

DR/30/17

committee DEVELOPMENT & REGULATION

date 28 July 2017

MINERALS AND WASTE DEVELOPMENT

Proposal: **Continuation of the development of a coastal nature reserve without compliance with: Conditions 2 (Submitted details), 26 (Maintenance of Rights of Way and permissive routes), 38 (Completion by 31 December 2025), 39 (Removal of construction equipment by 31 December 2025) and 40 (Importation of waste via River Crouch only), AND without compliance with Conditions 4, 5, 6, 7, 9, 12, 13, 15, 16, 18, 19, 22, 23, 24, 25, 27, 28, 29, 30, 34, 35, 36 and 41 attached to planning permission ref ESS/44/14/ROC, TO ALLOW modifications to the landform design within Cells 2, 3 and 4 (negating the need to import waste material and no further breaching of sea walls) and to bring forward the proposed date for completion to 2022, TOGETHER WITH the redesign and extension of the parking area, addition of access ramps to the northerly sea wall in Cell 5, the use of the material handling area for storage of dismantled infrastructure and associated works.**

Location: **Wallasea Island Wild Coast Project, Creeksea Ferry Road, Wallasea Island, SS4 2HD.**

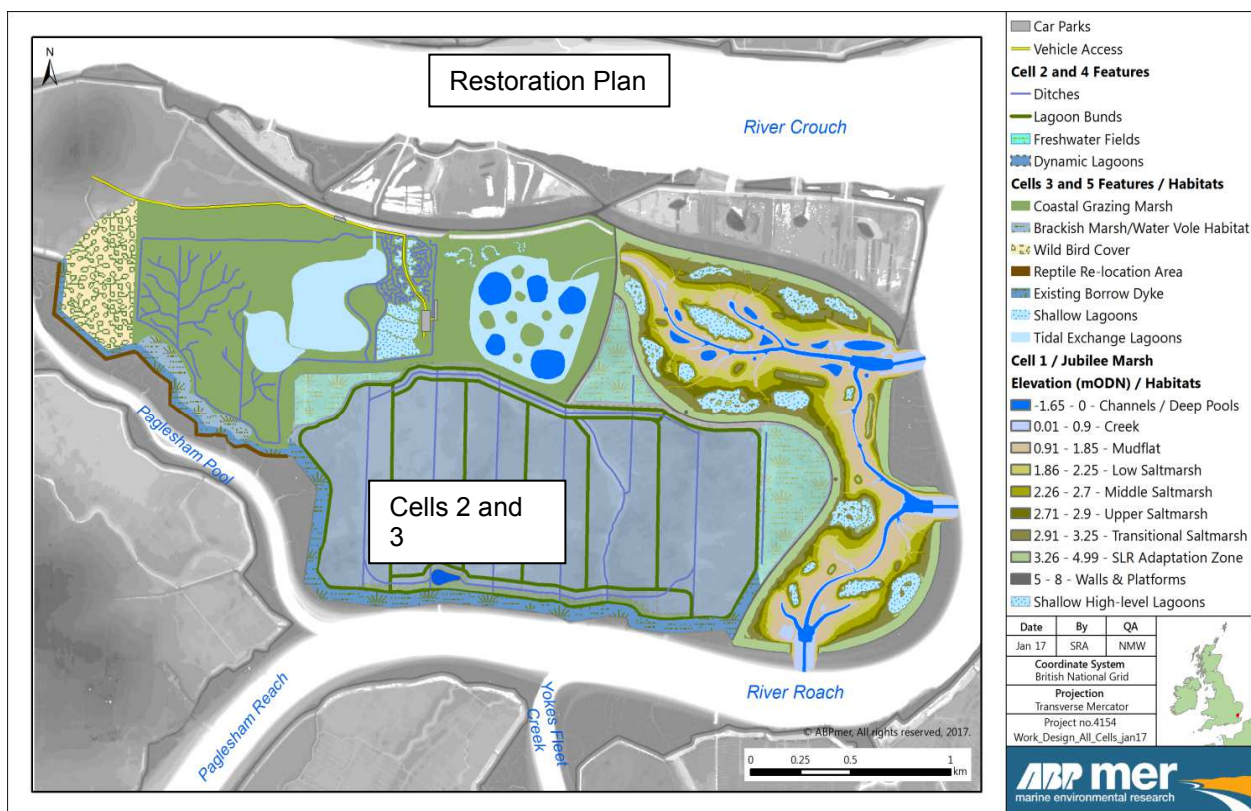
