

Development and Regulation Committee

10:30	Friday, 26 June 2015	Committee Room 1, County Hall, Chelmsford, Essex
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Quorum: 3

Membership:

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

Chairman

For information about the meeting please ask for:

Matthew Waldie, Committee Officer

Telephone: 033301 34583

Email: matthew.waldie@essex.gov.uk



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 Clerk to report receipt (if any)	
2	Declarations of Interest To note any declarations of interest to be made by Members in accordance with the Members' Code of Conduct	
3	Minutes To approve the minutes of the meeting held on 22 May 2015.	7 - 14
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/18/15, relating to a contractors site compound for mineral Sites A3 and A4 and maintaining existing access and egress via Woodhouse Lane for private vehicles used by the contractors staff, light goods vehicles used by maintenance staff, fuel deliveries and general site compound support vehicles, at Land on Rivenhall Airfield, within site A3 & A4 of Bradwell Quarry, Bradwell, Essex, CO5 9DA. Reference: ESS/14/15/BTE	15 - 30
6	Information Items	

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| 6a | Little Warley Hall Farm
To note report DR/19/15 on the appeal decision relating to the construction of an abattoir wash water storage tank and de-odourising ring apparatus including associated equipment and container, at Little Warley Hall Farm, Ranks Green, Fairstead, Chelmsford, Essex CM3 2BG.

Ref: ESS/60/13/BTE | 31 - 42 |
| 6b | Applications, Enforcement and Appeals Statistics
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.
DR/17/15 | 43 - 44 |
| 7 | Date of Next Meeting
To note that the next meeting will be held on Friday 24 July 2015 at 10.30am. Committee Room 1, County Hall. | |
| 8 | 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.

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| 9 | 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. |
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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 MAY 2015**

Present

Cllr R Boyce (Chairman)
Cllr J Abbott
Cllr J Aldridge
Cllr K Bobbin
Cllr M Ellis
Cllr C Guglielmi

Cllr J Jowers
Cllr J Lodge
Cllr M Mackrory
Cllr M Maddocks
Cllr Lady Newton
Cllr S Walsh

1. Apologies and Substitution Notices

Apologies were received from Cllr J Reeves (substituted by Cllr M Maddocks).

2. Declarations of Interest

Cllr Abbott declared a personal interest in agenda item 6a, the Village Green application in respect of the Land off Oxford Meadow, Sible Hedingham, as a member of Braintree District Council, which is objecting to the application; however Cllr Abbott had taken no part in the District Council's representations and therefore considered he was not prejudiced in considering the application.

Cllr Lady Newton also declared a personal interest in agenda item 6a, the Village Green application in respect of the Land off Oxford Meadow, Sible Hedingham, as a member of Braintree District Council, which is objecting to the application; Cllr Newton declared she would take part in the discussion but abstain from voting.

3. Minutes

The Minutes and Addendum of the Committee held on 24 April 2015 were agreed and signed by the Chairman.

4. Identification of Items Involving Public Speaking

There were none identified.

5. Roxwell Quarry Complex, Roxwell, Chelmsford

The Committee considered report DR/15/15 by the Director for Operations, Environment and Economy.

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

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:

- Principle of Development and Need
- Landscape and visual impact
- Residential and Local Amenity
- Water Environment
- Highways and Rights of Way
- Ecology
- Restoration and Afteruse.

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

- The existing permission appeared not to have conditions setting precise limits to the amount being tipped, either in terms of volume or weight (as these would vary, according to the nature of the waste). The applicants appeared to have been tipping according to the wrong plan, which came to light as they revisited the requirements for restoration of the site; and they themselves actually brought the matter to the attention of Council officers
- It might be construed that permitting this could be seen as setting a precedent for other operators to flout the conditions of their agreements with impunity. However, in this case, requiring the removal of excess materials would have a negative environmental impact; whereas the outcome of this application would be an improved restoration of the site overall, financed by the operator, which would not have been enforceable under the original agreement
- Although a 10 year aftercare period for biodiversity was now being proposed, even though the County Ecologist had initially suggested a 25 year period, this was an improvement on the 5 year maximum that Essex could legally require. 10 years was also considered a sufficient period to enable the biodiversity to become self-sustaining
- Negotiations to address this issue not only involved the operator but a third party – the landowner. Any increase beyond the 5 years could not be covered as a condition, but would have to be part of a Section 106 Agreement. This would also need consent all three parties.
- Why had compensation not been provided to local parishes? Any requirements had to be directly related to the development in accordance with NPPF

One further point was made by a Member:

- The operator had also engaged with the local Parish Council and local residents, to address the issues here, and this had resulted in noticeable benefits to the local community.

A Member proposed an amendment to increase the aftercare period to 25 years in the Section 106 Agreement.

The resolution for the amendment was moved, seconded and following a vote of five in favour and seven against, the amendment was not approved.

A Member proposed an amendment to include an additional condition requiring submission of the proposed Biological survey work referred to on page 31 of the agenda. This would ensure the survey work was undertaken.

The resolution for the amendment was moved, seconded and following a unanimous vote in favour, the amendment was approved.

The original resolution was proposed and seconded, subject to the addition of the above amendment. Following a vote of eight in favour and none against, it was

Resolved

That planning permission be **granted** subject to

- i. The prior completion, within 3 months, of Legal Agreements under the Planning Acts to secure obligations covering the following matters
 - a) 10 year aftercare period and requirement for submission and approval of ecological management delivery plan for all areas restored to biodiversity, including meadowland.
 - b) Creation, installation and maintenance of permissive bridleway around the Brittons Hall Landfill, with its retention for a minimum period of 50 years.
- ii. And conditions relating to the following matters:
 1. The development hereby permitted shall be carried out in accordance with the details of the application dated 04/02/15, together with;
 - report reference LT/BHF/ABW/1649/01 dated January 2015;
 - letter dated 1st May 2015 reference LT/BHF/ABW/1649/01;
 - emails dated 8th May 2015 reference LT/BHF/ABW/1649/01;
 - Figure 1 LT/BHF/01-15/18458;
 - Figure 2 LT/BHF/01-15/18459;
 - Figure 3 LT/BHF/01-15/18460;
 - Figure 4 LT/BHF/01-15/18461;
 - Figure 5 LT/BHF/01-15/18462;
 - Figure 6 LT/BHF/01-15/18463;
 - Figure 7 LT/BHF/01-15/18464; and
 - HDA9 dated April 2015.
 2. The development hereby permitted shall be completed by the 31/12/15;
 3. The total number of HGV movements associated with the development shall not exceed 120 movements Monday to Friday or 60 movements on Saturdays;
 4. Operations associated with the developments hereby permitted shall only be permitted between 0700 and 1800 Monday to Friday, and 0700 and 1300 on Saturdays;
 5. Access to the Site shall be by way of the haul road and access via the A1060 as identified on drawing LT/BHF/01-15/18464 (dated January

- 2015). Other than at the identified crossing point, vehicles shall not use Pengymill Lane;
6. No waste other than those waste materials defined in the application details shall enter the site;
 7. Noise emanating from any activities associated with the developments operation, shall not exceed 50dB at any noise sensitive receptor;
 8. Noise emanating from any temporary activities associated with the development, shall not exceed 70dB at any noise sensitive receptor for a continuous eight week period;
 9. No stripping or spreading of materials shall take place when the wind speed measured at the site equals or exceeds 28knots;
 10. The development hereby permitted shall not take place until details of measures to prevent odour nuisance have been submitted to and approved in writing by the Waste Planning Authority;
 11. No development shall commence in Area Z until a soil analysis has been undertaken to establish the existing nutrient content and the quantities required to bring the land into arable agricultural use;
 12. Machinery, plant and vehicles used on the site shall be effectively silenced in accordance with the manufacturer's specification;
 13. Any fuel, lubricant or/and chemical storage vessel shall be placed or installed within an impermeable container with a sealed sump and capable of holding at least 110% of the vessel's capacity. All fill, draw and overflow pipes shall be properly housed within the bunded area to avoid spillage. The storage vessel, impermeable container and pipes shall be maintained for the life of the development hereby permitted;
 14. Unless the WPA otherwise agree in writing any building, plant, machinery, foundations, roadways, structures or erections in the nature of plant or machinery used in connection with the development hereby permitted shall be removed by 31 December 2015 and upon their removal the land shall be restored and placed into aftercare;
 15. No removal of hedgerows, trees or shrubs, or excavation works shall take place between 1st March and 31st August inclusive, unless approved by an ecological assessment confirming that no wildlife will be harmed and/or appropriate measures are in place to protect existing wildlife;
 16. The applicant shall notify the WPA at least 3 working days in advance of the commencement of the final subsoil placement on each phase. On completion of the subsoil placement no further work is to be carried out for a period of 5 working days without the consent of the WPA, to allow an inspection of the site to take place;

