'.

Conserving and enhancing the natural environment is a key delivery mechanism for sustainable development within the Framework which places an importance on the planning system to enhance the natural and local environment by protecting and enhancing valued landscapes.

Letters of representation received raised concerns, in summary, relating to the

development having a negative visual impact upon the character and appearance of the area; Fernlea estate is based on the original Essex Design Guide 1973; Fernlea is proposed to be a conservation area; fencing and access design in not in accordance with national standards; and would impact upon the landscape character of the existing countryside area.

Design

The Primary School and Early Years centre is considered to be an important building within the community. As such it is essential that it is of a high quality design that fits within its location.

The planning statement highlights that the applicant has assessed and considered the site characteristics and neighbourhood and considered the siting and design of the Primary School and Early Years centre within the Braiswick neighbourhood from the outset. The submitted Tree Report has influenced the siting of the buildings and the location of external formal and informal play space. The planning statement also sets out that both public consultations resulted in amendments to the siting of buildings to create significant distance from existing residents of Fernlea and Apprentice Drive; to move the playing fields eastwards away from residential properties to the north; and the relocation of staff parking away from boundaries of 40 and 57 Fernlea.

As referred to, the Primary School building would be set on an east/west alignment being centrally located within the south western area of the site to maximise its public frontage with the entrance off Apprentice Drive. The building would be 75m in length which would create a long block appearance however, this is broken down into modules to reflect the internal functions of classrooms, entrance and hall.

The Primary School and Early Years centre would be clad in red brick and softened with a light buff brick with white render, reducing the massing. Coloured spandrel panels are also proposed with operable windows either side.

CDP policy DP1 (Design and Amenity) requires development to respect and enhance the landscape and other assets that contribute positively to the site and the surrounding area.

Although representations have been submitted which state that the Fernlea estate represents the original Essex Design Guide 1973 and that it has been submitted to become a conservation area, the allocation of the Fernlea estate as a conservation area could only be provided through the next iteration of the Colchester Local Plan. Currently the Fernlea estate is not shown as a conservation area with the CSA. Nonetheless, it is important to assess the proposed design to ensure no adverse impacts upon the character and appearance of the Fernlea estate or New Braiswick Park residential areas.

It is considered that the proposed school, due its position within the site, is not easily read in the context of the surrounding residential townscape. Essex County Council's Place Services (Urban Design) has raised no objection to the scheme

and Colchester Borough Council has also raised no objection. Therefore, in light of the school's position within the site and no statutory/ECC advisor objections being raised on design grounds, it is considered that the proposal's more contemporary design is appropriate and would not have an adverse impact upon the character or appearance of the Fernlea estate or New Braiswick Park.

In relation to concerns that the Fernlea estate could have increased crime due to the proposed design and access arrangements, Essex Police Crime Prevention Tactical Advisor & Architectural Liaison Officer raised no objection to the proposal and comments, inter alia, *'In relation to the access to the proposed school I can confirm that from a crime prevention perspective that we are happy with the proposal With regards cul-de-sacs it has been stated³ that "footpaths linking cul-de-sacs to one another can be particularly problematic". In this case these are particularly long cul-de-sacs and that access I understand will only be available during school hours and then controlled and so this has been mitigated'*. As noted above the gates would only be open in the morning and afternoon and only emergency services would have access to the keypad number to allow them easy access to the site if called.

CCS policy UR2 (Built Design and Character) requires the design of development proposals to be sympathetic to the character of the area and seek to secure high quality design.

The design and access statement notes that The Myland Design Guide highlights that Myland Parish Council, particularly in the newer areas, lacks small scale community infrastructure. A school in this location would help provide a focal point for New Braiswick Park that is currently lacking.

It is considered that the proposed design and layout complies with CCS policy UR2 and CDP policy DP1 as the contemporary design would be of a high standard respecting the character of the site and its context through appropriate height, size, scale, form, massing and materials. The proposed school's would also accord with the requirements of paragraph 56 of the Framework which applies great importance to the design of the built environment.

Landscape and Arboricultural Issues

Policy ENV1 (Environment) seeks the conservation and enhancement of the natural environment and countryside. Development on unallocated greenfield land outside settlements will be strictly controlled to conserve the environmental assets and open character of the borough.

As noted earlier within this report the application site is unallocated within the CSA although located immediately adjacent to the defined settlement boundaries of Colchester. It is considered that although the principle of the proposal within this location is accepted it is important to assess whether or not the scheme would conserve the environmental and open character of the area.

Letters of representation received raise concerns, in summary, in relation to the

³ Secured by Design – New Homes 2014

removal of TPO trees; works to TPO trees; works to trees adjacent to the Fernlea access; and that the proposal would have an adverse impact upon the landscape character of the area.

The site is covered by a blanket TPO and as a result a number of mature trees and hedges are the main feature within the landscape.

The design and access statement sets out that the external landscape design has met the design brief criteria by creating a logical sequence of external spaces with clearly defined functions and characters. The school, as a whole, would sit within a unified and unifying landscape, but within that smaller spaces and places would satisfy the needs of the different pupils, age groups, teaching staff and parents, whilst responding positively to the site context and largely residential surrounding land use.

The planning statement considers that the site benefits from a number of mature trees and hedges which make a valuable contribution to the local environment and character. The landscape scheme for the development retains the majority of TPO trees. Where there is a necessary loss of trees (35), mainly Category C⁴ (trees of low quality) or dead trees, these are adequately compensated with 70 native replacement trees. This includes particularly consideration of the proposed boundary treatment for the Fernlea access, which are the closest residents to the application scheme. A number of specific concerns were also raised and addressed below.

Tree T18 and proximity to nursery play area – The revised landscape drawings prepared by the applicant show that the layout has been revised to accommodate the Root Protection Areas (RPA) of this tree.

Concerns have been raised that the construction method proposed for the Fernlea access would have a negative impact upon TPO trees T59 and T61 which would cause them to die or have an adverse impact upon the street scene of the area. The submitted revised Tree Report (June 2014) includes provisions for hand dig solutions to protect existing trees and should planning permission be granted a condition could be imposed requiring compliance with the methodology.

The County Council's Place Services Tree advisor was consulted and raised no objection to the landscaping proposal; subject to all excavation within the Root Protection Areas being carried out using a hand excavation method and not via the use of air spades and by small hand tools or powered hand tools or machinery; the development should be carried out in accordance with the Arboricultural method statement and tree protection plan as provided and details of the appointed project arboriculturalist be provided. The applicant has confirmed that all excavation within the Root Protection Areas would be carried out using a hand excavation method and in accordance with Arboricultural method statement. Details of the arboriculturalist have been provided.

⁴ Trees of low quality, adequate for retention for a minimum of 10 years expecting new planting to take place; or young trees that are less than 15 cms in diameter which should be considered for re-planting where they impinge significantly on the proposed development (British Standard BS 5837:2005)

As noted above a full Arboricultural Method Statement in accordance with BS5837:2012 has been submitted which builds upon the outline strategy in the submitted Tree Survey Report (June 2014). It is noted that the applicant confirms that all tree works would be undertaken outside of the bird nesting season between October and February. Should permission be granted a condition could be imposed to ensure that tree works are undertaken outside the birding nesting season.

The submitted Landscape Management Plan would secure the active promotion of enhanced landscape and the encouragement of biodiversity on the site which is also further considered below within the ecology section of this report.

It is considered that the application proposals, as amended in light of comments received and those aspects identified above being capable of being conditioned, the proposal accords with the requirements of the Framework and CCS policies ENV1 and UR2 and CDP Policy DP1.

F ECOLOGY

Paragraph 118 of the Framework states, inter-alia, that when determining applications planning authorities should aim to conserve and enhance biodiversity and that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused'.

CCS policy ENV1 (Environment) states in summary that 'The Council will safeguard the Borough's biodiversity, geology, history and archaeology through the protection and enhancement of sites of international, national, regional and local importance. In particular, developments that have an adverse impact on Natura 2000 sites or the Dedham Vale Area of Outstanding Natural Beauty will not be supported'.

There are no international, national or regional nature conservation designations within 1km of the site. The submission documents highlight that a section of Lexden Dyke and West House Wood Wildlife Site, which are Essex Wildlife Trust Nature Reserves, are within 1km of the site but separated from it by existing residential development.

CDP policy DP21 (Nature Conservation and Protected Lanes) requires inter alia that *'Development proposals where the principal objective is to conserve or enhance biodiversity and geodiversity interests will be supported in principle. For all proposals, development will only be supported where it (i) Is supported with acceptable ecological surveys where appropriate. Where there is reason to suspect the presence of protected species, applications should be accompanied by a survey assessing their presence and, if present, the proposal must be sensitive to, and make provision for, their needs... (ii) Will conserve or enhance the biodiversity value of greenfield and brownfield sites and minimise fragmentation of habitats'*.

A Phase 1 desk-top Ecological Survey was undertaken by the applicant and assessed the potential for the presence of protected species including Bats, Great Crested Newts (GCN), Breeding Birds and Reptiles. The report states that the site is of a low ecological value with the exception of some large mature oaks. It is proposed that one of the mature living oaks would be removed and the dead ancient oak pollard on the southern boundary would be felled/reduced. The report also noted the use of the site for bats and that it supports a population of slow worms and nesting birds.

The applicant in response to initial concerns raised by the County Planning Authority's Ecological advisor in relation to the phase 1 survey undertook additional bat surveys (two) and an invertebrate survey which were submitted for consideration. A combined and revised landscape and ecological management plan was also submitted. The three reports listed below were revised in light of comments raised during the consultation process:

- Baseline Ecology Report and Assessment (August 2014);
- Report of an Invertebrate Study of Mature Oaks (July 2014), and;
- Landscape and Ecological Management Plan and Reptile Habitat Management Handbook (August 2014).

The applicant has highlighted that the additional survey results do not alter the conclusions of the initial ecology assessment. The ecological assessment has had full regard to Natural England standing advice.

Following submission of the above reports, no objections have been received from the County Ecologist, Natural England or Environment Agency on ecological grounds.

It is considered that ecology requirements can be mitigated on-site through appropriate conditions and that there is no need for off-site mitigation or compensation in light of the documentation received and response from statutory consultees.

Therefore, subject to the imposition of a condition requiring that the development is carried out in accordance with the submitted documents noted above, it is considered that the proposal accords with the requirements of the Framework and CCS policy ENV1 and CDP policy DP21 as appropriate surveys and information has been submitted to ensure minimal fragmentation of habitats and conservation and enhancement of the biodiversity value of the existing site and the proposed scheme can be the subject of a condition should planning permission be granted.