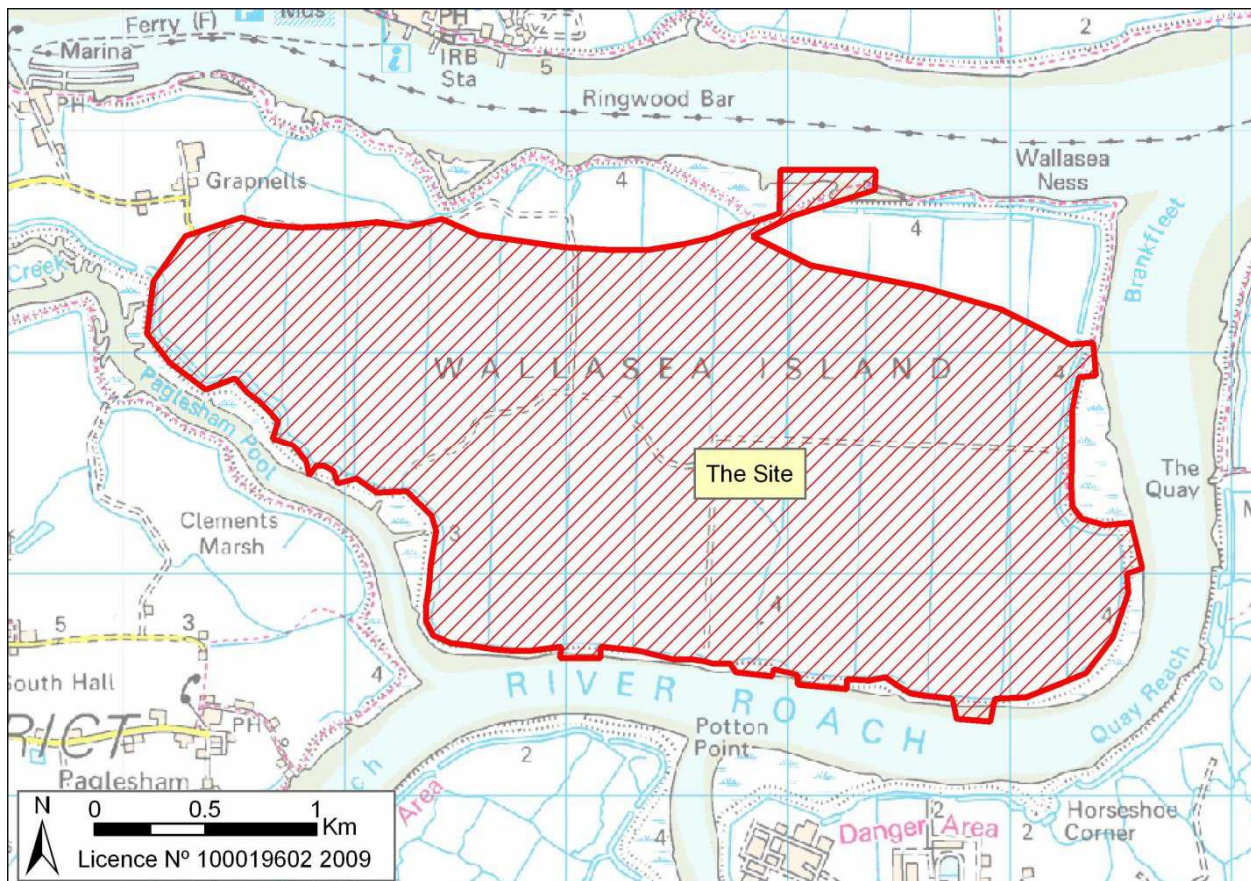
Ref: **ESS/13/17/ROC**

Applicant: **RSPB**

Report by Acting Head of County Planning

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



1. BACKGROUND

On 09 July 2009 planning permission ref ESS/54/08/ROC was granted for:

The importation by sea of 7.5 million cubic metres of high quality recovered inert material to achieve, by phased extraction and landraising, a change of use from agricultural land to 677 hectares of coastal nature reserve principally comprising mudflats, saltmarsh, coastal lagoons, brackish marsh, coastal grazing marsh, drier grass capable of developing new saltmarsh as sea levels rise together with the development of 5 bird hides, car park and associated off shore unloading facility, conveyor and pipeline, material handling area, sea wall engineering works and modification to Footpath Number 21, to be completed by 2019.

The development is known as the Wallasea Island Wild Coast Project.

Permission ref ESS/54/08/ROC was subject to 43 conditions and a legal agreement. All of the requirements of the legal agreement and the relevant conditions have been discharged and complied with.