17. The development hereby permitted shall not exceed the pre-settlement contours as shown on drawing number LT/BHF/01-15/18462 dated January 2015 and 2093.15/11B dated October 2014;
18. Commencement of the development hereby permitted shall take place until an aftercare scheme has been submitted to and approved by the WPA;
19. Any tree or shrub forming part of a landscaping scheme approved in connection with the development under Condition 28 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;
20. All topsoil, subsoil and soil making materials shall be retained on site and used within the restoration scheme;
21. The development hereby permitted shall be implemented in accordance with the details relating to the restoration scheme as set out in 2093.15/05H dated April 2015 and 2093.15/11B dated October 2014;
22. Within 6 months of the date of this permission a Habitat Management Scheme shall be submitted to and approved in writing by the WPA;
23. The development hereby permitted shall be carried out in accordance with LT/BHF/01-15/18464 (dated 30th January 2015) and the Flood Risk Assessment (Reference LT/BHF/ABW/1649/01);
24. All watercourses existing on or adjacent to the site shall not be affected in terms of quantity and quality by the restoration operations except with the prior written approval of the Waste Planning Authority;
25. Where differential settlement occurs during the restoration and aftercare period, that is no greater than 10m² the applicant shall fill the depression to the final settlement contour specified with suitable imported soils, to a specification to be agreed in advance by the WPA;
26. Prior to the commencement of the development hereby approved, a Landscape scheme shall be submitted and approved by the WPA; and
27. Landscape Management Plan.
28. Submission of ecological survey works prior to commencement of works within the areas to be surveyed.

INFORMATIVES

PROW diversion of Footpath 35

Village Green

6. 'Land off Oxford Meadow,' Sible Hedingham

The Committee considered report DR/16/15 by the Director for Essex Legal Services to consider an application made by Mrs Lisa Babbs of 76 Oxford Meadow, Sible Hedingham under Section 15(2) of the Commons Act 2006 as amended, to register land known as 'Land off Oxford Meadow' at Sible Hedingham, Chelmsford, as a Town or Village Green.

The Committee noted:

- A non-statutory public inquiry had been held and the inspector had made a recommendation on the evidence in relation to the application and the objection
- Some of the boundaries of the area under consideration were not precisely defined
- The applicant had asked that the application be considered with reference to the use of the land by the inhabitants of the "locality" of the Civil Parish of Sible Hedingham (ie not to a neighbourhood within that parish)
- The local Member had been consulted and was in favour of the recommendation.

Following the presentation, which included photographs and detailed maps of the application land and surrounding area, the recommendation to accept the recommendation was moved and seconded, and, following a vote of eleven in favour and none against, with Cllr Lady Newton abstaining, it was

Resolved:

The inspector's analysis of the evidence in support of the application is accepted and his recommendation is accepted that the application made by Lisa Babbs dated 24th April 2013 is rejected for the reasons set out in the inspector's report and in summary in the report.

7. Statistics

The Committee considered report DR/17/15, Applications, Enforcement and Appeals Statistics, as at end of the previous month, by the Director of Operations, Environment & Economy.

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 June 2015 at 10.30am in Committee Room 1.

There being no further business the meeting closed at 11.29 am.

Chairman

committee DEVELOPMENT & REGULATION

date 26 June 2015

MINERALS AND WASTE DEVELOPMENT

Proposal: **Contractors site compound for mineral Sites A3 and A4 and maintain existing access and egress via Woodhouse Lane for private vehicles used by the contractors staff, light goods vehicles used by maintenance staff, fuel deliveries and general site compound support vehicles.**

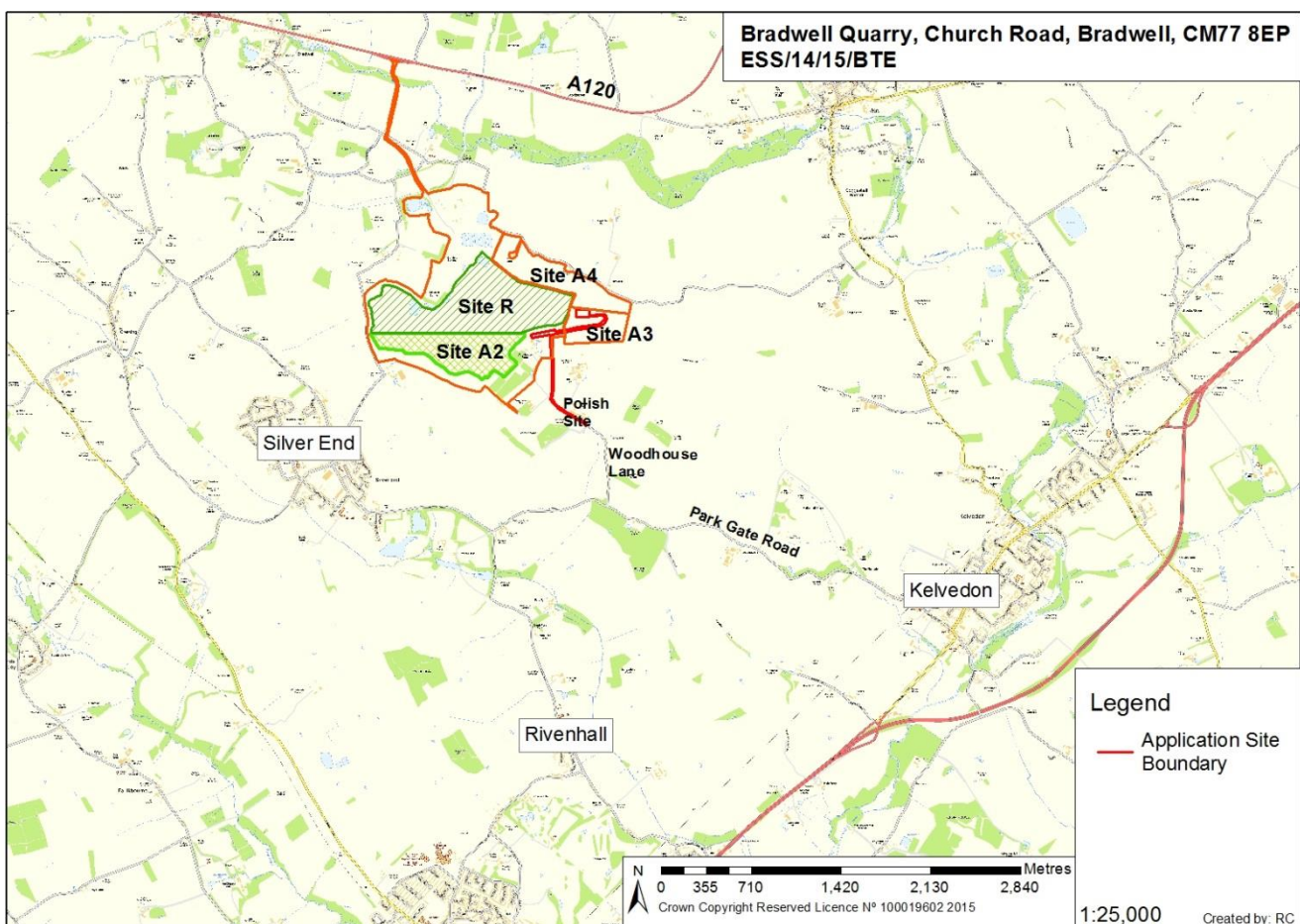
Location: **Land on Rivenhall Airfield, within site A3 & A4 of Bradwell Quarry, Bradwell, Essex, CO5 9DA Ref: ESS/14/15/BTE**

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 permission was for sand and gravel extraction within site R 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.