G HERITAGE

CDP policy DP14 (Historic Environment Assets) seeks that 'Development will not be permitted that will adversely affect important archaeological remains. Development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of specific historic, archaeological, architectural or artistic interest.....(iii) Preserving or enhancing Scheduled Monuments including their respective settings, and other features which

contribute to the heritage of the Borough’.

The Framework (para 132) requires, inter-alia, 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 application site is not located within or adjacent to a conservation area and there are no listed buildings within or close to the site. Approximately 100 metres to the west of the application site running north/ south is a Scheduled Monument comprising the rampart and ditch of Moat Farm Dyke. The monument includes the visible and buried remains of the northern part of the late Iron Age linear boundary earthwork (Lexden Dyke).

English Heritage in its response states that *‘the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice’*. In light of this the County Council’s Historic Environment advisor was consulted and raised no objection to the scheme on archaeological grounds and commented as follows *‘As part of the planning application the archaeological evaluation report has shown that there are no important archaeological deposits on the site of the proposed school. There would be no archaeological recommendations for intervention on the site prior to development. English Heritage has made no recommendation on the setting of the Scheduled Monument adjacent to the site. Therefore this office has no objections in relation to the historic environment impact of this development’*.

Additional tree and hedge row planting would be provided along the eastern boundary of the site screening the proposal from Lexden Dyke and thus maintaining its setting.

The submitted Heritage Report notes for the site that the 19th Century brickworks appears to have finished by about 1900, but the kiln and outbuildings are shown on ordnance survey maps until about the Second World War. All traces of the buildings have now disappeared. The Archaeological Evaluation established that no remains were encountered that can be directly related to the late brickworks and that only a low density of post medieval and modern remains within the development area have been found.

Therefore, the proposed landscaping to screen the building from the dyke; in light of the information provided in the submitted Archaeological Evaluation; and the responses received from Colchester Borough Council and the County Historic Environment officer raising no objection, it is considered that the proposal would be unlikely to have an adverse impact or cause harm to significant archaeological remains or the setting of the Scheduled Monument and therefore is in accordance with CDP policy DP14 and the Framework.

H IMPACT UPON AMENITY

CDP DP1 (Design and Amenity) requires development to be designed to a high standard, to avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability. Development proposals must

demonstrate, inter-alia, that they, and any ancillary activities associated with them, will respect and enhance the character of the site, its context and surroundings; protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight; respect or enhance the landscape; and incorporate any necessary infrastructure and services.

Letters of objection raise the potential impacts to amenity, including concerns that the impacts could be experienced over quite a large area and beyond the nearest residential dwellings of Fernlea. Impacts on amenity by various means are discussed below, and these are considered for all those that could be affected within the area.

The proposed development does however have the potential to harm the amenities of local residents through vehicle movements, dust and noise pollution.

Noise, Air Quality and Lighting.

The submitted Planning Statement notes that the impacts of noise on residential amenity has been a primary consideration in the proposed design and layout of the primary school and early years centre, particularly for those closest to the site. As a result the scheme has evolved to move all buildings and external play spaces away from the boundaries of existing residents on the east, north and south of the site.

It is important to note that the existing characteristics of the area is of an undeveloped site within a quiet residential neighbourhood whereby the noise levels from the proposal would be significantly higher during start and finish of the school day, potential for deliveries to arrive during the day and play times which could have a material impact on residential amenity.

Colchester Borough Council state within the officer report (ref: 140586 dated 10th July 2014) that the submitted Acoustic Report was considered by their Environmental Protection team and was found to be acceptable. Colchester Borough Council's Environmental Control Team has advised that the recommendation for a 1.8m high close boarded fence would reduce the impact on the adjacent residents of Fernlea. They consider that this, in conjunction with the access gate being closed after 4/5pm, should alleviate the potential noise from vehicles. The Environmental Control Team note that the location of plant and machinery is not currently known, but consider that potential noise generated by this equipment can be adequately managed by the imposition of a standard condition. Overall, no objection is raised by Environmental Protection Officers on grounds of noise.

The County Council's Noise consultant states, in summary, *'The issues which require particular consideration are the noise from playgrounds and sports pitches and the noise from the access road. Noise from sources such as these at other schools would not be unusual. However, the residents in the vicinity of the proposed school have become accustomed to a particular noise climate and the potential for adverse comment or complaint should be considered. It would be*

remiss if we did not bring these issues to your attention.

In time residents may become accustomed to the noise from the access road, the playgrounds and sports pitches. It should also be noted that, the noise from the exit road, playgrounds and sports fields will not be experienced all day, which may result in a greater tolerance of noise attributable to the school from nearby residents.

Given the presumed need for the school and the presumed lack of more suitable alternative sites, it is not recommended that planning permission be refused on noise grounds. However, potential adverse noise impacts predicted for residents in the vicinity of the school will have to be recognised'.

In light of the above, further discussions with the applicant has taken place and should permission be granted appropriate conditions could be imposed to control noise emissions covering the following:

- Noise break-in levels would be designed to achieve the BB93/BB101 limit of 40dB LAeq, this is based on the 5dB(A) relaxation allowed by BB101 for naturally ventilated classrooms. However some events are outside of the applicant's control (such as military helicopters operating in the area) and these levels may be exceeded during some periods;
- Limits on external noise at site boundaries (the rating level of noise emitted from the site's plant, equipment and machinery should not exceed 0dB(A) above the background levels determined at all boundaries near to noise-sensitive premises);
- Sound Insulation measures on any building where there is to be amplified sound. The only potential place where amplified music may take place is the assembly hall;
- CBC refers to further conditions which are acceptable to the applicant and which would safeguard local amenities including:
 - A 1.8m fence to be erected / maintained to either side of the school exit road to Fernlea; Hours of use being 07.00 to 18.00 to allow for the early arrival of staff.;
 - Extraction measures to control fumes and odours from food; A prior to occupation condition for the ventilation and extraction plant to be submitted for approval and implemented in accordance with the approved details would be appropriate, and;
 - External Light Fixtures (to be agreed with the planning authority).

The applicant has agreed to restrict the use of the school between 07:00 and 18:00 hours to ensure that the impact of the use is kept to a minimum. CBC's planning committee have however noted that the opening times of the school would need to balance the school's operational requirements and the potential use of the building for the community, with the need to safeguard local residents from undue noise and disturbance. Given the applicant's intention to restrict the use of the school to the hours stated combined with the imposition of conditions controlling noise, it is considered that the use is acceptable.

It is nonetheless recommended that a condition is imposed restricting construction

hours, should permission be granted.

In light of the response provided by CBC Environmental Protection Officers and the County's noise consultant it is further considered that the proposal would not have an unacceptable impact on noise grounds.

In relation to potential impacts upon air quality due to vehicular movements and construction the county's Air Quality advisor has raised no objection to the proposal. The advisor commented that during the construction of the school, there is a potential for the adjacent residential properties to experience dust impacts. A number of mitigation measures have been detailed in the Construction Environmental Management Plan (CEMP) to minimise dust impacts. Further to this, the CEMP details that there would be a member of the site team who would be specifically responsible for community relations.

The Design and Access Statement contains a summary of the proposed lighting. However, due to the presence of bats in the area and the close proximity to residential housing, it is considered appropriate that should planning permission be granted a condition be imposed stating that no fixed lighting shall be erected or installed until details of the location, height, design, sensors, and luminance are submitted and formerly approved in writing. This would minimise the potential nuisance of light spillage on adjoining properties and any ecological impacts upon bats.

Hydrology and Drainage

The proposed development site is located within Flood Zone 1, classed as low probability risk, as defined in development table within the Framework. Whilst the site is outside the floodplain, development in this category can generate significant volumes of surface water. The impact and risk posed by this will vary according to both the type of development and the characteristics of the catchment and needs to be addressed by a Flood Risk Assessment.

A Flood Risk Assessment and Drainage Strategy Report have been submitted. The report seeks to demonstrate that by following the specific flood risk assessment recommendations for the site, the proposed development of the Primary School and Early Years centre is neither at increased risk of flooding, nor does it increase the risk of flooding to others in areas upstream or downstream.

The Environment Agency has raised no objection subject to a scheme for surface water drainage being submitted. Therefore the proposal is considered to accord with the requirements of the Framework.

Amenity Summary

As a result of the above discussions, it is not considered that the proposed development of schooling accommodation and ancillary works would have significant detrimental impacts on the amenity of nearby residents by means of noise, dust, lighting or hydrology. Whilst there may be some impact on nearby residents (as set out by the Council's noise consultant), it has been demonstrated

that there is a need for schooling accommodation for increased pupil numbers, that no alternative sites exist for the proposal, the proposal would be used to fulfil pupil places within the area it is placed, that increased noise emissions from vehicles entering and leaving the site would be at two peak times and that the Framework places great importance on providing schooling accommodation, it is considered that these considerations are significant enough outweigh any adverse impact on amenity. Nevertheless, suitable conditions would be imposed regulating the impact on amenity, should permission be granted. It is therefore considered that the proposed development does not conflict with the aims and objectives of CDP policy DP1.

I 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, air quality, 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, it is considered that the interference would be of such a level as to be clearly justified and proportionate in the public interest.

CONCLUSION

The National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved.

The Framework highlights that great weight should be given to the need to create schools and meet school provision in areas of school accommodation needs for existing and new communities.

It is considered that the need for this development has been established to provide adequate facilities for pupils and to comply with the Government's Target Based Need programme. The proposed development would result in the provision of school places, in addition to Early Year's education provision within an area where there is an increasing deficiency in primary school places and where existing schooling accommodation has been fully expanded to meet increase in pupil place demand.

The applicant has reviewed alternative locations and future schooling accommodation on other development sites would be used to fulfil the primary school pupil needs of those developments. Therefore, the principle of the need for additional education provision at this location has been established.

Traffic, congestion and the adequacy of the proposed accesses is known to be an

issue in the local area, but it is considered that the provision of staff car parking places and additional pick up and drop off areas would help mitigate any adverse impact arising from the proposed trip generation figures contained within the TA. Gates would be provided at the access points to ensure the site is not available to be used as a cut through. The Highway Authority has no objection on safety and capacity grounds.

It is considered that the school would provide high quality buildings and facilities for effective learning environments for pupils. It is considered that the design of the building has been carefully considered and would be of a high quality and a benefit for the area in accordance with the Framework.

The Heritage, landscape, tree and ecology impacts of the proposed development are not considered to be detrimental and measures proposed to mitigate any loss. It is not considered that the proposal would result in an increase in flood risk at the site or elsewhere.

There is likely to be an impact to residents through additional noise generation from the proposal however, it is considered that, subject to appropriate conditions being imposed, the application should not be refused on noise grounds given the need for the proposed use and the Framework's requirement that greater weight be placed on need.