In June 2009 Development and Regulation Committee Members agreed that a previously recommended condition requiring the submission and approval of details to show improvements to the access junction between Creeksea Ferry Road and the application site could not be lawfully imposed. This was because the access junction was located outside of the red line application area and did not lie within land under the applicant's control; rather it was privately owned. The Chairman of Committee asked the applicant to use best endeavours to resolve the issue with the private land owner.

Accordingly, the developer applied to Rochford District Council for planning permission to alter the access arrangements, planning permission ref 13/00284/FUL was granted on 11 July 2013 and the amended access is now in place.

Additionally, Rochford District Council granted planning permission ref 11/00778/FUL on 16 February 2012 for the permanent retention of a webcam tower in connection with the Wild Coast Project.

On 14 May 2014, application ref ESS/09/14/ROC was made to vary the existing permission, as follows:

Continuation of the importation of waste to develop a coastal nature reserve without compliance with conditions 2 (compliance with submitted details); 39 (cessation of operations and restoration by 31 December 2019); and 40 (removal of construction infrastructure) attached to planning permission ref ESS/54/08/ROC to allow the importation of suitable natural material and to require cessation of site operations and restoration by 31 December 2025, together with the inclusion of previously agreed non-material amendments to permission ref ESS/54/08/ROC.

Planning permission was granted, subject to conditions and to the amendment of clause 3.4 of the legal agreement to remove the obligation for imported material to be clean, inert and uncontaminated.

In April 2015, application ref ESS/44/14/ROC was granted for the following development:

Continuation of the importation of waste to develop a coastal nature reserve without compliance with condition 2 (compliance with submitted details) attached to permission ref ESS/09/14/ROC to allow modifications to the landform design within Cells 1 and 5, including a net reduction of suitable natural waste material in Cell 1 by approximately 450,000m³.

Three non-material amendments have been made to permission ref ESS/44/14/ROC.

Planning permission has also been granted for the installation of viewing shelters (ref ESS/28/15/ROC) and fencing (ESS/42/15/ROC).

To date, Cell 1 (165ha) of the existing scheme has been completed using managed realignment and the importation of inert waste material from the Crossrail project. It has been named Jubilee Marsh. Additionally, most of the landscaping work has been completed within Cells 3 and 5, including a water vole mitigation area within the latter cell. Arable farming continues within Cells 2 and 4.

A parallel planning application, ref ESS/12/17/ROC, is currently being considered by the Waste Planning Authority for the installation of two viewing hides, RSPB staff offices and workshop.

2. SITE

Wallasea Island is located in the District of Rochford on the south-eastern coast of the County between the River Roach and the River Crouch.

Burnham on Crouch, in Maldon District, is located across the River Crouch to the north, although the application area is located wholly within the Rochford District Council administrative boundary. Great Wakering, Rochford and Canewdon are the nearest towns. The nearest residential properties are Grapnells Farm and cottages, which are located on Creeksea Ferry Road, approximately 350m from the western edge of the proposed development.

The application site area is 677 hectares. Vehicular and pedestrian access to the site leads from Creeksea Ferry Road in the north-west through Grapnells Farm. Although access to the site has, in the past, been by ship via the unloading facility located on the River Crouch to the north of the application site.

Footpath 21 Canewdon is located on the northern boundary of the site and is currently maintained over the conveyor by the use of a footbridge. The footpath is permanently closed on the western boundary as a result of the breach of the sea wall at Cell 1.

Wallasea Island has several area designations. It is located within the Coastal Protection Belt, is in the Metropolitan Green Belt, an area at risk from flooding, and parts of the site are designated as sites of National and International Nature Conservation Importance. It is also separated from an area designated as a Wildlife Site by the River Roach to the south and east. Parts of the site cross into the Wallasea Managed Retreat Local Wildlife Site, the Crouch and Roach Estuaries SSSI, the Crouch and Roach Estuaries Special Protection Area, the Essex Estuaries Special Area of Conservation and the Crouch and Roach Estuaries Ramsar Wetlands Site, all of which surround the edges of the river and abut the application site.

3. PROPOSAL

The application is for modifications to the approved landform design within Cells 2, 3 and 4, covering approximately 292 ha.

The proposals would mean that there would be no further importation of waste materials, an alteration to the approved restoration habitats, and an overall completion date of 31st December 2022 instead of the approved 31st December 2025.

The approved restoration incorporated managed realignment of Cells 2 and 4, with open breaches of the existing sea wall to introduce tidal water to the site. The proposed design is for Cells 2 and 4 to be merged to create 6 shallow, periodically dried-out and re-flooded, bird-rich saline lagoons using tidal water drawn into the site in a controlled manner through an existing sluice on the south of the island.