In 2011 planning permission ESS/32/11/BTE was granted for an extension to the site to the south (site A2 in the then emerging replacement Minerals Local Plan). In 2015 planning permission ESS/24/14/BTE was granted for extensions to the site to the east and south east (sites A3 and A4 of the adopted Minerals Local Plan), implementation of this permission commenced in May 2015. At the current time the operations are utilising the site compound previously used in connection with site A2.

In addition to the main extraction applications there have been various applications for additional secondary plant including a bagging plant and dry silo mortar plant and amendments to such.

With respect to the earth movers' compound it is acknowledged that the contractors undertaking the earthmoving and extraction have had a compound on the existing airfield runways since 2001. The location of this compound has varied over time as the operations have moved. Under the 2011 permission the location of the compound was controlled through the conditions of the planning ESS/32/11/BTE and limited to two locations on the southern edge of the void, with access by the earth movers' staff and maintenance vehicles to the south via Woodhouse Lane.

2. SITE

The Bradwell Quarry itself lies 6km east of Braintree. The quarry 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 is located on the south east of the quarry, partly within site A3 & A4. The site includes two areas for the contractors' compound: location "A" (approximately 7,600m²) on part of the main redundant airfield runway on the northern edge of site A3; and then when this area is required to be extracted relocated to location "B" (approximately 4,000m²) south of A3 on part of the redundant airfield taxiways.

The main quarry access is onto the A120 approximately 1km east of Bradwell village. There is an existing surfaced 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 processing area is linked to the current extraction area by an unmade haul road which heads due south from the processing area approximately 1km to the extraction face.

The access to the application site would be via Woodhouse Lane a minor no through road that links to Park Gate Road giving access to the A12 either through Rivenhall or Kelvedon. Woodhouse Lane ceases to be public highway at the Polish Camp, which is now an employment area, with various industrial uses, now known as Allshots Enterprises, located on the north side of Woodhouse Lane. Beyond Allshots Enterprises the private road is initially a concrete road (previously part of airfield infrastructure) topped with chippings. The concrete road continues towards where Hangar 2 used to be before it was demolished, but the proposed route to the compound branches north east approximately 320 along the private section of Woodhouse Lane, utilising an existing hardcore track that links across to the redundant airfield runways and taxiways.

The nearest residential properties to the proposed sites for the compounds are Bumby Hall, on Woodhouse Lane approximately 200m south east of the application site, with the compounds located approximately 1km from the property. In addition there are residential properties to the north on Cuthedge Lane, including Deeks Cottage to the north west at 300m and Haywards on the north side of Cuthedge Lane approximately 300m to the north east. Allshots Farm (Grade II Listed Building) lies approximately 400m to the south east; a scrap yard lies between the sites for the compounds and the Allshots Farm house.

Woodhouse Farm and buildings (Grade II Listed) are located south of the proposed compounds approximately 120m away, but are separated from locations for the compounds by existing buildings and existing established vegetation. The house is currently unoccupied and has been for a number of years.

Footpath Bradwell 68 is aligned north to south and located on the west side of location A for the compound. Footpath Kelvedon 8 links with Footpath Bradwell 68 heading west just south of the taxiway before passing through the buildings of Woodhouse Farm, from where it links to Woodhouse Lane, sharing the lane and provides a link to the public highway at the Allshots Enterprises.

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

3. PROPOSAL

The application is for a site compound for the earth moving contractors who are moving soils, overburden and extracting the sand and gravel from sites A3 and A4 permitted under planning permission ESS/24/14/BTE.

The compound would be used to park the earth contractors own vehicles and park the contractors plant, also to locate a site office, welfare facilities for contractors staff, a generator unit, water tank (for site office/welfare facilities), a skip for any waste generated from the compound and bunded oil and fuel tanks to supply the

contractors' vehicles. These facilities would be relocated from the current compound associated with site A2.

The extraction of sites A3 and A4 is to be undertaken in 6 phases. Two locations are proposed for the site compound, firstly location "A" on the main runway which is on the northern edge of A3 phase 2. The compound could remain in this location for the first 5 phases of extraction and then when phase 2 of site A3 is to be worked would be relocated to location "B" just south of the workings on the former perimeter airfield taxiway.

The anticipated number of staff vehicle movements is a maximum of 60 movements a day (30 in 30 out) during intense periods of material movements, but on average 28 movements (14 in, 14 out) are anticipated. With an average of 2 LGV or HGV movements (1 in 1 out) a day associated with maintenance staff, fuel delivery (HGV) and other support vehicles. It is not proposed that there would be any HGV movements associated with the delivery or removal of the earth contractors' plant and machinery which would all be via the existing site access via the A120.

A 3m bund is proposed on the north side of compound location "A" to screen any distant views of the compound from the north east. In addition bunds associated with the permitted mineral workings would further screen views of the compound.

The hours of operation would be those as for the quarry that is 0700 to 1830 hours Monday to Friday and 0700 to 1300 hours Saturdays, no vehicle movements or operations Saturday afternoons, Sundays or Public Holidays.

Access to both locations for the compound would be from the south via Woodhouse Lane, and then a private hard-surfaced haul road before joining with the airfield runways/taxiways to provide access to the compound.

The applicant has justified the location of the earth movers' compounds on the basis that the haul road between the processing area and the extraction area, which is approximately 1km long, while suitable for site vehicles and plant, is not suitable for road going vehicles, particularly in winter when the route can be impassable even in a 4 wheel drive. In addition while there is adequate space within the processing area for staff parking associated with the processing plant, bagging plant, concrete plant and dry silo mortar plant, there is not adequate space for the parking of the earth movers' plant and staff vehicles. The earth movers compound has during the extraction of site R and site A2 been located adjacent to the extraction area and accessed from the south via Woodhouse Lane, which the applicant states provides the best operational arrangement.

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:

	<u>MLP</u>	<u>BCS</u>	<u>BDLP</u>
Presumption in favour of sustainable development/ Sustainable development locations	S1		
Protecting and enhancing the environment and local amenity	S10		
Access and transportation	S11		
Development management criteria	DM1		
Countryside		CS5	
Built and Historic Environment		CS9	
Industrial & Environmental Standards			RLP 36
Minor industrial and commercial development in the countryside			RLP40
Pollution control			RLP 62
External Lighting			RLP 65

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. At the Full Council meeting on 30 June 2014, Braintree District Councillors took the decision to not submit the Site Allocations and Development Management Plan (ADMP) to the Planning Inspectorate for examination but to instead begin work immediately on a New Local Plan. At its Full Council meeting on 15th September 2014, Braintree District Councillors agreed that the ADMP as amended by Further Changes be adopted for use within development management decision making. Braintree District Council's view is that the document should be given appropriate weight in all matters under consideration and that these are material considerations for the Council. 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

BRAINTREE DISTRICT COUNCIL – No comments received.

HIGHWAY AUTHORITY: No objection subject to a condition requiring signage at the crossing points of the route to the compound with footpath 8 Bradwell.

HIGHWAY AUTHORITY (Public Rights of Way): No objection, subject to appropriate signing at the crossing points with PRowS.

PLACE SERVICES (Landscape): No objection.