The need to meet economic, social and environmental dimensions of the Framework are considered to have been demonstrated and given that the proposal would deliver vital schooling accommodation, it is considered the development constitutes 'sustainable development' in accordance with the Framework.

On balance, it is considered that the proposal conforms with the relevant policies of the Development Plan, taken as a whole and the policies relied upon in this report are considered to be consistent with the Framework. Therefore, the proposal is considered acceptable subject to the imposition of appropriate conditions.

RECOMMENDED

That pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992, planning permission be **granted** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiry of 5 years from the date of this permission. Written notification of the date of commencement shall be sent to the County Planning Authority within 7 days of such commencement.
2. The development hereby permitted shall be carried out in accordance with the details of the application dated 23rd May 2014, together with drawing numbers BS-KSS-DWG-A-001 Rev A dated 06/02/14, BS-KSS-DWG-A-002 Rev K dated 08/08/14, BS-KSS-DWG-A-10 Rev B dated 22/05/14, BS-

KSS-DWG-A-020 Rev A dated 03/04/14, BS-KSS-DWG-A-100 Rev L dated 21/05/14, BS-KSS-DWG-A-101 Rev L dated 25/05/14, BS-KSS-DWG-A-102 rev D dated 18/03/14, BS-KSS-DWG-A-110 rev D dated 03/06/14, BS-KSS-DWG-A-111 Rev C dated 03/06/14, BS-KSS-DWG-A-200 Rev A dated 04/03/14, BS-KSS-DWG-A-201 Rev A dated 04/03/14, BS-KSS-DWG-A-202 Rev A dated 04/03/14, BS-KSS-DWG-A-203 Rev A dated 04/03/14, BS-KSS-DWG-A-300 Rev J dated 01/09/14, BS-KSS-DWG-A-301 rev H dated 01/09/14, BS-KSS-DWG-A-310 Rev E dated 08/08/14, BS-KSS-DWG-A-1201 Rev B dated 25/07/14, BS-HED-DWG-LA-101 Rev F dated 16/09/14, BS-HED-DWG-LA-102 Rev E dated 16/09/14, BS-HED-DWG-LA-103 Rev F dated 08/08/14, BS-HED-DWG-LA-104 Rev C dated 08/08/14, BS-HED-DWG-LA-105 Rev D dated 08/08/14 and BS-HED-DWG-LA-106 Rev E dated 16/09/14 e-mail from Dalton Warner Davis concerning Tree Works dated 05/09/14, letters from Dalton Warner Davis dated 23/05/15, 19/06/14, 08/08/14 and 15/08/14, letter from Essex County Council Project Sponsor concerning memorandum of understanding and highway contribution dated 16/09/14, the contents of the Design and Access Statement including Landscaping, Material Schedule and refuse Plan dated 04/06/14, Statement Of Community Involvement dated 23/05/14, Tree Survey Report dated 12/06/14, Arboricultural Method Statement dated August 2014, Noise report dated 19/06/14, Archaeological Desktop Assessment dated March 2014, Archaeological Evaluation dated April 2014, Transport Assessment and No dig Access construction Drawing CIV SA 95 0022 A02 dated 08/08/14, School Travel Plan dated 14/07/14, Flood Risk and Drainage Strategy P03 including Drainage Drawing BS ST-D-DWG 2101 dated 08/08/14, Utilities Statement submitted on the 05/06/14, Site Investigation Report dated 12/06/14, Sustainability Statement dated April 2014 and in accordance with any non-material amendment(s) as may be subsequently approved in writing by the County Planning Authority, except as varied by the following conditions: -

3. No beneficial occupation of the development hereby permitted shall take place until the construction of the proposed site access roads, as shown on drawings BS-HED-DWG-LA-106 Rev E dated 16/09/14 and BS-HED-DWG-LA-101 Rev F dated 16/09/14, has been completed.
4. No beneficial occupation of the development hereby permitted shall take place until two new sections of footway along the northern side of Apprentice Drive at the western and eastern end of the site and associated footpath connections into the site, has been completed.
5. No beneficial occupation of the development hereby permitted shall take place until an updated school travel plan has been submitted to and approved in writing by the County Planning Authority. Details shall include a programme for monitoring its success in delivering sustainable modes of transport, programme for monitoring cycle parking uptake/provision and how the school will publish the Travel plan and ensure that users embrace the plan. The development shall be implemented in accordance with the approved travel plan.

6. The construction of the development hereby permitted shall not be carried out outside the following times:

07:00 to 18:00 hours Monday to Friday

and at no other times, including on Saturdays, Sundays, Bank or Public Holidays.

7. No beneficial occupation of the development hereby permitted shall take place until Sound Insulation measures on any building where there is to be amplified sound shall be submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.
8. The rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all boundaries near to noise-sensitive premises as referenced in noise report dated 19/06/14 and letter from Dalton Warner Davis dated 15/08/14.
9. No beneficial occupation of the development hereby permitted shall take place until details of ventilation and extraction plant to be used in the development hereby permitted has been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.
10. No fixed lighting shall be erected or installed until details of the location, height, design, sensors, luminance and proposed hours of operation have been submitted to and approved in writing by the County Planning Authority. The details shall:
- Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging;
 - Show how and where external lighting would be installed, through the provision of appropriate lighting contour plans and technical specifications, so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places; and
 - Detail the proposed hours of operation.
- The lighting shall thereafter be erected, installed and operated in accordance with the approved details.
11. The 1.8m fence adjacent to the Fernlea exit access is to be maintained for the life of the development hereby permitted.

12. Noise break-in levels shall achieve the BB93/BB101⁵ limit of 40dB LAeq, based on the 5dB(A) relaxation for naturally ventilated classrooms.
13. In the event that contamination material is discovered on site, details of mitigation and remediation and a timetable for implementation shall be submitted for approval by the County Planning Authority. The mitigation and remediation shall be implemented in accordance with the approved details.
14. The development hereby permitted shall be implemented in accordance with Baseline Ecology Report and Assessment (August 2014), Report of an Invertebrate Study of Mature Oaks (July 2014), Landscape and Ecological Management Plan, Reptile Habitat Management Handbook (August 2014) and Construction Environment Management Plan (August 2014) submitted with this application and shall be implemented in accordance with the submitted details. The mitigation and enhancement measures shall be permanently maintained and retained in accordance with the approved details, unless otherwise approved in writing by the County Planning Authority.
15. No topsoil is to be used for the establishment of the wild flower areas as indicated on BS-HED-DWG-LA-101 Rev D dated 08/08/14.
16. No beneficial occupation of the development hereby permitted shall take place until details of an updated management plan omitting the construction phase has been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.
17. The development hereby permitted shall be implemented in accordance with the Arboricultural Method Statement (August 2014) and email from Dalton Warner Davis dated 05/09/14.
18. No beneficial occupation of the development hereby permitted shall take place until the surface water drainage scheme as detailed in the Flood Risk Assessment undertaken by Skanska Ref: BS-STL-D-RPT-0001 dated 23/05/2014 and Drainage Drawing BS ST D 2101 dated 08/08/14 has been implemented. Without prejudice to the foregoing, the surface water drainage scheme shall include measure for:
 - Investigation the feasibility of infiltration SuDS as a preference.
 - A drainage plan for the site including the proposed location/size of any infiltration/attenuation device.
 - A discharge rate to the AW piped network at the agreed rate of 7.6l/s
 - Attenuation storage shall be provided to cater for the 1 in 100 year

⁵Building Bulletin 93 (BB93) "Acoustic Design of Schools"

critical storm plus allowance for climate change.

- Calculations of the piped network performance in the 1 in 30 year or 1 in 100 year rainfall events, including climate change
- Details of any exceedance and conveyance routes
- Details of the future adoption and maintenance of the proposed surface water scheme for the lifetime of the proposed development.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the County Planning Authority.

Informative

The applicant is encouraged to undertake a Community Use Scheme in consultation with local residents and users of the school. The scheme shall include the proposed level of community use of the school.

BACKGROUND PAPERS

Consultation replies
Representations

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (as amended)

The proposed development would not be located adjacent 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: 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.

STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER

The County Planning Authority (CPA) forwarded on all statutory consultation responses received in a timely manner to the applicant. This provided the applicant with the opportunity to see and comment on any and all issues which were raised resulting in the CPA acting positively and proactively in determining

this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the CPA has been able to recommend granting planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework

LOCAL MEMBER NOTIFICATION

COLCHESTER – Mile End and Highwood

COLCHESTER – Abbey

Appendix 1

First Round Public Consultation representations received objecting to and supporting the proposal. These relate to planning issues, in summary, covering the following matters:

| <u>Observation</u> | <u>Comment</u> |
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| <u>Highways</u> | |
| Proposal to use Fernlea as an access road does not meet DP17 (Accessibility and Access) – development will only be allowed where there is physical and environmental capacity to accommodate the type and amount of traffic generated in a safe manner | See appraisal |
| Supporting data shows adverse impact by virtue of increasing traffic volume by 285% across the Fernlea exit (Provided as Traffic Assessment Analysis within Representation) massively outweighs the benefit to the handful of Fernlea based children (referenced as 16 within representation) therefore, the ‘presumption in favour of sustainable development’ within the NPPF is inapplicable | See appraisal |
| Transport Assessment (TA) is flawed, one sided, missing key data or references and derives an incorrect conclusion | See appraisal |
| The TA has been independently reviewed by a construction and traffic consultant (Stilwell Partnership response dated July 2013) who confirms resident’s views | See appraisal |
| 121 additional movements exiting Fernlea would have a significant adverse impact | See appraisal |
| The entry/exit from Fernlea onto Bergholt Road has reduced visibility due to trees and a blind corner, a narrow and inhibited entrance which will slow and block traffic and was not designed to support this volume of traffic and is therefore dangerous | See appraisal |
| Increase in traffic volume in Fernlea represents a significant and adverse impact and does not conclude using its own data | See appraisal |