In addition, the application includes the proposed redesign and extension of the existing parking area, new ramps on the northern sea wall in Cell 5, and the use of the approved material handling area for the storage of dismantled infrastructure.

The changes are proposed under Section 73 of the Town and Country Planning Act, as a modification to the following conditions attached to extant permission ref ESS/44/14/ROC:

Conditions 2 (Submitted details), 26 (Maintenance of Rights of Way and permissive routes), 38 (Completion by 31 December 2025), 39 (Removal of construction equipment by 31 December 2025) and 40 (Importation of waste via River Crouch only), AND without compliance with Conditions 4, 5, 6, 7, 9, 12, 13, 15, 16, 18, 19, 22, 23, 24, 25, 27, 28, 29, 30, 34, 35, 36 and 41.

An Environmental Statement accompanies the application (submitted under the Town and Country Planning (Environmental Impact Assessment) Regulation 2011). The Environmental Statement is summarised at Appendix 1.

4. POLICIES

The following policies of the Rochford District Allocations Plan (RDAP), Adopted 25th February 2014, the Rochford District Core Strategy (RDCS), Adopted 13th December 2011, the Rochford District Development Management Plan (RDDMP), Adopted 16th December 2014, the Essex County Council and Southend-on-Sea

Borough Council Waste Local Plan, (WLP), Adopted 2001, and the Essex County Council and Southend-on-Sea Borough Council Replacement Waste Local Plan, (RWLP) (including Schedule of Modifications, (SM), November 2016), Adopted July 2017, provide the development plan framework for this application. The following policies are of relevance to this application:

WASTE LOCAL PLAN (WLP)

W4A - Flood Control
W4B – Water Pollution
W10C – Feasibility of Restoration
W10E - Development Control
W10G - Public Rights Of Way

REPLACEMENT WASTE LOCAL PLAN (RWLP)

Policy 1 - Need for Waste Management Facilities
Policy 9 - Waste Disposal Facilities on Unallocated Sites
Policy 10 - Development Management Criteria
Policy 11 - Mitigating and Adapting to Climate Change
Policy 13 – Landraising

ROCHFORD DISTRICT CORE STRATEGY (RDCS)

Policy ED1 – Employment Growth
Policy URV2 – Wallasea Island
Policy T1 – Highways
Policy T5 – Travel Plans
Policy T6 – Cycling and Walking
Policy T8 – Parking Standards
Policy GB1 – Green Belt Protection
Policy GB2 - Rural Diversification and Recreational Uses
Policy ENV1 – Protection and Enhancement of the Natural Landscape and Habitats and the Protection of Historical and Archaeological Sites
Policy ENV2 – Coastal Protection Belt
Policy ENV3 – Flood Risk

ROCHFORD DISTRICT ALLOCATIONS PLAN (RDAP)

Policy ELA1 – Local Wildlife Sites
Policy ELA2 – Coastal Protection Belt

ROCHFORD DISTRICT DEVELOPMENT MANAGEMENT PLAN (RDDMP)

Policy DM5 – Light Pollution
Policy DM14 – Green Tourism
Policy DM26 – Other Important Landscape Features
Policy DM27 – Species and Habitat Protection
Policy DM30 – Parking Standards
Policy DM31 – Traffic Management

The National Planning Policy Framework (NPPF) 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 NPPF 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 NPPF 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 NPPF 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 NPPF taken as a whole; or specific policies in this NPPF indicate development should be restricted.

The NPPF combined and streamlined all planning policy except for waste. Planning policy with respect to waste is set out in the National Planning Policy for Waste (NPPW published on 16 October 2014). Additionally, the National Waste Management Plan for England (NWMPE) is the overarching National Plan for Waste Management and is a material consideration in planning decisions.

Paragraph 215 of the NPPF states, in summary, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

The level of consistency of the policies contained within the Rochford District Core Strategy has been considered by Rochford District Council and is available to view in their Compliance Review here:

https://www.rochford.gov.uk/sites/default/files/planning_corestrat_compliance_0.pdf.

Due to the status of the Adopted Essex and Southend-on-Sea Replacement Waste Local Plan (explained below), the existing Waste Local Plan has only limited weight in decision making.

Paragraph 216 of the NPPF states, in summary, that decision-takers may also give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF.

Rochford Council is at a very early stage of preparation of the New Local Plan and, as such, the New Local Plan is not considered to hold significant weight in decision making.

Following independent examination, the Essex and Southend-on-Sea Replacement Waste Local Plan has now been found sound, subject to main modifications recommended by the Inspector. At the time of writing this report, the Plan has been considered by Essex County Council's Cabinet and Full Council and was formally adopted on 11th July 2017. There is now a 6 week period for judicial challenge

beginning on that date.