BRADWELL PARISH COUNCIL – No comments received

KELVEDON PARISH COUNCIL: No objection. The Parish Council has a long history of working with Blackwater Aggregates and their development are always positive, realistic and improve the environment.

SILVER END PARISH COUNCIL: No comments received

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

- All access and egress should be via the A120 as required by ESS/24/14/BTE
- During site A2 when access was allowed via Woodhouse Lane resulted in HGVs passing through local villages due to unclear reasons with respect to the bridges on the private haul road.
- The use of Woodhouse Lane would see users of Footpath 8 Kelvedon sharing the route with traffic to the compound, spoiling enjoyment by walkers and cyclists.

- The access track from Woodhouse Lane to the airfield runways was last year surfaced having been grass previously. This track was then used by contractors working for ECC to deliver road materials being stored on the runways, resulting in HGVs using the same route as Footpath Kelvedon 8, putting users at risk.
- Keeping contractors' cars and LGVs separate is stated to improve conflicts between heavy plant using the same haul road, until the operator provides an adequate haul road between the processing area and the excavation the need for access via Woodhouse Lane is likely to be necessary for all the preferred sites located at Bradwell Quarry.
- Concern will set a precedent as to potential for second access to the Rivenhall IWMF, for the same health and safety reasons.
- The existing condition 13 on ESS/24/14/BTE requiring access and egress via the A120 should be upheld.
- Sites A3 and A4 were put as part of MLP subject of Examination in Public where access was proposed via A120, the operator should design the site to ensure all access can be via the A120. The adopted MLP requires "1 Mineral from the site would be processed through the existing processing plant, 2 Mineral traffic would use the existing main site access"

LOCAL MEMBER – BRAINTREE – Witham North – Requests the application be determined at committee and makes the following comments

- All access and egress should be via the A120 as required by ESS/14/14/BTE
- Use of Woodhouse Lane would create a secondary access for the quarry.
- The previous use of Woodhouse Lane in association with site A2 was not subject of proper consultation with the local community.
- Woodhouse Lane is a narrow lane from the Polish Camp and is the route of footpath Kelvedon 8.
- In the past HGV traffic has used the route via Woodhouse Lane to deliver plant, due to weight controls on the bridges on the main haul road.
- The access track from Woodhouse Lane to the airfield runways was last year surfaced having been grass previously. This track was then used by contractors working for ECC to deliver road materials being stored on the runways, resulting in HGVs using the same route as Footpath Kelvedon 8, putting users at risk. Neither ECC nor BDC intend to require planning permission for this track.
- An access to the site via Woodhouse Lane would see additional traffic in Rivenhall & Silver End both have primary schools.
- Concerned will set a precedent as to potential for second access to the Rivenhall IWMF
- Sites A3 and A4 were put as part of MLP subject of Examination in Public where access was proposed via A120, the operator should design site to ensure all access can be via the A120. The adopted MLP requires " 1 Mineral from the site would be processed through the existing processing plant, 2 Mineral traffic would use the existing main site access"

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

6. REPRESENTATIONS

16 properties were directly notified of the application; it should be noted that only 2 of these were residential properties the rest were businesses within Allshots Enterprises. No letters of representation have been received.

7. APPRAISAL

The key issues for consideration are:

- A. Need,
- B. Traffic, Highways & Public Rights Of Way
- C. Landscape Impact, Visual Impact and Restoration;
- D. Water Environment
- E. Local Amenity
- F. Historic Environment
- G. Social Impacts.

A NEED

MLP Policy S1 (Presumption in favour of sustainable development) reflects the presumption in favour of sustainable development contained within the NPPF. The principle of mineral extraction within sites A3 and A4 was established through the grant of permission for application reference ESS/24/14/BTE.

BCS policy CS5 seeks to ensure development outside town development boundaries, village envelopes and industrial development limits is restricted to uses appropriate to the countryside in order to protect and enhance landscape character, biodiversity, geodiversity and amenity of the countryside.

There is no specific policy within the MLP with respect to ancillary services associated with mineral extraction. The BDLP policy RLP 40 with respect to minor industrial and commercial development in the countryside supports minor development in the countryside subject to it either being an extension to existing activity or being of a small scale securing significant benefits. However, the development is required to be of good design and include mitigation to limit impact on landscape character.

The applicant has justified the need for the compounds adjacent to the extraction area on the basis of a number of factors. The internal haul road between the processing area is a 1km long unmade road suitable for heavy plant, but not road vehicles. Use of this by the earth moving contractors' staff would mean cars using the same route as heavy plant, which is not ideal in health and safety terms. In addition in winter, at times, the haul road becomes almost impossible for even 4 wheel drive vehicles, which would prevent the earth moving staff being able to access the extraction area. While the quarry processing area has adequate parking for staff associated with the sand and gravel extraction and secondary processing including dry silo mortar plant, bagging plant and ready mix concrete plant, there is no space to accommodate either the parking or welfare facilities for the earth moving contractors. These facilities have historically been located adjacent to the workings in various locations on the redundant runways and taxiways and have been accessed from the south via Woodhouse Lane.

While it would be preferable that the facilities for the contractors compound are located in the processing area this is some distance (1km) from the working face, which isn't very practical and there isn't space to accommodate the compound. It is considered that there are both benefits for the contractors' staff if their parking and welfare facilities are located close to where they are working, i.e. at the quarry face and negates the need for the staff to use the unmade haul road avoiding conflict with heavy plant vehicles. In considering the principle of the compound in its proposed locations it is considered that as the compounds are associated with the mineral development the proposals would accord with the principles of BRLP policy RLP40, subject to it not having adverse environmental effects.

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.

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 TRAFFIC, HIGHWAYS & PUBLIC RIGHTS OF WAY (PRoW)

Planning permission ESS/24/14/BTE requires all traffic to access and egress the site via the private haul road that links to the A120. The application seeks to allow a maximum of 30 cars and vans a day (30 in movements and 30 out movements) with an average of 14 cars and vans (14 in movements and 14 out movements) and average of one LGV or HGV a day (1 in movement 1 out movement) to access the quarry from the south for the earth moving contractors only. Vehicles would include maintenance vehicles and fuel vehicles (fuel vehicle maximum size 32 tonnes) to access the site from the south via Woodhouse Lane and a private haul road.

Policy S11 states as set out below

Proposals for minerals development shall be permitted where it is demonstrated that the development would not have unacceptable impacts on the efficiency and effective operation of the road network, including safety and capacity, local amenity and the environment.

Proposals for the transportation of minerals by rail and/ or water will be encouraged subject to other policies in this Plan.

Where transportation by road is proposed, this will be permitted where the road network is suitable for use by Heavy Goods Vehicles or can be improved to accommodate such vehicles. The following hierarchy of preference for transportation by road shall be applied:

(i) Access to a suitable existing junction with the main road network, as defined in Section 7, via a suitable section of an existing road, as short as possible, without causing a detrimental impact upon the safety and efficiency of the network.

(ii) Where (i) above is not feasible, direct access to the main road network involving the construction of a new access/ junction when there is no suitable existing access point or junction.

(iii) Where access to the main road network in accordance with (i) and (ii) above is not feasible, road access via a suitable existing road prior to gaining access onto the main road network will exceptionally be permitted, having regard to the scale of the development,

All access for HGV mineral traffic associated with the quarry would not be affected by the proposals and would remain via the A120 and private haul road to the processing area. This includes the delivery and removal of any heavy plant or machinery required by the earth moving contractors which would be delivered by HGVs or low loaders via the existing access from A120 and private haul road. This is in accordance with MLP policy S11.

Woodhouse Lane is public highway up until the Allshots Enterprises. The Allshots Enterprises is a small area of commercial/industrial buildings and encompasses a number of workshop buildings built when it was a Polish Camp as well as new industrial units permitted by Braintree District Council. Traffic to the Allshots Enterprises includes car, LGV and HGV traffic. Beyond the Allshots Enterprises Woodhouse Lane is private road and from it there is an access track to Allshots Farm, which is an active farm as well as providing access to Allshots scrap business. Woodhouse Lane continues north and in the past provided access to Hangar 2 which has now been demolished as part of the extraction of mineral within site A2.