that the Tufnell Way access would result in a decrease in traffic volume

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| Safety concerns with sightlines for residents exiting their properties along Fernlea but especially from properties located adjacent to the school exit | See appraisal |
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| Width issues along the entirety of Fernlea as an access route, whilst properly investigating appropriate and cheaper more cost effective alternatives | See appraisal |
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| Inadmissible claims that 3 rd party would regulate the “rat run” through route that would be created. Cannot be controlled by ECC, CBC and would be subject to a community use order and Sport England and would result if significantly expanded use which must therefore render the claims of mitigation control useless | See appraisal |
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| Not the claimed number of school children within Fernlea that have been used to justify the access | See appraisal |
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| TA submitted is incorrect | See appraisal |
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| Traffic survey taken on one day which is not a true reflection of every day traffic movements | See appraisal |
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| Fernlea access is against national and local planning policy | See appraisal |
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| Cyclists traveling to the school from Bergholt Road would face vehicles exiting from Fernlea | See appraisal |
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| Cars coming from the north catchment area would drop kids off at the Fernlea exit causing additional problems | See appraisal |
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| Parking during parents evening, weekends and out of hours activities would have an impact | The applicant has suggested a condition restrict hours of operation between 07:00 – 18:00 Monday to Friday - See appraisal |
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| Statement that Fernlea junction has slightly better visibility is incorrect as appears an old image used. Junction between Tufnell Way | See appraisal |
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| and Bergholt Road is better and been widened | |
| Due to various operations (deliveries, cleaners, school clubs) occurring at the school throughout the day it is clear that the gates will be open all day | See appraisal |
| Although claimed pupils will walk parents will still use the car to drop pupils off | Pick-up and drop-off areas are proposed - See appraisal |
| Design concerns of access onto Fernlea. The proposed camber could lead to excess water run-off, loss of privacy, safety concerns when snowfall and lack of visibility | The Highway Authority and Environmental Agency have been consulted in relation to safety and capacity and drainage onsite - See appraisal |
| Multiple representations seek that the independent transport report undertaken on behalf of Fernlea Residents Action Group (FRAG) be taken into consideration | The independent transport was submitted to the Highway Authority for their consideration - See Appraisal |
| Assessment timeframes incorrect as uses 07:30 – 08:30. Local primary schools do not let pupils into the campus much before 08:45 | See above |
| Pragmatic timeframe would be 08:15 – 09:00, although fair comparison over one hour would be 08:00 – 09:00 | See above |
| Figures within TA are incorrect, taking the predictions within Tables 3, 4 and 5 and taking scenario 1 there would be a reduction equating to 34% | Noted - See appraisal |
| Scenario 3 of submitted TA increases traffic movements out of Fernlea by 285% | See Appraisal |
| Scenario 1 has the least impact on the surrounding highway network | See appraisal |
| TA concludes that locating proposal adjacent to NBP makes it sustainable, this maybe case for site access scenario 1 but not for access scenario 3 as 285% which should be classed as severe | See appraisal |
| TA should address environmental impact on the B1508 | Noted |
| Section 4 of submitted TA analyses issues against Apprentice Drive but not Fernlea | See appraisal |

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| Scenario 1 proposed at first public consultation dismissed due to potential for on street parking at Fernlea. Reviewing data this equates to less than 30%. Parents would still park and escort pupils into the school therefore, this would happen regardless of any scenario | See appraisal |
| Site large enough to provide sufficient space for access, onsite loop road and drop off parking to reduce on street parking in surrounding roads | See appraisal |
| Realistic opportunity to widen Apprentice Drive. Although not adopted roads within NBP they are subject to a signed Section 38 agreement | The section 38 agreement is between the NBP developer CBC and Highway Authority. The proposal would be determined on the merits of the information provided and on the advice of the Highway Authority |
| Residents misled that current landowner has no further intension with southern site boundary | County Planning Authority can only determine the proposal and not what the applicant/landowner may choose to undertake in the future |
| Expression of 'little opportunity' misleading to expand Apprentice Drive. It can be demonstrated the best economical solution | See above |
| A 4.8m wide loop road can serve up to 200 dwellings. Apprentice drive serves 50 so there is additional capacity. 4.8m wide road is also sufficient for car and heavy goods vehicles to pass | The Highway Authority has been consulted as part of the application process - See appraisal |
| Given that 7% of pupils would come from Fernlea and over 50% from NBP stands to reason access should be taken from Apprentice Drive. This is the same for access scenarios 2 and 4 | See appraisal |
| Traffic data and trip generation figures show access scenario 1 to have least impact on local road network and Tufnell Way/Bergholt Road junctions | See appraisal |
| Fernlea access would lead to a disproportionate effect on area given catchment area | See appraisal |

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| Tufnell Way/Bergholt Road junction constructed to serve 750 dwellings and bus route. Junction designed to national requirements, has capacity and designed in a way to keep speeds below 20mph | Enforcement of speeds is a matter for the Police – Highway Authority consulted as part of application submission - See appraisal |
| Issue with visibility to east from Fernlea. Vehicular speed limits traveling westward exceed 30mph limit | Vehicles breaching the speed limit are matters for the police |
| Not sustainable development as would increase vehicle movements by non-residents through Fernlea reducing safety of residents | See appraisal |
| Education Authority stated that pupil provision could increase to 820 pupils making on street parking worse if sufficed pick up drop off not provided within the school | CPA can only determine applicants on the information provided and not on potential future aspirations - See above |
| Fernlea exit would have a detrimental effect on safe use of residential driveways. Contrary to Manual for Streets | See appraisal |
| Proposed privacy and noise fence would impair visibility and no detail provided on priority between school traffic and private road | See appraisal |
| Proposed access road width suggests other motives for future development | See above |
| Environmental Impact study examined the Fernlea proposal would show an unacceptable impact in terms of both loss of privacy and loss of amenity to adjoining house, in respect of ease of access, noise and road safety | See appraisal |
| Proximity of fencing on southern side of access road results in excess of 3m in height in close proximity to an established dwelling which cannot be acceptable in Highway Planning terms | See appraisal |
| Why is construction traffic now using Apprentice Drive instead of Fernlea | In response to concerns raised during the applicants public engagement programme process the applicant amended the construction access |

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| Apprentice Drive access is not wide enough and would cause congestion within estate roads | See appraisal |
| Fernlea Estate is a series of cul-de-sacs. Through road would impact upon safety of children and would increase possibilities of crime | See appraisal |
| Fernlea not designed as through road | Noted |
| Cars currently turn around and access properties within the cul-de-sac at low speeds. With the access speeds would increase and accidents and collisions would inevitable happen | The monitoring of vehicular speeds is a matter for the police – See appraisal |
| Fernlea Road will become a rat run | See appraisal |
| Access would become a cut through for frustrated motorists who cannot get out of Tufnell Way onto West Bergholt from NBP | See appraisal |
| Petition signed by over 6000 people for ECC to take action in improving roundabout and West Bergholt Road. Proposal would add to congestion within this area | Unable to comment on petition as not submitted by residents as part of this scheme and relates to potential highway works outside of the applicants control. |
| Scheme may be seen as infrastructure but poor location 1km from distributor road | See appraisal |
| No details on priority to be given to Fernlea cul-de-sac residents when driving from private driveways adjacent to road link | Vehicles associated with the proposal would exit via Fernlea. It would be for all users to abide by the Highway Code. |
| Access scenario 1 dismissed due to school catchment might park at the end of Fernlea and walk their children through pedestrian link. Due to predicted 121 vehicular trips on street parking is inevitable in surrounding roads | See appraisal |
| TA contains series of incorrect and subjective statements which pose risk in misleading councillors and Planning officers considering application | The Highway Authority were consulted to ensure soundness of TA – see appraisal |
| TA downplays traffic impact and contains misleading errors Inadequate consideration given to alternative | The Highway Authority were consulted – see Appraisal See appraisal |

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| access points, such as Baker's Lane as an exit | |
| Accident at Queen Boudica Primary School involving a child demonstrates that increased traffic flows will be unsafe for children playing within Fernlea | Accidents involving motor vehicles and pedestrians is a matter for the police |
| Entry and access on Apprentice Drive feasible as: more suited to accommodating traffic (existing buses), widening potential, exit could be on southern boundary (minimise congestion), one way loop could be introduced around New Braiswick Park, and New Braiswick Park will be primary beneficiary of the school | See appraisal |
| Parking restrictions in Fernlea will push parking onto side roads | The Highway Authority were consulted – see above |
| School will be filled by children from outside area which will increase traffic flow | See appraisal |
| Young children will not get train to school, cycle to school on Bergholt Road or take the bus on their own; will be dropped off | Noted - see appraisal |
| Queuing at junction due to increased traffic will prevent exiting driveways near junction | The Highway Authority were consulted – see appraisal |
| Tufnell Way junction wider, better visibility and slower speeds | See appraisal |
| Proposed school needs its own separate access from the main road, such as Bakers Lane, with pedestrian access from Fernlea and New Braiswick Park. This would limit traffic disruption, have better environmental and safety outcomes and avoids damage to Fernlea and New Braiswick Park | A Scheduled Ancient Monument (SAM) is located 100m to the west of the application boundary which if access was to be provided would run through the SAM. 4 access scenarios have been appraised as part of the applicants submission - The Highway Authority were consulted – see appraisal |
| Travel plan fails to take into account; the fact that majority of students will not be from the area and will be brought by car (for potentially 7 years per child), parents will leave children in their current schools and also send younger siblings to the same school and local parents were not consulted | The Highway Authority travel plan team were consulted – see appraisal |
| Fernlea was built 30 years ago and was not designed for proposed traffic volume and | The Highway Authority were consulted – see appraisal |

large vehicles

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| Large crater in Fernlea caused by one large vehicle | Noted - Maintenance of the public highway is the reasonability of the Highway Authority |
| Apprentice Drive has a one way system for buses that could be used for construction and access | The proposal seeks to use Apprentice Drive for construction access for the commencement of the development |
| Fernlea is not part of the gritting roster; New Braiswick Park is flatter and more suited to snow and heavy frost | Noted - Maintenance of the public highway is the reasonability of the Highway Authority |
| Houses bought to avoid main roads | The proposal is for an access onto |
| Manual traffic count has not taken into account Bergholt Road or North Station which is normally congested and backed up between 8-9am on a daily basis | The Highway Authority were consulted – see Appraisal |
| TA was done on one day; why was modelling data from ECC Highways not used, as they have carried out assessment of Bergholt Road and North Station within the last couple of weeks | The Highway Authority were consulted – see Appraisal |
| Foot access from Fernlea more sensible | The proposal would provide a shared cycle and footway adjacent to the vehicular access |
| Risk mitigation required, including yellow line parking restrictions on Apprentice and Fernlea, zebra crossing on Apprentice and no waiting restrictions enforced | The Highway Authority were consulted and requested that should planning permission be granted a contribution be provided by the developer to cover parking restrictions, signage within the Fernlea and Apprentice Drive highway network – see appraisal |
| ‘No Waiting at Any Time’ needs to be implemented at key points in Fernlea | See above |
| No Parking restrictions are unacceptable; shows how disjointed local Government is | See above |
| 52 full time employees and 28 car parking spaces will result in overflow into streets | See appraisal |
| Cycle provisions are below national guidance | See appraisal |
| Fernlea is small established development with restricted access from Bergholt Road | The Highway Authority were consulted – see appraisal |