At this stage, given the uncertainty whether a legal challenge against the new plan will be lodged and thereafter be successful, the policies within the Essex and Southend Waste Local Plan (Adopted 2001) have also been considered to ensure that the appraisal of the application against the development plan is robust.

5. CONSULTATIONS

ROCHFORD DISTRICT COUNCIL – No objection.

MALDON DISTRICT COUNCIL – Comments as follows:

- No reference is made to the ongoing maintenance of the southern sea wall or the originally proposed cells, as required by the existing Conditions 32 and 36 attached to permission ref ESS/44/14/ROC.
- Concerned that the original sea walls would be left in place without a counter wall (proposed as part of the original permission) to separate the weakest section of wall from properties at the western end of the island.

ENVIRONMENT AGENCY – No objection.

- The flood risk to the island and surrounding areas would not be adversely impacted due to the proposals. Volumes of water would be controlled via the existing 'Old Pool Sluice' using a new penstock control system. This would require a permit.
- No objection to the use of on-site materials instead of imported materials.
- No objection to the access ramp to the defence to the north of the island, at cell 5. Advises that a permit would be required.
- Requests more information on how the peak levels in the estuary have been assessed for the proposals, and demonstration of no adverse impact on flood risk.
- Disappointed that the proposals would not deliver the benefits of the original scheme, but recognises that there would be no negative impact on the current situation.
- Requests confirmation as to the future maintenance proposals for the sea wall to Cells 2 & 4 as this will now provide the flood protection to the properties on the island in-lieu of the previously proposed counter-wall.
- Requests confirmation that the existing monitoring of tidal elevation changes, physical changes in the estuary, and flows through the breaches, would remain in place.
- Ecological comments have been addressed, aside from confirmation of the seawall mowing regime for invertebrates.

(Comment: Applicant confirmed the mowing regime could be discussed via the Technical Advisory Panel.)

- Will be withdrawing from maintenance of the tidal defences, and from maintenance of Old Pool Sluice and Tyle Barn Sluice (maintenance arrangement will be required as part of the permit).
- There would be no significant impact on controlled waters.
- Confirms that the site no longer has an environmental permit for the importation of waste.

- Following consultation on additional information – No objection on flood risk grounds.

NATURAL ENGLAND – No objection.

- Notes that Habitats Regulations Assessment is not required.

NATIONAL PLANNING CASEWORK UNIT – No comments received.

RAMBLERS ASSOCIATION – No comments received.

BRITISH HORSE SOCIETY – Objects due to lack of inclusion of access for equestrians. Comments as follows:

- Suggests that a condition should be imposed relating to this.
- Notes in detail that the NPPF supports the enhancement of access; the emerging Replacement Waste Local Plan is to be amended at policy 9.33 to safeguard/enhance public rights of way; Rochford District Council's Core Strategy promotes access improvements; the Essex Rights of Way Improvement Plan aims to increase the number bridleways.
- Suggests that the exclusion of equestrians would be contrary to the Equality Act, the Equal Opportunities Act, ageist and sexist.
- Notes that cyclists have been accommodated.
- There would be health and commercial benefits for the rural economy and for tourism of allowing equestrian access.
- Schemes built using public money should not exclude any user group.
- No evidence has been provided to support the claim that use of paths by horses and pedestrians would be unsafe.
- Proposed paths would be 4.5m minimum in width, the flat topography would provide good visibility, the existing paths are well-draining.
- The proposed Adventure Zone and Discovery Zone could provide a suitable equestrian area.
- Several other RSPB sites include bridleways.
- Disputes that the British Horse Society and Essex Bridleway Association have been properly engaged with.

ESSEX BRIDLEWAY ASSOCIATION – Objects due to lack of inclusion of access for equestrians. Comments as follows:

- Suggests that a condition should be imposed relating to this.
- Notes in detail that the NPPF supports the enhancement of access; the emerging Replacement Waste Local Plan is to be amended at policy 9.33 to safeguard/enhance public rights of way; Rochford District Council's Core Strategy promotes access improvements; the Essex Rights of Way Improvement Plan aims to increase the number bridleways.
- Suggests that the exclusion of equestrians would be contrary to the Equality Act, the Equal Opportunities Act, the RSPB's Diversity Policy, ageist and sexist. Natural England encourages consideration of new bridleways.
- Notes that cyclists have been accommodated.