An access track heading north from Woodhouse Lane was surfaced last year to provide a link from Woodhouse Lane to the remaining runways and adjacent agricultural area, the previous route for the landowner having been lost due to mineral extraction with site A2. This track was used last year by HGVs delivering road materials by contractors working on behalf of ECC, the materials were temporarily stored on the old runways prior to use in road repairs. Concern has been expressed that planning permission should have been required for this track and the storage of materials. These matters were referred to Braintree District Council as the appropriate planning authority and it is understood no action was considered necessary. Neither the surfacing of the track nor the storage of the road materials were associated with the quarry operator.

The Highway Authority and PRow have both raised no objection to the application, subject to a condition requiring warning notices at the points where the access route to the compound crosses footpath Bradwell 8.

Rivenhall PC has raised objection and the Local County Council Member raised concern regarding the application namely on the basis that all traffic should be via the haul road which links to the A120 as required by planning permission ESS/24/14/BTE.

It is stated and acknowledged by the mineral planning authority that there have been contractors compounds accessed from Woodhouse Lane during both extraction within site R as well as site A2. The impact of movements associated with the contractors' compounds became subject of concern following the

additional HGV movements associated with delivery of road materials. Prior to this there had been no complaints with respect to the location of the compounds on the airfield or the traffic they generated. At that time there were occasional deliveries of heavy plant to the quarry via Woodhouse Lane. This was done to avoid the need to manage extra heavy HGV movements over the bridges on the haul road, but once concern was raised all HGV movements associated with the movement of heavy plant ceased and only cars and LGV and the occasional HGV to deliver fuel and collect the waste skip continued to use the Woodhouse Farm access to reach the compound and continue to date.

All HGV mineral traffic and other HGV traffic would continue to utilise the existing access via the A120, except the occasional HGV required to deliver fuel (about one a week) to the compound and collection/delivery of waste skip to the compound (once a month). Only the contractors staff and maintenance and fuel vehicles would use the route via Woodhouse Lane. The number of movements is considered limited and it is not considered this level of movement would have a significant impact on the highway safety or capacity. In addition at this level of activity it is not considered there would be significant impact on users of Kelvedon footpath 8. The crossing points could be signed as is the case within the existing quarry where public rights of way cross the haul road and has resulted in no safety incidents. Woodhouse Lane is a relatively wide road where shared with Kelvedon footpath 8, such that a pedestrian could be passed by a vehicle safely. As a footpath cyclists should not be using this route.

Concern has also been raised that this application could set a precedent for potential access to the Rivenhall IWMF from the south. The applicant has confirmed this is not the intention. If developed the IWMF would see a surfaced haul road suitable for all road traffic constructed to the IWMF, such the justification for the current proposals would no longer exist. In any event if access to the IWMF was proposed from the south this would need to be subject of a separate planning application which would have to be considered on its individual merits.

C LANDSCAPE IMPACT, VISUAL IMPACT & RESTORATION

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.

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.

Compound A would be screened in part by bunds forming part of the mineral working and existing vegetation, an additional bund is proposed to the north to screen views from Cut Hedge Lane and from the north east. Compound B would

be screened by existing vegetation north of Woodhouse Farm and bunds of the mineral working. No objection has been raised by the County's landscape advisor. It is not considered the compounds would give rise to adverse landscape or visual impact and therefore the proposals are in accordance with DM1, CS5 and RLP40.

Compound A would be located on existing concrete hard standing forming part of the runway. The compound would be removed when the mineral beneath the compound is to be worked as part of permitted operations of site A3 and A4 and the area would be restored to agriculture as part of the restoration of the mineral working. Location B is also on an existing concrete hardstanding and upon completion of the mineral extraction permitted by ESS/24/14/BTE the compound would be removed leaving the existing concrete hard standing.

The compound A would be satisfactorily restored and compound B returned to its previous condition and therefore it is considered the proposals are in accordance with policy S12.

D 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.

In both locations the compound would both be located on existing concrete hard standings and fuel and oil tanks would be bunded, which could be controlled by condition. It is considered there would be no adverse impact on ground or surface water and therefore the proposals are in accordance with policies DM1 and RLP36 and RLP 62.

E LOCAL AMENITY

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, RLP 62 protects the environment from pollution with respect to air, water and land and requiring preventative measures and RLP 65 protects against light pollution.

It is not considered the proposals would give rise to excessive noise, but the maximum noise levels imposed on ESS/24/14/BTE could be imposed, such that all operations associated with the extraction of mineral within A3 and A4 are required to be within acceptable limits and monitored to ensure compliance.

No lighting is proposed or is necessary for the compound and in any case would be restricted by condition should planning permission be granted.

Subject to such conditions, it is considered the proposals would not give rise to adverse impact on local amenity and would be in accordance with policies S10, DM1, RLP 36, RLP 62 and RLP 65.

F HISTORIC ENVIRONMENT

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.

BCS policy CS9 seeks to protect the setting of Listed Building and the NPPF seek to protect the settings of Listed Buildings.

Due to existing building and vegetation the compounds and access routes would not be within the settings of either Woodhouse Farm or Allshots Farm (both Listed Buildings); therefore there would no adverse impact on these heritage assets in accordance with MLP S10, DM1, CS9, the NPPF and the Listed Buildings & Conservation Areas Act.

G SOCIAL IMPACTS

The provision of staff parking and welfare facilities close to the working face would be a benefit to the earth moving contractors' staff and provide a practical solution for the quarry operator avoiding the need to try and accommodate these facilities within the processing area and then needing to find a solution to transporting the staff safely to the working face.

8. CONCLUSION

The provision of a contractors' compound near the working extraction place has taken place for a number of years without complaint. While it is appreciated that it might be preferable for these facilities to be accommodated within the quarry processing area, this is located some distance from the working face and presents practical difficulties, including health and safety issues for the quarry, which would be overcome by placing these facilities closer to the active face. The compound is a relatively small area and would have minimal impact upon the surrounding amenity of the area and therefore is considered to be in compliance with BCS policies CS5 & CS9, BDLPR policies RLP 36, RLP 40, RLP 62, RLP 65 and MLP policies DM1 and S10. It is also considered that the proposals are

sustainable development with respect to the economic and social dimensions as set out in the NPPF.

The proposals do result in additional car/van and LGV movements and occasional HGV movements not via the main quarry entrance, instead from the south such that the associated movements would potentially pass through Rivenhall, Silver End or Kelvedon. However, due to the low number of movements involved it is not considered the proposals would have an adverse impact on either the highway network or the PRow network. The proposal would not see significant HGV movements and/or mineral traffic accessing the site from this direction. The highway network is considered adequate to accommodate the proposed levels of traffic without adverse impact and would not warrant refusal of the application. It is therefore considered the proposals accords with MLP policy S11 and DM1.