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| Request waiting/parking restrictions during peak school hours | See above |
| Damage to trees owned by third parties; proposed exit road will impinge the root area of 3 trees and 2 of the 3 trees will have more than 20% of their root protection areas affected | See appraisal |
| Car park management is needed to ensure drop off style service is operated and staff walk pupils into class | See appraisal |
| Fernlea currently a quiet cul de sac and parents will enter from the top of Fernlea and drop children off at the exit from the school | See appraisal |
| Whilst significant numbers of children will come from New Braiswick Park, the children will not walk in winter rain etc. | Pedestrian footways have been proposed to allow access and egress for all weather conditions |
| Teacher and staff parking will spill onto Apprentice Drive, Breeze Lane and Fan Avenue if adequate parking not provided | See appraisal |
| No footpath on northern side of Apprentice Drive resulting in children dangerously crossing and walking on the road | The Highway Authority were consulted and assess pedestrian access arrangements |
| Traffic will queue to gain access to the School deteriorating living standards for residents of New Braiswick Park | See appraisal |
| Access will be an issue due to the narrowness of the roads in New Braiswick Park, on-street residential parking and limited scope for widening | See appraisal |
| New Braiswick Park is already congested due to residential and commuter parking | The Highway Authority were consulted – see appraisal |
| Yellow lines have done little to curtail commuter parking in Phases 1 and 2 of New Braiswick Park and no parking measures are proposed for Phases 3 and 4 where access to the school is proposed | The Highway Authority were consulted and have sought a contribution for amongst other things the painting of yellow lines and the monitoring of restrictions – see appraisal |
| North Station roundabout causes congestion | See above |
| TA on 11/03/2014 is flawed as it was for one | The Highway Authority were consulted – see |

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| day only and relied upon assumptions and people adhering to policies | appraisal |
| Query as to why consideration was not given to locating the school further to the north where 1600 new houses are proposed to be built | See appraisal |
| Heavy construction vehicles could cause subsidence and property damage | A construction management plan was submitted by the applicant. Subsidence and property damage during construction is a private matter between the applicant and landowners. The Highway Authority were consulted – see appraisal |
| Fernlea has suffered from subsidence and is not suitable for extra traffic or for large vehicles | See above |
| Addition of traffic measures to Fernlea, such as double yellow lines, parents and commuters to park further along Stonecrop and other roads | The Highway Authority were consulted – see above |
| Elevated road through Fernlea unacceptable to immediate houses | See appraisal |
| A 400 pupil school will have 200 or more vehicles delivering pupils; particularly when parents are under time pressure or bad weather | See appraisal |
| Internal drop off facility encourages car drop offs | The applicants have submitted a Travel Plan which the school would use to promote walking and cycling to the school. Pick-up and drop-off - See appraisal |
| Heavy commuter parking on both sides of Fernlea at Braiswick end makes navigating access difficult | See above |
| The design, condition and age of the Fernlea Road was not considered in the TA; not suitable for the proposed level of through traffic, heavy services vehicles or construction traffic, as evident by recent heavy vehicle damage | Maintenance of the public highway is a matter for the Highway Authority who have been consulted as part of the application |
| School run occurring at the same time as the morning rush hour, combined with | The Highway Authority were consulted – see appraisal |

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| congestion around North Station roundabout and blind right turn from Fernlea onto Braiswick, jeopardises highway safety | |
| Fernlea road is narrow and on road parking makes it difficult for traffic to pass; the road is effectively single lane in places | See appraisal |
| First wave houses on Fernlea have narrow frontages; for example 9 feet | The Highway Authority were consulted – see appraisal |
| Parking restrictions, such as double yellow lines, would be inappropriate for residents | See above |
| Concreting porches for parking would increase runoff and be of detriment to appearance of estate | Any applications for works to a residential property would be for Colchester Borough Council as local planning authority to advise on |
| County Council has placed a speed warning sign just past the Fernlea junction | Enforcement of speeds is a matter for the Police |
| TA was based on out of date Google Earth map from 2006; Tufnell Way entrance has since been widened | Applicant has submitted a revised technical drawing addressing comments made regarding the accuracy of the Tufnell Way access |
| Any extra-curricular activities, clubs or events that have been held at the school will use Fernlea as an exit and/or drop off point | See appraisal |
| As there are no catchment areas, it is incorrect to claim that the school will be purely for local residents; attendance by pupils from outside Braiswick will introduce new traffic | The TA and planning statement submitted with the application states that a 800m catchment area has been used in determining forecasted pupil numbers |
| TA is based on weak, unreliable data, for example GP records | See appraisal |
| It is not conceivable that the population of primary aged children on Fernlea will grow and places will be taken by children outside of Fernlea | See appraisal |
| No reference made to the imminent construction of Chesterwell Wood development and pupils from this development attending the school | See appraisal |
| Report ignores traffic associated with the | TA submitted address the potential highway |

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| early years centre; due to the age of children, likely to be driven | impact of the whole scheme - The Highway Authority were consulted – see appraisal |
| Perceived benefits of access through Fernlea are outweighed by detrimental impact on residents | See appraisal |
| Not in compliance with Colchester Borough Council Development Policies Core Strategy DP1, particularly DP1(is), (iii), (iv) and (v) | See appraisal |
| Proposal will create detrimental impact: increased traffic flow, exit between houses would not be deemed acceptable on new development, prejudice the use and safety of only public space in Fernlea, create unsafe road conditions, potential for noise, disturbance and parking issues outside of school hours and failure to take into account existing character/historical design | See appraisal |
| Essex Design Guide completely ignored | See appraisal |
| Costs of traffic management works be included in the costs and approved as part of the planning approval process | See above |
| Pedestrian crossing needs to be included in planning application so that the implications can be assessed, in accordance with HSE, Highways Agency and County Council Guidelines, and made publicly available | The Highway Authority were consulted – see appraisal |
| Fernlea is affected by a dry valley that during wet weather has high moisture levels; has caused cracking. Considered that higher volumes of traffic will lead to structural damage to Fernlea area | See above |
| Necessary to demonstrate that Fernlea complies with current or previous regulations for roads accommodating heavy vehicles or high traffic volumes or risk judicial review of approval as breach or regulations continue indefinitely | The Highway Authority were consulted – see appraisal |
| Parking restriction would be an erosion or quality of life and significant inconvenience; cost of road markings and enforcement should be included application | See above and appraisal |

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| Access is to be controlled by school which gives no assurance the system will not be abused | See appraisal |
| A majority of students will come from outside the Fernlea/Braaiswick area | See Appraisal |
| Transport assessment is flawed (£19 million pounds have been set aside to unclog the North Station area) | The Highway Authority is the responsible body for maintaining and enhancing the highway network - The Highway Authority were consulted |
| School appears and afterthought not part of original planning | See appraisal |
| Councillors failed to speak up for the concerns of residents on Apprentice Drive, a majority of which are young working families without the resources or skills to represent themselves | Not a planning matter – all representations will be taken into consideration |
| Schools usually have a 10 minute drop off window | See appraisal |
| Turning area will still be needed at the cul-de-sac of Fernlea | The Highway Authority were consulted – see appraisal |
| Does not take into account community use and special school events that will create traffic and parking issues outside school hours | See appraisal |
| <u>Amenity</u> | |
| Deprivation of right to enjoy peace and quiet | See appraisal |
| Loss of amenity in Fernlea with respect to the cul-de-sac and the single open green space within Fernlea which would not be accessible due to the increase in traffic | See appraisal |
| Use of the Fernlea access would increase noise and dust. Proposed 1.8m high fencing provides little sound insulation and is visually obtrusive | See appraisal |
| Refute fencing would reduce noise by 6db and even if it is there would still be a 10db increase in noise resulting in 20% increase | See appraisal |

in ambient noise

Noise would impact upon families who chose to live on Apprentice Drive See appraisal

Raising of road by 1.8m is unacceptable being within 2.4m of an adjacent property See appraisal

450 cars plus other school vehicles would affect foundations of homes in Fernlea Should foundations become affected due to the development of a school this would be a matter for the applicant and residents to address outside of planning - The Highway Authority were consulted

450 car movements would increase noise within estate by at least 450% See appraisal

Fencing on Fernlea access has potential for vandalism and car damage and if not maintained would impact upon amenity of area See appraisal

Design and Access Statement makes no mention of security or overnight lighting in respect of light pollution. These details should be submitted with the scheme See appraisal

Adverse effect on residential amenity by way of noise, loss of privacy and increased traffic congestion within Fernlea due to traffic leaving school and Fernlea drop offs See appraisal

Detrimental impact on residential amenities, its visual impact and impact on the character of the area See appraisal

Concerns regarding infringement upon enjoyment of properties and change community appeal See appraisal

The character of Fernlea is incongruous with proposed road See appraisal

Access point will look out of keeping with the rest of Fernlea as the road: will be squeezed between two existing properties (look unnatural), will be fenced (not in keeping with brick boundary walls), will be elevated (irregular appearance) and will replace green area See appraisal

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| Entry and access routes fail to meet requirement of National Planning Policy Framework (NPPF) for safe and suitable access for all people and safe/secure layouts which minimise conflicts between traffic, cyclists and pedestrians (Design Manual on Roads and Bridges irrelevant, poor visibility at junction, speeding on Braiswick and inaccuracies in TA) – Tufnell Way junction more suitable | See appraisal |
| Use of school gates to control non-school related traffic is a hope based on tenuous grounds; the gates will stay open as people will be arriving at the school at different times throughout the day, office staff will not be on site to open and close gates after school hours, gates will have to remain open for after school hours/weekend community use and special school events | School hours are proposed at 07:00 – 18:00 Monday to Friday only - See appraisal |
| Adverse traffic impacts will be exacerbated by children coming to the school from further afield | CBC Environmental Protection Team and County Air Quality advisor were consulted – See appraisal |
| As per Design Statement, to accommodate the Northern Growth Area, the school will grow to 3 form entry with 600+ pupils, with room for further expansion; this will further degrade the environment, safety and wellbeing of Fernlea residents | The CPA can only determine applications on their merits based on the information provided. The application is seeking consent for 420 place Primary School and Early Years centre |
| Proposed working hours (7:00 to 18:30 Monday to Friday) not in accordance with Colchester Borough Council Environmental Control best practice guidance; which states that no vehicle connected with works should arrive on site before 7:30 and working hours are to be restricted to between 8:00 and 18:00 Monday to Friday | See above |
| There will be long-running management problems for the new school and continued aggravation from residents | Not a planning matter |
| Operation of the gates will be under the control of school management; will have to accommodate staff arrival and departure before and after school hours, midday early | See above and appraisal |

years traffic, school activities traffic, visitors and deliveries to the school and out of hours use, such as community uses, open evenings etc.