- There would be health and commercial benefits for the rural economy and for tourism of allowing equestrian access.
- Schemes built using public money should not exclude any user group.
- No evidence has been provided to support the claim that use of paths by horses and pedestrians would be unsafe.
- Proposed paths would be 4.5m minimum in width, the flat topography would provide good visibility, the existing paths are well-draining.
- The proposed Adventure Zone and Discovery Zone could provide a suitable equestrian area.
- Several other RSPB sites include bridleways.
- Disputes that the British Horse Society and Essex Bridleway Association have been properly engaged with.

MARINE MANAGEMENT ORGANISATION – No comments received.

SOUTHEND AIRPORT – No objection. Comments that a crane or piling rig, if required, would need to be safeguarded separately.

ROYAL BURNHAM YACHT CLUB – No comments received.

CROUCH HARBOUR AUTHORITY –

- The 2006 Halcrow report said that work was required to prevent flooding and alignment problems. The opening of sluices on the Roach and Crouch will not preserve the integrity of the sea walls or prevent surging or topping of the walls.
- The removal of condition 40 (Importation of waste via River Crouch only) would allow deliveries of materials by road.
- Footpaths may be altered if conditions are removed.
- The original 2008 Environmental Statement stated that there was a need to have a system to absorb predicted future tidal surges.
- New hydrodynamic modelling is requested, as well as work on the potential for siltation in the river.
- A Works Licence will be required for the removal of structures from the river and for the realigning of sluices into the Crouch and Roach.

BURNHAM HARBOUR AND MARINA LTD – No comments received.

PORT OF LONDON AUTHORITY – No comments received.

CROUCH AREA YACHTING FEDERATION – No comments received.

KENT AND ESSEX INSHORE FISHERIES & CONSERVATION AUTHORITY – No comments received.

ROACH AREA FAIRWAYS AND CONSERVATION COMMITTEE – Objects on the following grounds:

- The original application was approved based on the possible threat of flooding from predicted tidal surges due to poorly maintained sea defences.
- The proposed development would not allow controlled flooding, and the

defences would breach within 5-10 years, causing widening of the estuary downstream and stress on the existing defences.

- The developer should be required to complete the original scheme at their cost.
- Asks what is more important – breeding sites for birds or surrounding villages.
- How and where would the pontoon be placed on the application site?
- The 2006 Halcrow report said that work was required to prevent flooding and alignment problems. The opening of sluices on the Roach and Crouch will not preserve the integrity of the sea walls or prevent surging or topping of the walls.
- The removal of condition 40 (Importation of waste via River Crouch only) would allow deliveries of materials by road.
- Footpaths may be altered if conditions are removed.

ROYAL YACHTING ASSOCIATION - No comments received.

HIGHWAY AUTHORITY (Public Rights of Way) – No objection.

- Footpath 21 Canewdon has been affected by this major project. The provision of the network of permissive paths to link up to this otherwise "dead-end" public footpath would be very beneficial.
- The large site should provide opportunity for some permissive access for equestrians. Existing Footpath 21 may be too narrow or constrained by physical features to upgrade. New paths may be able to accommodate the standard 3m width. Comments that it is quite normal for cyclists/equestrians and pedestrians to share safely.
- Further comments that the proposed routes would be permissive, not Public Rights of Way, and as such it has to be a matter for the landowner to decide whether they wish to permit access for horses, as well as cyclists and pedestrians, and hence what to include in their application.

COUNTY COUNCIL'S NOISE CONSULTANT – Comments that noise emanating from the site is not likely to exceed that previously or currently occurring, which to date has not been shown, through compliance noise monitoring, to exceed the stipulated noise limits. Also that noise would continue to be controlled by noise limits and compliance monitoring.

COUNTY COUNCIL'S AIR QUALITY CONSULTANT – No objection.

- Comments that the development would be acceptable with the continued use of best practice techniques and appropriate dust management and mitigation employed during previous phases.
- If an on-site power plant is required, information of design and specification should be required to establish potential emissions to air from boilers/power sources.

COUNTY COUNCIL'S LIGHTING CONSULTANT – Comments that if there is a change to the lighting outlined in ESS/44/14/ROC then they would like to view the lighting design information, including, mounting heights, tilt, type of lighting controls and isolux contour drawing so the potential lighting effects can be evaluated.

PLACE SERVICES (Ecology) – Supports subject to conditions:

- The ecology recommendations in the Environmental Statement should be followed.
- Provision of a mitigation plan for species likely to be impacted by the works, including reptiles, water voles, badgers and breeding birds.

PLACE SERVICES (Urban Design) – No comment to make.

PLACE SERVICES (Landscape) – Supports the application.

- Supports the use of type 1 material for surfacing and for the planting of goat willow, hawthorn and blackthorn to provide softening.
- Suggests that car park planting is secured by condition.