9. RECOMMENDED

That planning permission be **granted** subject to conditions relating to the following matters;

1. Comm 1 commencement
2. COMM3 Compliance with submitted details
3. CESS2 Cessation of development upon completion of ESS/24/14/BTE
4. CESS3 Removal of ancillary development
5. HOUR2 Hours of working
Monday to Friday 7am to 6:30pm, Saturday 7am to 1pm
With no working at all on Saturday afternoon, Sunday, Bank and Public Holidays.
6. HIGH 2 – Vehicular access
7. HIGH3 Maintenance of Access Road
8. HIGH 4 Prevention of mud and debris on highway
9. HIGH 5 Vehicle movements limits
10. HIGH7 Pedestrian/PROW Signage
11. NSE1 Noise Limits
12. NSE3 Monitoring Noise Levels
13. NSE5 White noise alarms
14. NSE6 Silencing of Plant and Machinery
15. LGHT1 Fixed Lighting Restriction
16. LGHT2 Use of Lighting Restriction
17. DUST3 Spraying of Haul Road
18. POLL4 Fuel/Chemical Storage
19. POLL8 Prevention of plant and machinery pollution

BACKGROUND PAPERS

Consultation replies
Representations
Planning Application ESS/14/15/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

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

committee DEVELOPMENT & REGULATION

date 26 June 2015

INFORMATION ITEM – APPEAL DECISION

Proposal: **Construction of an abattoir wash water storage tank and de-odorising ring apparatus including associated equipment and container.**

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

Ref: **ESS/60/13/BTE**

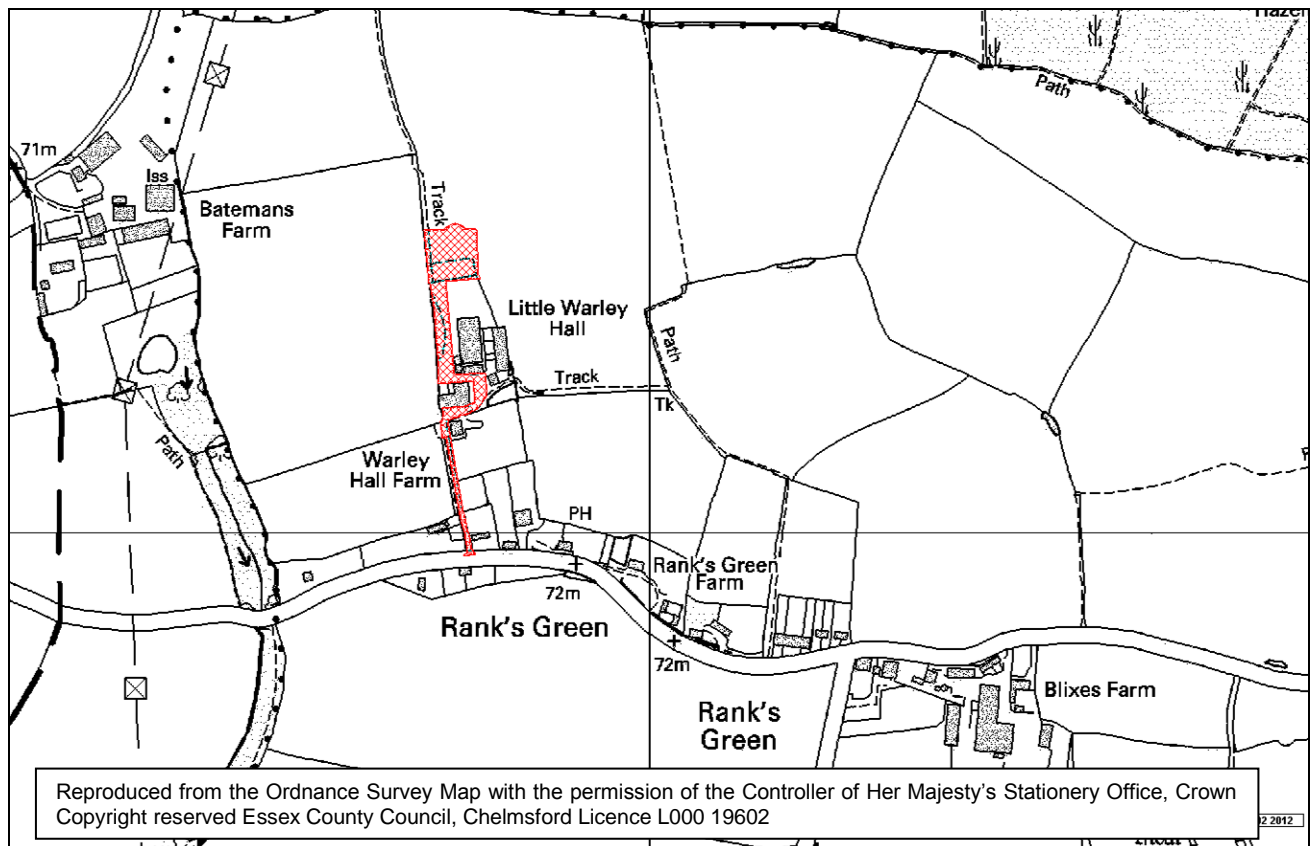
Planning Inspectorate reference: **APP/Z1585/C/14/2220003**

Applicant: **Mr Paul Humphreys**

Report by Director of Operations, Environment and Economy

Enquiries to: Suzanne Armstrong Tel: 03330136823

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



1. BACKGROUND AND SITE

At the March 2014 Development and Regulation committee meeting it was resolved that the application for the retention of the circular tank, de-odourising ring; equipment container; and associated hardstanding to facilitate the storage of abattoir wash water, together with the use of the existing agricultural access track to access the wash water tank be refused planning permission.

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

Residential properties line the lane from which the farm is accessed. The closest residential property is approximately 150m south of the development (tank).

This application was retrospective and was previously submitted to Braintree District Council in August 2013. However during the course of determination it was decided that this application represented a County Matter application. The applicant therefore re-submitted it to Essex County Council (November 2013).

The application was refused planning permission for the following reasons;

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

In addition to the above an enforcement notice was issued, seeking the removal of the tank to prevent permanent harm to amenity and the locality.

2. CURRENT POSITION

An appeal was lodged, by the applicant, against the refusal of planning permission and the enforcement notice issued by Essex County Council, the case was determined by way of written representations. The Inspector appointed by the Secretary of State for Communities and Local Government to determine the case issued her decision on 19th May 2015 and this is attached at Appendix 1.

The Inspector considered that the main issues in this case were:

- a) whether the development is appropriately located having regard to the living conditions of local residents, and;
- b) whether sufficient information has been provided about the development.

The Inspector considered that, although it was found that there was sufficient information about the wash water tank, this did not outweigh the inappropriate location and the harmful effect on local residents' living conditions from the odour emanating from it.

The National Planning Policy Framework is a presumption in favour of sustainable development, which for decision makers means approving development proposals that accord with the development plan without delay. The Inspector considered although the construction of the storage tank may comply with some development plan policies, such as supporting the re-use of recycling of wash water, which in turn is beneficial to the appellants abattoir and farming businesses, these do not outweigh the significant harm that results to nearby residential. The Inspector furthermore considered that the storage tank is not appropriately located, being contrary to Policies W3A and W10E of the Essex and Southend Waste Local Plan 2001.

The appeal was therefore dismissed and the enforcement notice upheld

The appeal decision is dated the 19th May 2015 and the requirements and timescales of the enforcement notice are:

1. Cease and do not resume the transferring of abattoir wash water into the storage tank; within one day of the decision date;
2. Remove the abattoir wash water storage tank from the land; within 3 months;
3. Remove the container and all equipment and materials associated with the abattoir wash water tank from the land; within 3 months

The appellant has ceased transferring of abattoir wash water into the storage tank and full compliance with the enforcement notice is required by the 19th August 2015. A further update will be provided to members of the Development and Regulation committee in September 2015.



Appeal Decisions

Site visit made on 9 March 2015

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 May 2015

Appeal A: Appeal Ref: APP/Z1585/C/14/2220003

Little Warley Hall Farm, Ranks Green, Fairstead, Chelmsford, Essex, CM3 2BG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Paul Humphreys against an enforcement notice issued by Essex County Council.
- The Council's reference is ESS/60/13/BTE – APPEAL.
- The notice was issued on 7 May 2014.
- The breach of planning control as alleged in the notice is without the benefit of planning permission the construction of an abattoir wash water storage tank and de-odorising ring apparatus including associated equipment and container.
- The requirements of the notice are to:
 - 1) Cease and do not resume the transferring of abattoir wash water into the storage tank.
 - 2) Remove the abattoir wash water storage tank from the land.
 - 3) Remove the container and all equipment and materials associated with the abattoir wash water tank from the land.
- The period for compliance with the requirements is:
 - 1) Within one day.
 - 2) Within three months.
 - 3) Within three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees are exempt the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal B: Appeal Ref: APP/Z1585/A/14/2220007

Little Warley Hall Farm, Ranks Green, Fairstead, Chelmsford, Essex, CM3 2BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Paul Humphreys against the decision of Essex County Council.
- The application Ref ESS/60/13/BTE, dated 29 November 2013, was refused by notice dated 31 March 2014.
- The development proposed is the retention of abattoir wash water storage tank and de-odorising ring apparatus including associated equipment container and hardstanding.