Will not be a primary school in the southern section of the Chesterwell development ; children will attend the proposed school adding to traffic

See appraisal

Growth of the school to 600 or 800 pupils will place an intolerable environmental impact on the residents of Apprentice Drive and Fernlea

See above

Pupils from Severalls area, Chesterwell development and Queen Boudica Primary School will travel by vehicle through the already congested North Station area

See appraisal

Detrimental impact upon residential amenities, visual impact and impact on area character

See appraisal

Increased crime due to link with New Braiswick Park will be detrimental to quality of life and result in increased police work; recommended that Police endorsed crime assessment be included in planning proposal (FOI will be lodged to ensure)

Essex Police Architecture crime prevention officer has been consulted - See appraisal

Pollution will dramatically increase and there will be an effect on resident's quality of life

See appraisal

Land between two houses too narrow for road and residents will get no peace

See appraisal

Human rights, health, safety and risk management implications

The report only concerns the determination of an application for planning permission. It does however take into account any equality implications in consideration of the details submitted with the application

Policy/Procedure

Situation whereby Essex County Council (ECC) is applicant, seeking consent from ECC is a strange scenario.

Regulation 3 of the Town and Country Planning General Regulations 1992 permits Essex County Council to determine applications to which it has an amongst other matters a significant interest.

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| Concern that independent reports requested from the applicant are more akin to sales literature to promote scheme than independent consultation proposes. | Full statutory consultation has been undertaken as part of the application process |
| Appears reports produced to support application rather than consider its merit. | See above |
| Non-compliance with CBC policies | See appraisal |
| Non-compliance with regional policies | The Localism Act 2011 revoked regional policies |
| Non-compliance with various rights of children, human rights and rights of children with disabilities | See above |
| Proposed pedestrian/cycle access contrary to policy DP17 | See above |
| Contrary to Development Management Policy DM15 as the increase of traffic would be severe | Development Management Policy DM15 does not form part of the CPA development plan for appraisal of this application – see appraisal |
| Contrary to DEFRA national Noise Policy Statement for England. | See appraisal |
| Contrary to the NPPF | See appraisal |
| Contrary to the Essex Design Guide 1973 and 2005 | See appraisal |
| Not allocated school site within local plan | See appraisal |
| Development is outside the Colchester Borough Council – Local Development Framework (LDF) | See appraisal |
| Local Cllr confirmed that the land does not hold any notion within LDF | CBC has been consulted regarding site allocation - See appraisal |
| Public consultation a farce. Braiswick residents not consulted | See appraisal |
| Application for funding to Central Government stated that ECC had consulted with relevant bodies. This was false and misleading to Government | The application for funding was not part of the applicants submission – not a planning matter |

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| ECC not correctly notified people of first public consultation on the 25 th November 2013. Properties adjacent to the site not notified | See appraisal |
| Significant changes in design layout from 9 th January consultation showing access solely from Apprentice Drive to the 27 th March consultation showing access from both Apprentice Drive and Fernlea. Final consultation gave residents only 14 days before formal submission of application to be rubber stamped | Submitted planning statement states that changes to the proposal were due to feedback from the public consultation - See appraisal |
| Information is missing in design and Access Statement regarding access, root protection zones, balancing ponds and flood risk potential | See appraisal |
| Various breaches of National, Regional and Local Planning Policy, potential breaches of the Human Rights Act and failure to comply with the Localism Act 2011 | See appraisal |
| Non-compliance with Colchester Local plan documents; Core Strategy (Policy ENV1, Policy SD3), Site Allocations (Policy SD3) and Development Policies (Policy DP1) | See appraisal |
| County Council has not conducted subsidence investigation or respond to resident concerns; will hold County Council liable for any loss | See above |
| Non-compliance with Essex County Council public consultation policies | See appraisal |
| No planning involved in proposal; knee jerk reaction | The applicants undertook pre-application talks and a PiP regarding submission of their application – see appraisal |
| Consultation meeting showed original access from Apprentice Drive with few Fernlea objections. Following this consultation it was changed to Apprentice Drive and Fernlea. Despite strong objections following the March consultation the scheme has not changed | See appraisal |
| ECC Cllr attended a meeting with residents however, with greatest respect, appears A publicity exercise | County Planning Authority was not present at this meeting – No comment |

Lack of transparency, such as the Community Use Agreement and agreement with Persimmon Homes

Matter for Colchester Borough Council - County Planning Authority were not involved with agreements

The Essex County Council have now deemed that the long term strategy to not build a school at Fernlea/ New Braiswick Park, to increase places at existing school and to build Queen Boudica Primary School was incorrect

See appraisal

Applicants request for a screening opinion on the current scheme in respect of a possible Environmental Impact Assessment (EIA) was made prior to the second public consultation exercise; Essex County Council has shown scant head/attached low importance to public consultation

The applicant submitted a screening opinion as part of their pre-application consultation. The County Planning Authority screened the proposal in accordance with the EIA Regulations 2011

Design team meeting minutes obtained under FOI have revealed issues which prompted the changes made after initial public consultation

County Planning Authority did not attend these meeting and remained impartial

The Design and Access Statement is not a true representation of Fernlea; the images utilised do not give a true representation of the area and provide a misguided impression of on-street parking, the terrain and the access route

The Highway Authority, Colchester Borough Council and Essex County Council Design Officers were consulted as part of the application – See appraisal

Need

Appear three main drives behind current application firstly, funding, secondly need for additional primary school places and thirdly, land becoming available

Funding is not a planning consideration - See appraisal

Taking current figures of starts appears it will be six years before school would be full

See appraisal

Other proposed schools (Severalls and Chesterwell) would be constructed adding capacity. In addition some pupils within the catchment area may attend private schools

See appraisal

Only 16 pupils would come from Fernlea

See appraisal

Quote from ECC regarding forecast pupil

See appraisal

growth is unfounded and officer responsible for stating this has not been identified. If statement untrue ECC has mislead central government

ECC minutes of the 18th April confirm no need for a school in 2011 but situation changed in 2013

See appraisal

Driving force is the £4.2 million Government fund

Funding of the scheme is not a planning consideration – the County Planning Authority will assess the application on the consultation responses received and the merits of the information provided

Why during austerity spending £5.2 million on proposal which was meant to be covered by a neighbouring school built in 2007 to cover the NBP development

See above

Justification for school based on unsubstantiated increase beyond available GP figures in future

See appraisal

Rapid change in pupil numbers is due to the approval of the Chesterwell development

See appraisal

Local schools have been expanded in recent years to accommodate NBP development. Need for school accommodation questionable

See appraisal

Overriding factor for school is the Basic Targeted needs programme and the fact educational authority owns the land

See appraisal

Proposal being driven by time limit imposed on the central government grant not by appropriateness of its location or current needs

See above

Failure to properly plan New Braiswick Park should not be visited on the residents of Fernlea

Colchester Borough Council are the responsible authority for granted planning permission for the NBP development and site allocations through the CSA

Concerns regarding lack of need

See appraisal

No demand from Fernlea residents for school and unreasonable that they be affected by school development

See appraisal

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|--|---------------------------|
| By reviewing the history of New Braiswick Park and surrounding area it is evident that the local authority chose not to build a school on the site; assessment concluded that increased spaces at existing schools and new Queen Boudica Primary School sufficient | See above – See appraisal |
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|---|---------------------------|
| As it is an Academy money is the most important factor, so positions will be filled; future local children will not be able to attend | See above – See appraisal |
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| In north Colchester a record number of families seeking schools are being forced 4 miles away to Stanway and St Johns | See appraisal |
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| Queen Boudica Primary School is an example of a broken catchment; 70% of pupils come from all over Colchester and 50% of parents drive (as at 2009) | See appraisal |
|---|---------------|

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| Queen Boudica Primary School and Myland may be oversubscribed, but they are not catchment schools for New Braiswick Park, so cannot be used to justify building the school | See appraisal |
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| Disappointment at results of rescreening in respect of the possible requirement for EIA | See above |
|---|-----------|

Location

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| Fernlea and New Braiswick Park are classified as LDF Predominantly residential Zones. As the applications sits outside the LDF Policies DP1, DP12, and DP13 are relevant. There is no DPD support (DP4) for the provision of new community facilities even should they be deemed to positively contribute to the local community | See appraisal |
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|---|---------------|
| Area prior to New Braiswick Park (NBP) was served by Mayland, Heathlands and North County Primary schools. Children being born in Fernlea Estate is static surely better to put new schools in new developments being created in District | See appraisal |
|---|---------------|

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| Cumulative development with respect to the | See appraisal |
|--|---------------|

creation of New Braiswick Park, the failure to expand on existing school places and the subsequent purchase and change in land use of white land that sits outside the Local Development plan to support the Chesterwell and Severalls developments

Understands need for school places however, does not believe current proposal is most sensible or fair option

See appraisal

ECC have purchased white policy land with no fear of policy objection from CBC

See above - See appraisal

Chesterwell Development approved in LDF and includes a school although no funding has been provided. Funding should be reallocated from the proposal for Chesterwell School

See appraisal

Location of school within the south of Chesterwell development would be better location. Infrastructure could be put in place now to improve southern area of Chesterwell development and provide greater access

See appraisal

Fernlea should be preserved as a good example of controlled design development in the 1970s; Fernlea one of only two built to Essex Design Plan

See appraisal

There are other new developments in the area that would be more suitable

See appraisal

Can the County Council point to a similar school built at the end of a cul-de-sac and where traffic is generated from outside the area?