BARLING MAGNA PARISH COUNCIL – No comments received.

PAGLESHAM PARISH COUNCIL – No comments received.

ROCHFORD PARISH COUNCIL – No comments received.

BURNHAM-ON-CROUCH TOWN COUNCIL – No comments received.

HULLBRIDGE PARISH COUNCIL – No comments received.

ASHINGDON PARISH COUNCIL – No comments received.

CANEWDON PARISH COUNCIL – Comments as follows:

- Does not agree that certain of the original conditions imposed should be removed. If the works/operations covered by the conditions are no longer taking place, or will actually be completed earlier than specified in the conditions, then there is no issue around non-compliance.
- If such works/operations were to recommence, then the conditions should be in place to ensure adequate controls remain in place.
- Particular concerns regarding condition 40.

FOULNESS PARISH COUNCIL – No comments received.

CANEWDON PARISH COUNCIL - No comments received.

LOCAL MEMBER – ROCHFORD – South – Comments that this is more appropriate for consideration under Rochford North.
(Consultation repeated following elections) – Any comments received will be reported.

LOCAL MEMBER – ROCHFORD – North – Any comments received will be reported.

LOCAL MEMBER – MALDON – Southminster – Any comments received will be

reported.

6. REPRESENTATIONS

6 properties were directly notified of the application. 6 letters of representation have been received. These relate to planning issues covering the following matters:

<u>Observation</u>	<u>Comment</u>
The development would have detrimental effect on the surrounding area, including Potton Island (300m away).	See appraisal.
The sea wall at Potton Island would be breached if Cells 2 and 4 are not flooded.	See appraisal.
Flood risk in the Roach Estuary has not been properly considered.	See appraisal.
The status of the development would be changed from managed realignment to hold the line.	The Shoreline Management Policy is for managed realignment. The proposal remains as managed realignment because it intends to allow tidal water and sediments into the site.
The seawall protecting Stambridge Parish and Paglesham Parish overtopped in December 2013. This has not been taken into account.	A storm surge in December 2013 is cited within the submitted Flood Risk Assessment.
The proposals increase flood risk for properties upstream in the Roach Estuary and on the west end of Wallasea Island.	See appraisal.
The approved high level bund between cells 2/4 and 3/5 is no longer proposed, leaving the substandard sea wall on the south of the Island as the only flood defence.	See appraisal.
The approved scheme would have removed over 1million m ³ of water from the Roach, thereby reducing flood risk upstream.	See appraisal.
The storm surge of December 2013 caused overtopping of walls on both banks upstream of Paglesham. Over 240 properties are located here and	See appraisal.

should be considered.

The application cites major benefits for coastal properties on Wallasea and elsewhere. It further states that an unmanaged breach could cause 8 million m³ of water to flow onto the Island. An unmanaged breach is most likely on the central southern section of wall. It should not be left in a weak state.

See appraisal.

Disputes that the applicant's consultation exercise (pre-application) included all relevant parties.

Noted.

A high level flood protection bund should be required as part of the new development.

See appraisal.

The proposals would not comply with existing condition 36 due to the increased flood risk to the west end of the Island.

The application has been made to vary condition 36. Flood risk would not be increased elsewhere – see appraisal.

Disappointed that the development does not include equestrian access. Windsor Great Park is a good example of horses, pedestrians and cyclists mixing safely using a permit system.

See appraisal.

7. APPRAISAL

The key issues for consideration are:

- A. Need
- B. Policy considerations
- C. Green Belt
- D. Flood Risk
- E. Public Access
- F. Landscape and visual Impact
- G. Ecological Impact
- H. Amenity Impact
- I. Equality Issues

A NEED

WLP Policy W10C (Feasibility of Restoration) requires that, when considering landfill proposals, the proposed measures for restoring the land to an acceptable and sustainable afteruse must be feasible. Although no further waste material is intended to be imported, RWLP Policy 13 requires, inter-alia, that the amount of material to be imported is the minimal necessary and is essential for the

restoration of the site.

The proposed design changes to Cells 2 and 4 (and resulting need for slight changes to Cell 3) are required because, despite the best efforts of the developer, there is no suitable fill material available to achieve the permitted design. By way of background, the permitted design was for the land levels of Cells 2 and 4 to be raised using imported waste material. The sea wall would have been breached and a coastal wetland habitat would have been created through managed realignment. There would have been full tidal exchange with the Roach Estuary.

The developer has engaged extensively with a range of major infrastructure projects, including the Thames Tideway sewer, the Silvertown Tunnel, the Northern Line Rail Extension, Sizewell 'C' and High Speed 2 (HS2). These projects have made clear that sites other than Wallasea Island will be chosen for the deposit of resulting waste materials.