Summary of Decision: The appeal is dismissed.

Application for costs

1. An application for costs was made by the Appellant against the Council. This application is the subject of a separate Decision.

The appeal on ground (a), the deemed planning application and the s.78 appeal

2. From the reasons for refusal and the reasons for issuing the notice I consider that the main issues in these appeals are firstly whether the development is appropriately located having regard to the living conditions of local residents and secondly whether sufficient information has been provided about the development.

First issue: Location and living conditions

3. The hamlet of Ranks Green comprises a scattered group of farm buildings, dwellings and some commercial uses. It is in a rural area about 8km from the northern edge of Chelmsford. The wash water tank is situated at Little Warley Hall Farm at the northern edge of a working farmyard which comprises various agricultural developments. Access to it is via a drive from the road around and through the farmyard. The tank lies to the north of a large manure heap.
4. The tank is a circular segmented structure comprising a number of identical concrete components mechanically fixed together set on a concrete base and grouted so that it is waterproof. It stands 3m above ground level and projects 1m below the ground and has an internal radius of 11.855m. The concrete has a smooth surface and is light grey in colour. It is filled to 3.5m in depth and it holds about 1,545,500 litres of liquid¹.
5. There is an area of crushed rubble hardsurfacing around the tank and a shipping container, painted dark green, is situated immediately to the west of the tank. This contains de-odorising equipment, a pump, control equipment and de-odorising fluid².
6. The tank was constructed in 2012 and its function is to hold abattoir wash water until such time as it is spread on the land as fertiliser. The wash water is transported by tanker from the Appellant's abattoir some 900m away by road. The wash water is mains water containing blood, animal flesh and animal faeces that has been sieved to remove solids above 4-6mm in size. Prior to the building of the tank, wash water was spread on the Appellant's holding and surplus wash water was transported away from the abattoir for storage and spreading elsewhere.
7. The spreading of the wash water on the land as fertiliser requires a licence from the Environment Agency (a Deployment) on which conditions can be imposed. The Deployment for the year 2013-2014 permitted land spreading to take place twice a year – after the main crop is taken off in July/August and after the maize crop has been cut in October³. For the year 2014-2015 the Deployment permits, in addition to spreading on stubble, the spreading of wash water onto a growing crop⁴. The Deployment states the fields on which the wash can be spread and it is the Appellant's case that to ensure the minimum

¹ Paragraph 3.21 of the Appellant's Grounds of Appeal

² Paragraph 3.22 of the Appellant's Grounds of Appeal

³ Email from the Appellant's agent to the Council dated 28 January 2014

⁴ Letter from the Appellant's agent to the Inspectorate dated 18 March 2015

odour impact on nearby residents the fields in the north are spread when the wind direction is favourable. It is, he says, therefore most efficient for the tank to be located as close as possible to those fields.

8. Following the construction of the tank and complaints about odour, the Environment Agency conducted an investigation and published a report in October 2013; a revised report was issued in January 2014. Both reports came to the same conclusion, that is, 'that whilst an odour was detected on several occasions by our officers it is at a level that would be expected of a storage tank ... The storage of abattoir wash water is by its nature an odorous one and therefore we would not expect it to be odour free at all times'. This report comprises the Appellant's odour evidence.
9. The background to the Environment Agency Report was 47 reports between 20 December 2012 and 10 August 2013 mainly relating to odour thought to be coming from the tank. Analysis of these reports showed that a maximum of 23 could have related to the tank or to land spreading. Monitoring was undertaken by the Environment Agency between 10 June 2013 and 2 August 2013 by ten different people and up to ten minutes was spent at each of six monitoring points. On ten occasions the probable source of odour was the tank. The descriptions of the smell include 'offensive revolting muck'; 'very unpleasant - strong sewerage'; 'acrid smell'; and 'stagnant drains mixed with sweet chemical'.
10. Local residents have continued to complain about the odour from the tank and have made representations about such matters as being unable to stay out in the garden because of the smell. Representations in the appeal process have been made by local residents individually and through the representations of a Planning Consultant. Many residents have lived in the area for a long time and none had any complaints prior to 2012 about this particular smell, even though it would appear that wash water was being spread on the land prior to that date. It is also notable that local residents do not appear to have any complaints about other smells arising from the Appellant's farming activities such as manure, silage and the production of animal feed.
11. Complaints were made at the end of 2012 to Braintree District Council's Environment Services and the Environmental Health Officer reported⁵ that she witnessed 'a strong unpleasant odour affecting the residential area of Ranks Green' and she noted that she had not received any complaints prior to that date about odour in the locality.
12. I accept that there may be odour emanating from the land spreading and it is difficult to distinguish that smell from the smell emanating from the tank. However, in the past the times of land spreading were limited whereas complaints since the tank was built have been consistent throughout the year. I also accept that there may be some exaggeration from local residents, but they are the people who live in the area all the time and I give their views about the adverse impact the smells from the tank are having on their lives significant weight. In doing so I note that the Environment Agency accepts that the tank produces odour at 'a level that would be expected of a storage tank' but gives no evaluation or explanation of what this may mean. My visit took place on a cold day and I do not know how full the tank was but I noted a distinct unpleasant odour emanating from it; this odour was completely

⁵ Memo dated 27 August 2013 enclosed with the Questionnaire in the s.78 appeal

distinguishable from the odour of the manure, silage and other more usual farmyard smells.

13. Since the appeal proceedings began the Environment Agency have begun investigations into whether the storage of the wash water meets the requirements for temporary storage, under which the previous and current Deployments were issued, or permanent storage, in which case different regulations apply but at the time of writing this decision, the Environment Agency's investigations have not been concluded⁶. In any event, the criteria under which the Environment Agency grants Deployments are different from the planning considerations with which I am concerned in this appeal.
14. I accept that there should be some consistency between consents issued under the planning and pollution control regimes as advised in Planning Policy Statement 10 'Planning for sustainable waste management' (PPS10)⁷. However, PPS10 also advises that the likely impact on amenity should be taken into account and this includes the consideration of odours⁸. In this regard Policies W3A and W10E of the Essex and Southend Waste Local Plan (the Waste Plan) and Saved Policies RLP36, RLP62 and RLP90 of the Braintree District Local Plan Review 2005 (the Local Plan) seek to ensure, among other things, that new development will be consistent with the goals and principles of sustainable development and will not have an unacceptable impact on the surrounding area and cause harm to nearby residents as a result of such things as smell.
15. Policy 62 of the Local Plan also seeks to ensure adequate preventative measures are taken to ensure that any discharge will not cause harm. The tank includes a de-odorising ring apparatus, however, local residents have also made representations about the unpleasant odour emanating from this equipment when it is used and the Environmental Health Officer advised that from her involvement in investigating odour from establishments such as animal by-product premises the neutralising spray system does not eliminate odour. It therefore seems that rather than mitigating the problem of unpleasant smell the use of the de-odorising unit could be exacerbating it.
16. The Environment Agency recommended that the tank was covered by either a roof or floating cover to mitigate the potential odour issues in future. No such cover has been installed but the Appellant suggests that a planning condition could be imposed requiring a cover to be installed. The Appellant has submitted information about two covers, one is a system of clay aggregate that floats on the surface called 'Aerocover' and the other is a durable cover. With regard to the former, the information comes in the form of reports from the manufacturer and an article from 'Pig World' entitled 'Slurry Management' which concludes with the words 'He wouldn't categorically say there is no odour at all, but it is negligible and is currently keeping the various authorities happy' and the latter details are promotional material from the manufacturer and provides no information about performance.
17. The Appellant maintains that this is the type of condition that is frequently imposed and it would be for the Council to determine on the basis of the details

⁶ The Appellant's agent's letter to the Inspectorate dated 18 March 2015 and enclosed email and other correspondence

⁷ Paragraph 29

⁸ Annex E to PPS10

supplied which type of cover would be appropriate. I consider that this approach may be the normal one when the development is a proposal only when all the merits can be taken into account, but this appeal is concerned with a development that has taken place and from which odour is known to emanate. In the absence of any expert, independent evidence I am unable to reach any conclusion whether a cover would provide a solution and I therefore consider that the imposition of a planning condition requiring a cover would not overcome the unacceptability of the tank.