Planning application are judged on their own merits

Insufficient surveying carried out considering former subsidence issues

See above

Landscape/Design

Creation of an access between two existing properties cannot be achieved whilst adhering to Arboricultural requirements

See appraisal

Object to cutting back or removal of a Willow Tree within the boundary of a residential property

See appraisal

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|--|--|
| Concerns regarding electric sub-station upgrade | Utilities statement provided as part of the planning application submission – upgraded of the sub-station would be considered by the applicant and relevant utility body |
| Concerns regarding sewage capacity | See above |
| Early Years facility needs to be built at the same time to minimise construction disturbance and allow parents to take children to one facility | Should permission be granted the applicant I accordance with the Framework has 5 years to implement the proposal. The applicant is not seeking a phased approach to the proposal and it is anticipated that the proposal would be built in one phase |
| Removal of a tree within a residential property could kill the tree and should this occur impact those properties as root protection zone would become unstable | See appraisal |
| Proposed 1.8m high fence obtrusive and if not maintained would have a detrimental visual impact on the Fernlea cul-de-sac | See appraisal |
| School site covered by TPO. Proposal takes scant regard of this order | See appraisal |
| ECC deceptive with regard to identifying young Oak trees as scrub. These trees should not be felled | See appraisal |
| Road link against Secured by Design principles | See appraisal |
| No close boarded fences visible within Fernlea estate therefore, proposal is out of character | See appraisal |
| Construction Management Plan does not assess initial access for site construction via Fernlea. No method statements within Plan to show root protection zone for construction access. Must be in accordance with BS5837 – 2012 | See appraisal |
| Overlooking properties will have view of open countryside blocked | See appraisal |
| Construction of road and walls between 40 and 57 Fernlea will affect trees and properties | See appraisal |

Other

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|--|--|
| Residents moving into New Braiswick Park accepted there would be no school within the development | Not a planning matter |
| Purchased property on the basis no school was to be developed on this parcel of land | See above |
| Price of house was more due to view | Not a planning matter |
| Told when purchasing house any development on application land would take at least 10 years. This is not true | No comment. |
| ECC officer lives within catchment area and championing the proposal. Should have stepped aside regarding scheme | See above – County Planning Authority impartial from Educational Authority |

Supporting representations:

| <u>Observation</u> | <u>Comment</u> |
|---|------------------------|
| Plans submitted appear to represent the best option for the estates and residents that are going to be affected | Noted - See appraisal |
| Hope new school will provide much needed centre for children, parents and others in community | See appraisal |
| The school is to service the local area and therefore responsibility for access should be shared | Noted - See appraisal. |
| Overall support for the proposed development given the shortage of primary schools in the area | See appraisal |
| The plans look ideal and there will be no traffic problems as most children attending the proposed school will walk from New Braiswick Park | Noted - See appraisal. |
| Fair to use both Apprentice Drive and Fernlea; allowing both estates access and | See appraisal |

lowering impact of traffic to solely one estate

Entrance and exit via Apprentice Drive is not realistic as the road is not wide enough; for the purposes of road regulations, too narrow for current traffic volume

See appraisal

Junction of Vortex Road, Spindle Street and Breeze Lane will be used as car parks for drop-offs

Noted - See appraisal

Submitted plan has improved drop-off area, parking and separate staff parking

See appraisal

Recommends Early Years site as parking until construction commences

See appraisal

Desperate need for one-way system along Fan Avenue, Axial Drive and Apprentice Drive due to on-road residential parking; will also reduce risk to pedestrian and parked vehicles

See appraisal

No entry and no left turn signs needed at top of Fan Avenue

The Highway Authority has requested that should permission be granted a contribution be made for signage, painting of double yellow lines and monitoring within the Braiswick area - See appraisal

Consideration should be given to applying parking restrictions along affected roads

See above

Essential that decision makers take into account into account feedback from both sets of residents; sharing the burden of the additional traffic

See appraisal

Fernlea residents have been disproportionately represented at meetings

All representations will be taken into consideration

Fernlea residents have a not in my backyard mentality

Not a planning consideration

Object to plans changing back to access and exit via Apprentice Drive as; road is not wide enough, particularly for buses, vehicles larger than a 4X4 and rubbish trucks

Noted - See appraisal

Apprentice Drive would be gridlocked

See appraisal

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|--|---|
| Fernlea is preferred as an exit as it is wider, will have one way traffic, will result in less damage to infrastructure, reduce risk to children using parks on Apprentice, can accommodate larger vehicles and is a fairer solution | Noted - See appraisal |
| Access, layout and design of proposed new school look excellent | See appraisal |
| Request that permission includes condition that fence contractor contact all owners affected by fence | This is a private matter between the developer and landowners |
| Pleased that north east quadrant will be largely undisturbed | Noted |
| Attractive and suitable facility | Noted |

Appendix 2

Second Round Public Consultation representations received objecting to and supporting the proposal. These relate to planning issues, in summary, covering the following matters:

Objection responses

| <u>Observation</u> | <u>Comment</u> |
|---|---|
| Policy/Procedure Objections | |
| Proposal has been pushed through against the wishes of those members of the public it most affects | Application has been considered in accordance with National and Local Planning Policy and Procedures |
| Consultation has been conducted due to an obligation to do so; not true participatory decision making | See appraisal |
| Nothing of significance has been revised | The applicant submitted revised details in light of consultation response received - See appraisal |
| Failure to comply with local and national planning standards | See appraisal |
| Non-compliance with Colchester Borough Council Development Policies Core Strategy DP1, National Planning Policy Framework and Essex County Council public consultation policies | See appraisal |
| Objections have not been adequately responded to and strong concerns have been ignored. | Noted. |
| Information has been covered up and due process not adhered to | See above |
| Maladministration by Essex County Council has occurred | See above – The County Planning Authority has assessed the application in accordance with National and Local Planning Policy and Guidance |
| Amended documents do nothing to address the planning policy breaches identified | See appraisal |
| Design amendments are unprofessional and | The applicant submitted additional/amended |

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| hurried and as a result breach more planning policies | information in light of consultation responses received. In light of this the County Planning Authority undertook a second round of public consultation to ensure no parties were at a disadvantage from the submitted amendment |
| Previous reasons for objections still apply due to the unchanged nature of the proposals | Noted |
| Complaint lodged against Colchester Borough Council that the views of the planning committee have been misrepresented to Essex County Council; grounds for injunction and judicial review | Colchester Borough Council is a consultee and has submitted a response to the County Planning Authority that the recommendation is a true reflection of the planning committee. Members of the Development and Regulation committee will assess the application on the merits of the information provided and responses received, one of which is Colchester Borough Council. |
| Due process for notification of members of the public has not been followed | The County Planning Authority has carried out public consultation in accordance with the adopted Statement of Community Involvement (2012) |
| Deliberate creating consultation fatigue by way of multiple consultations with substantially unchanged proposals | See above |
| Less responses to current round of consultation should not be taken as consent and request that all objections to-date are considered | Weighting is not applied in relation to amount of consultation responses received rather on material planning considerations |
| Disappointment that objections have not been taken on board or addressed | See appraisal |
| Application should not be considered as it is not supported by local community, does not comply with local or national planning policies and knowingly uses false data | See above - See appraisal |
| Re-submitted plans and documents still do not comply with the Colchester Local Development Framework, the ECC Development Management Plan, NPPF, DEFRA National Noise Policy Statement for England and the Essex Design Guide | See appraisal |

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| Under Planning Regulations and BS5837(2012), a detailed construction plan of the Fernlea exit should have been produced at the time of the planning application | Highway Authority consulted as part of application – See appraisal |
| ECC continue not to listen to the considerable concerns of the residents | All representation response received raising material planning considerations will be taken into consideration in determination of the application |
| Recommend ECC Planning Committee listen to recording of the Colchester Borough Council Planning Committee meeting of 10 July 2014; as misinformation and slanted view of meeting was forwarded to ECC | See above |
| Deception and dishonesty by ECC; application continues to show areas of young oak trees as 'Existing Scrub'. Many young oak trees are not even shown on plans as 'Existing Scrub' | County Landscape and Tree officer consulted - See appraisal |
| Gaining funding through deceptive conduct; from which the developer is profiting | Not a planning consideration |
| Planning application is politically motivated to cover up admin and consultant errors and should be thoroughly investigated before any decision is made | See above |
| Concern that no Design Team meetings between 7 April and 1 August despite on-going consultation | See above |
| Impacts Human Rights; Article 1 and 8 of Human Rights Act | See appraisal |
| Proposals overwhelm the existing development; Colchester Borough Council – Special Guidance for Backlands Development | See appraisal |

Need

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|---|---------------|
| The claim that there is a need for this school does not mean that the school needs to be sited in this area | See appraisal |
|---|---------------|

Principle of Development/Site Location

The school was supposed to be built in the approved statutory plan for the Chesterwell Northern Growth Area

See appraisal

Failure to respond to consequences if the probable expansion of the school to cope with pupils from the Chesterwell development; consequences for Fernlea and Apprentice Drive have been ignored

See appraisal

Apparent that there was an initial plan to locate the school of Colchester Northern Growth Area which would have met the concerns raised

See appraisal

Objections on the basis of the need for the school and the Traffic Assessment being incorrect; school should not be built at proposed site as there are no justifiable reasons for proposed site and more user-friendly sites available

See appraisal

Lack of consideration of alternative site

See appraisal

Complete failure to look at Fernlea as a unique development

See appraisal

Impact Upon Amenity

Failure to consider adverse effect upon amenity of residents through noise, dust, air pollution and crime

See appraisal

Removal of proposed fences alongside Numbers 40 and 57 Fernlea gives direct vision into both properties; complete loss of privacy and increase in noise

A landscape scheme was submitted as part of the proposal which included provision of fencing along the Fernlea access – see appraisal

Noise mitigation has not been provided

See appraisal

Design, Landscape, Trees and Ecological Impact

School do not want two storey building

See appraisal

Suggest wildlife area against boundary of

See appraisal

Fernlea to reduce school impacts on neighbours

The construction plan for the Fernlea junction is unbuildable; amendments to the exit plan in response to objections are in further breach of planning regulations and inconsistent with remainder of application

Highway Authority consulted as part of the application process - See appraisal

Continued questions as to the viability of the road link into Fernlea: retaining structure has not been detailed, water drainage has not been resolved and road and path uses will be impeded by existing trees

See above

No proof of mitigation measures in plans

See appraisal

With no proof that the road can be built, outside landownership, the application cannot proceed

Provided the correct notices have been served and the access is included within the application site boundary the County Planning Authority can assess the proposal. If the applicant does not own the land and unable to implement the permission this is a private matter

The proposals are unsafe to the residents of 57 Fernlea

See appraisal

Major detrimental impacts to be caused to existing residents, property and trees

See appraisal

Access/Exit between Numbers 40 and 57 Fernlea will have devastating affect and are in breach of British Standard BS 5387:2012, ECC's Arboricultural Impact Assessment Report and the Manufacturers Guidance for the use Cellular Confinement Systems for the Protection of Tree Roots

See appraisal

Exit proposal will result in damage and need to remove significant portions of trees

See appraisal

Note potential Conservation Area that could apply to Fernlea and the potential loss to both academia and residents; Essex Guide 1973

Fernlea has is not identified as a Conservation area within the CSA. Whether Fernlea would be identified as a conservation area would be assessed during the next review of the Colchester Local Plan