18. In correspondence with the Council, the Appellant advised that wash water has to be taken away from the abattoir before 06.00⁹ and that tanker trips to the tank are not constant but would be unlikely to exceed five or six per week and that when the tank is full, tankers carry on past the site to dispose of the wash water elsewhere¹⁰. Local residents, however, take a different view and say that there are far more than five or six tanker journeys per week and that tankers registered to industrial waste companies have also visited the site. Local residents also say that the tankers visiting the appeal site cause noise, disturbance, dust and have an adverse impact on highway safety.
19. A number of different farming activities take place on Little Warley Hall Farm and elsewhere in the vicinity all of which generate traffic, noise and disturbance of some type or another at different times of the day. However, for similar reasons as before, the residents live in the hamlet and they are aware of what is going on and I again note that complaints were not made prior to the construction of the tank about farm vehicles in general. But, in the absence of any detailed traffic or other reports I give this matter little weight.
20. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development¹¹ which for decision takers means approving development proposals that accord with the development plan without delay. Although the construction of the storage tank may comply with some development plan policies such as supporting the re-use and recycling of wash water which in turn is beneficial to the Appellant's abattoir and farming businesses, these do not outweigh the significant harm that results to nearby residential occupiers.
21. I therefore conclude that the storage tank is not appropriately located and that it has a harmful effect on the living conditions of local residents and that it is contrary to Saved Policies RLP 36 and RLP62 in the Local Plan and Policies W3A and W10E in the Waste Plan.

Second issue: Information

22. At the time the application was made, the Appellant advised that he was willing to install a cover on the tank should the Council deem it necessary¹². In its response to the planning application the Environment Agency concluded that 'the current odour control measures, the de-odorising ring, are inadequate'¹³ and recommended that a condition be imposed requiring the submission of a design for the capping of the tank. I have considered above the question of the imposition of a planning condition in respect of the cover and I am of the

⁹ Email from the Appellant's agent to the Council dated 13 February 2014

¹⁰ Email from the Appellant's agent to the Council dated 28 January 2014

¹¹ Paragraph 14

¹² Planning and Design and Access Statement dated 9 December 2013

¹³ Letter dated 10 January 2014 included with the Questionnaire

opinion that, in the absence of expert and independent information I am unable to reach any conclusion whether a cover would provide a solution at this stage. The circumstances may have been different if the application had not been retrospective.

23. Also at the time of the application the Environment Agency raised no concerns about the design or use of the tank, however, the Agency has since stated that they believe that the storage of the wash water 'is no longer temporary storage'¹⁴. I cannot speculate whether this possible change of status would have led to a different response at the time of the planning application and I am not aware of any change in the Environment Agency's stance. No concerns were raised by the Environment Agency about what could happen if the tank failed and in this respect I note that the wash water poses no risk to human health. The question of possible flooding has not been addressed so far as I am aware by the Environment Agency.
24. I consider that more information prior to the construction of the tank would have been appropriate. However, the tank has been constructed and although concerns have been raised by the Council and the local residents, taking the Environment Agency's position into account it seems to me that on balance sufficient information has now been provided about the development.

Other Matters

25. The Appellant has provided a large amount of technical information about such matters as the chemical content of the wash water and the various agricultural and other processes with which he is involved. I have taken these matters into account insofar as they are relevant to these appeals. In reaching my conclusions I have taken into account that the land spreading of wash water will not cease and that, given the Appellant's business interests, it is likely that tanker trips through the hamlet of some scale or another will continue.
26. Many representations have been made that the tank should have been located in a different place. In this appeal I am solely concerned with the tank as built and I have not taken into account any submissions relating to a possible different location and any consequent implications. Nor have I been concerned in this appeal with matters such as the importation of waste and whether the wash water is industrial waste or not.

Conclusions

27. Although I have found that there is sufficient information about the wash water tank, this does not outweigh my conclusion with regard to its inappropriate location and the harmful effect on local residents' living conditions with regard to the odour emanating from it. For the reasons given above, and taking all other matters into account, I conclude that the ground (a) appeal fails, the deemed planning application is refused and the s.78 appeal is dismissed.

The appeal on ground (f)

28. In an appeal on ground (f) the Appellant is saying that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control. In this case the Appellant notes that the Council does not

¹⁴ Letter dated 30 September 2014 from the Environment Agency to the Local MP- enclosed with the Appellant's agent's letter dated 18 March 2015

object to the tank on visual amenity grounds and therefore it is excessive to require the tank to be removed because it could be retained and used for other agricultural related purposes.

29. The purposes of the requirements of a notice are to restore the land to its condition before the breach took place and to remedy any injury to amenity which has been caused by the breach¹⁵.

30. The breach of planning control is the construction of the tank and the associated equipment and the requirements require its removal together with the associated equipment. The retention of the tank would therefore not fulfil the statutory purpose of the requirements to restore the land to its condition before the breach took place. In the circumstances the requirements are not excessive and the ground (f) appeal fails.

Conclusions

Appeal A

31. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Appeal B

32. For the reasons given above I conclude that the appeal should be dismissed.

Decisions

Appeal A: Appeal Ref: APP/Z1585/C/14/2220003

33. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B: Appeal Ref: APP/Z1585/A/14/2220007

34. The appeal is dismissed.

Gloria McFarlane

Inspector

¹⁵ S.173 (4) of the 1990 Act

DR/20/15

Committee DEVELOPMENT & REGULATION

Date 26th June 2015**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.

Major Planning Applications**SCHEDULE**

Nº. Pending at the end of April

12

Nº. Decisions issued in May

1

Nº. Decisions issued this financial year

6

Overall % in 13 weeks or in 16 weeks for EIA applications or applications agreed within the extensions of time this financial year (target 60%)

83%

Nº. Delegated Decisions issued in May

1

Nº. Section 106 Agreements pending at the end of May

0

Minor Applications

% of minor applications in 8 weeks this financial year (Target 70%)	83%
Nº. Pending at the end of April	10
Nº. Decisions issued in May	2
Nº. Decisions issued this financial year	6
Nº. Delegated Decisions issued in May	2

All Applications

Nº. Delegated Decisions issued in May	3
Nº. Committee determined applications issued in May	0
Nº. of Submission of Details dealt with this financial year	39
Nº. of Submission of Details pending at the end of May	112
Nº. of referrals to Secretary of State under delegated powers in May	0

Appeals

Nº. of outstanding planning and enforcement appeals at end of May	1
Nº. of appeals allowed in the financial year	0
Nº. of appeals dismissed in the financial year	1

Enforcement

Nº. of active cases at end of last quarter	28
Nº. of cases cleared last quarter	15
Nº. of enforcement notices issued in May	0
Nº. of breach of condition notices issued in May	0
Nº. of planning contravention notices issued in May	0
Nº. of Temporary Stop Notices issued in May	0
Nº. of Stop Notices issued in May	0