Highway Impact

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| Outdated information has been used to assess the suitability of the Fernlea exit | See appraisal |
| Second consultation revealed that access to the school has been vastly altered and completely revised | See appraisal |
| Pedestrian access/footpath from Fernlea to school will encourage parents to drop off pupils in Fernlea | See appraisal |
| Obvious that no consideration has been taken of the volume of objections regarding access from the school onto Fernlea | The Highway Authority has been consulted as part of the application and TA submitted by FRAG submitted to the HA for consideration when considering the proposal on Highway safety and capacity grounds |
| Similar access route has been put through an estate in another area; causing no end of problems | Each planning application is determined/assessed on its own merits |
| Making access road small does not alleviate concerns | See appraisal |
| Access changes will create even greater problems and accidents | See appraisal |
| Winter access impossible without 4x4 | Highway Authority is responsible for maintenance and care of the public highway the Highway Authority have been consulted as part of the application submission |
| There are 6 houses exiting onto the Fernlea hammerhead; concerns for crossing pupils when reversing up steep drives with poor visibility | See appraisal |
| Transport Assessment is misleading and has been proven to contain false and misleading information; wrong junction | See appraisal |
| Report has not been fully updated to reflect corrected information; erroneous information retained in body of report | See appraisal |
| Applicant has not considered Scenario 1 of the Stillwell Transport Assessment; instead adding additional data to support existing conclusion | Highway Authority was provided with the FRAG TA when reaching their recommendation - See appraisal |

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| School travel plan is window dressing | See appraisal |
| Unacceptable and massive impacts on highways and residents | See appraisal |
| 414% increase in traffic at Fernlea junction is severe for the purposes of NPPF | See appraisal |
| Traffic Assessment based upon Tufnell Way before re-widening; recommendations based upon the capacity of the junctions not acceptable for a planning decision | See appraisal |
| Applicant admit that the maps used in the traffic assessment are years out of date | Highway Authority were consulted – See appraisal |
| Decision not to engage Stilwell to re-examine the updated report because it has changed so little, that the majority of the Stilwell assessment is still valid | Noted. |
| Photographs comparing Fernlea and Tufnell Way junctions show greater visibility at Tufnell Way | Highway Authority have been consulted – See appraisal |
| Highway safety and increased traffic generation issues | Highway Authority have been consulted – See appraisal |
| Failure to acknowledge and respond to issues relating to the foreseen future growth of the school which will have consequences for the current proposed access roads and adjoining properties | Highway Authority have been consulted – See appraisal |
| Paths on Fernlea need repairs | Maintenance of the public highway is the responsibility of the Highway Authority. Applications must be determined on the information provided at the time of submission of the application. The County Planning Authority cannot pre-determine future developments |
| If the school expands, then further disruption will be felt wholly by Fernlea residents | |
| Access road should be classed type 3 Feeder Road; insufficient width for such a road | See appraisal |

Public Consultation

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| Failure to consider and feed back to the | See above. |
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community the reasons why you have not taken into account the local and borough council views

Misled by first consultation process

See appraisal

Comments regarding consultation during construction and between the residents and the school with regard to outside hours activities are meaningless and unenforceable

The applicant has submitted a SCI addressing all comments raised during their public consultation and sets out how these influenced the design of the scheme - See appraisal

Opposition went from 55% during first consultation to 72% during second consultation; contravention of the Localism Act

See appraisal

Other Matters

Concerns raised by residents of Fernlea ignore; request balanced, equitable and transparent approach

See appraisal

Failure to consider reasoned objections

See appraisal

A legal challenge is to be mounted if objections are not formally considered and responded to

The County Planning Authority has summarised all response received and addressed objections raised within the appraisal section of this report. The CPA is content that all Planning procedures have been followed in accordance with legalisation

No material changes despite concerns

See above

Concerned that there have been no Design Team meetings after 07 April 2014

No pre-application meetings have been held since the 7th April 2014. The applicant has submitted their application on the basis of the information provided as part of those discussions and their PiP.

Colchester Borough Council shocked by access plans

Colchester Borough Council have been consulted – See appraisal

Previous objections still valid

Noted

Supporting representations:

Observation

Comment

We fully support the plans

Noted.

Committee DEVELOPMENT & REGULATION

date 26th September 2014**INFORMATION ITEM****Applications, Enforcement and Appeals Statistics**

Report by Director of Operations, Environment & Economy

Enquiries to Robyn Chad – tel: 03330 136 811

or email: robyn.chad@essex.gov.uk**1. PURPOSE OF THE ITEM**

To update Members with relevant information on planning applications, appeals and enforcements, as at the end of the previous month, plus other background information as may be requested by Committee.

BACKGROUND INFORMATION

None.

Ref: P/DM/Robyn Chad/

MEMBER NOTIFICATION

Countywide.

SCHEDULE**Minerals and Waste Planning Applications**

No. Pending at the end of previous month

22

No. Decisions issued in the month

4

No. Decisions issued this financial year

20

Overall % in 13 weeks this financial year (target 60%)

70%

| | |
|---|-----|
| % on target this financial year (CPS returns count) | 50% |
| Nº Delegated Decisions issued in the month | 3 |
| Nº Section 106 Agreements Pending | 1 |
| <u>County Council Applications</u> | |
| Nº. Pending at the end of previous month | 11 |
| Nº. Decisions issued in the month | 6 |
| Nº. Decisions issued this financial year | 22 |
| Nº of Major Applications determined (13 weeks allowed) | 2 |
| Nº of Major Applications determined within the 13 weeks allowed | 2 |
| Nº Delegated Decisions issued in the month | 5 |
| % age in 8 weeks this financial year (Target 70%) | 41% |
| <u>All Applications</u> | |
| Nº. Delegated Decisions issued last month | 8 |
| Nº. Committee determined applications issued last month | 2 |
| Nº. of Submission of Details dealt with this financial year | 99 |
| Nº. of Submission of Details Pending | 72 |
| Nº. of referrals to Secretary of State under delegated powers | 1 |
| <u>Appeals</u> | |
| Nº. of appeals outstanding at end of last month | 2 |
| <u>Enforcement</u> | |
| Nº. of active cases at end of last quarter | 30 |
| Nº. of cases cleared last quarter | 23 |

| | |
|---|---|
| Nº. of enforcement notices issued last month | 0 |
| Nº. of breach of condition notices issued last month | 0 |
| Nº. of planning contravention notices issued last month | 0 |
| Nº. of Temporary Stop Notices Issued last month | 0 |
| Nº. of Stop Notices Issued last month | 0 |

DR/41/14

committee DEVELOPMENT & REGULATION

date 26 September 2014

COMMITTEE PROTOCOL AND PUBLIC SPEAKING POLICY

Joint report by the Head of Planning, Environment and Economic Growth and Director for Essex Legal Services

Enquiries to: Jacqueline Millward 033301 39671

1. BACKGROUND

The Development and Regulation committee has adopted a Development and Regulation Committee Protocol and a Public Speaking on Planning Applications Protocol. Some updating and rationalisation of the text has been identified.

2. ISSUES TO BE CONSIDERED

Firstly, as a result of correspondence on a specific committee agenda item it has come to light that there is some inconsistency between statements made in these documents as to the publication of the agenda papers and more general statements in other County Council information on its web pages.

The legal requirements for publication are set out in the Local Government Act 1972 (as amended) which requires agendas and reports which are not excluded papers to be published at least 5 clear days before the meeting (i.e. excluding the day of publication and the day of the meeting). There are other exceptions for short notice meeting and for items added to an agenda. In all cases nothing is required to be open to inspection by the public until copies are available to members.

In the public speaking protocol the following three references are made to when committee papers will be available:

- page 2, 2nd full paragraph, 3rd sentence says 'The report is available at the Council Offices at least seven working days before the meeting, and will be published on the County Council's website ...'; and

- page 4, 2nd paragraph, 1st sentence says 'The agenda and reports for the Committee are published and are available for public inspection at least seven working days in advance of the Committee.'
- Page 6, 2nd full paragraph, 3rd sentence says 'The report will be available at the Council Offices at least seven working days before the meeting, and will be published on the County Council's website ...'

There is a further reference in the Committee Protocol on page 10, in the penultimate full paragraph, before section 8, which says 'Committee papers will normally be available at least seven working days prior to the meeting. The papers will also be published on the County Council's website....'.

To be consistent it is recommended that all the references are changed to say "The agenda and reports for the Committee will normally be published at least five clear days before a Committee meeting (excluding the day of publication and the day of the meeting) and will be available for public inspection on the County Council's website".

Secondly, the Government has brought in new regulations recently which enable proceedings at meetings open to the public to be recorded.

These Regulations make provision to allow members of the public to report and commentate on public meetings of local government bodies in England. Regulation 3 amends the Public Bodies (Admission to Meetings) Act 1960 to allow entry to the meetings of specified local government bodies for the purposes of reporting and to allow the results of the reporting to be published or disseminated. "Reporting" includes filming and providing commentary on proceedings and allows for the use of a wide range of methods including social media. Regulations 4 and 5 make similar amendments to the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

The County Council already covers reporting on meetings in its Standing Orders and by a protocol on their use. It is currently under review in relation to the new regulation which will be reported to Council. In the Committee's public speaking protocol the following reference is made to recording:

- page 7, fifth paragraph, 3rd sentence says 'Except with the approval of the Chairman, no cameras, tape recorders or any other type of recording equipment shall be permitted to be used/operated while business is being transacted.'

To accord with the new rights given to the public with effect from 6th August 2014 in The Openness of Local Government Bodies Regulations 2014 it is recommended this is now deleted.

3. RECOMMENDED

That the following changes to the 'Public Speaking at the Development and Regulation Committee' edition dated November 2010 are adopted:

The words "The agenda and reports for the Committee will normally be published at least five clear days before a Committee meeting (excluding the day of publication and the day of the meeting) and will be available for public inspection on the County Council's website" are added in substitution for the following existing text, with any minor variations that the context may require:-

- page 2, 2nd full paragraph, 3rd sentence 'The report is available at the Council Offices at least seven working days before the meeting, and will be published on the County Council's website ...'; and
- page 4, 2nd paragraph, 1st sentence 'The agenda and reports for the Committee are published and are available for public inspection at least seven working days in advance of the Committee.'
- Page 6, 2nd full paragraph, 3rd sentence 'The report will be available at the Council Offices at least seven working days before the meeting, and will be published on the County Council's website ...'

And that the following words are deleted from the Committee Protocol, updated 31st May 2013: page 7, fifth paragraph, 3rd sentence 'Except with the approval of the Chairman, no cameras, tape recorders or any other type of recording equipment shall be permitted to be used/operated while business is being transacted.'

BACKGROUND PAPERS

Committee Protocol, updated 31st May 2013

'Public Speaking at the Development and Regulation Committee' edition dated November 2010

The Openness of Local Government Bodies Regulations 2014, Statutory Instrument 2014 No. 2095