Therefore the proposed alternative restoration scheme does not include the use of imported fill material. In-situ materials already on site would be utilised for land-forming work.

It is worth noting that the Planning Authority cannot 'force' the completion of the project if suitable material is not now available. There is a risk that the site could remain dormant in the absence of a source of waste. The revised scheme, the subject of this application, should be considered on its own merits.

The approved restoration measures are therefore no longer feasible and an alternative scheme should therefore be considered against WLP Policy W10C and RWLP Policy 13 .

B POLICY CONSIDERATIONS

In terms of Waste Plan policy, the landfill capacity at Wallasea Island was never accounted for within Essex's waste capacity analysis, given that it was likely to accept waste arising in locations outside of Essex, including London. Further, Wallasea Island is not an allocated strategic waste site. Therefore it is considered that the proposal to reduce inert waste capacity at the site would not be contrary to the principles of the Essex Waste Local Plan and would not conflict with RWLP Policy 1 (Need for Waste Management Facilities).

RWLP Policy 9 (Waste Disposal Facilities on Unallocated Sites) is not directly relevant since it refers to landfill facilities; however it does make provision for preference 'for an extension of time to complete the permitted restoration within the boundary of an existing landfill site.' The proposed development is required in order to complete development of the nature reserve, and therefore it is considered that RWLP Policy 9 is complied with.

Turning to local policy, importantly, the application site is supported for the development of the Wallasea Island Wild Coast Project by RDCS Policy URV2 (Wallasea Island).

At the heart of the National Planning Policy Framework (NPPF) is a presumption in

favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

There are three dimensions to sustainable development: economic, social and environmental. These roles should not be undertaken in isolation, because they are mutually dependent.

The applicant has included an economic statement. It envisages employment of 12 full-time staff during construction of the project and 6 staff once the site is developed. It cites an increase to 20,000 visitors per year so far, compared with less than 5,000 prior to the commencement of the approved development. This is in compliance with RDCS Policy ED1 (Employment Growth) which, in summary, encourages development that enables the economy to diversify and modernise through the growth of existing businesses and the creation of new enterprises providing high value employment, having regard to environmental issues and residential amenity. The policy specifically supports the development of the Wallasea Island Wild Coast Project.

The extent to which the proposed development can be considered to be 'sustainable development' for the purposes of the NPPF will be further considered throughout the report.

C GREEN BELT

The application site falls wholly within the Metropolitan Green Belt. The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.

RDCS Policy GB1 (Green Belt Protection) states, among other requirements:

'The Council will direct development away from the Green Belt as far as practicable and will prioritise the protection of Green Belt land based on how well the land helps achieve the purposes of the Green Belt.'

Green Belt serves five purposes:

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

It is considered that the proposed afteruse of the site as a nature reserve does not conflict with the purposes of including land within Green Belt, in compliance with WLP Policy W10E, RWLP Policy 10 and RDCS Policy GB1.

The approved development was considered to have an impact on the openness of the Green Belt by virtue of the higher modified land levels, together with the effect of the tipping operations themselves.

However, the proposed development does not involve waste importation or land raising (aside from the construction of bunds). The NPPF requires that planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity. It is considered that the new restoration scheme would meet these requirements and would preserve the openness of the Green Belt in accordance with the NPPF.

Therefore, the proposed development is not considered to be 'inappropriate development' in the Green Belt for the purposes of the NPPF.

It is also considered that there would not be significant impact on the openness of the Green Belt, in compliance with RWLP Policy 10

Further, the Rochford District Development Management Plan explains that:

'Green tourism refers to sustainable tourism activities which can be promoted within the countryside (including within the Green Belt) and are sensitive to the both the natural and historic environment, and are sustainable in terms of stimulating rural economic growth and encouraging diversification of rural activities. Small-scale outdoor recreational and leisure activities such as walking and small-scale fishing lakes are considered appropriate forms of green tourism.'

The relevant RDDMP Policy DM14 (Green Tourism) states:

'The Council will support proposals for green tourism, provided the proposal would not have an undue negative impact on:

- (iii) the openness of the Green Belt (if applicable) and character of the countryside;*
- (ii) the visual amenity of the surrounding area;*
- (iii) the amenity of local residents;*
- (iv) important areas of nature conservation, including any potential disturbance to nearby sites recognised for their importance for biodiversity or geodiversity;*
- (v) the landscape character area in which the proposal is situated, having regard to the area's sensitivity to the development proposed;*
- (vi) the historic environment, taking into consideration the sensitivity of the different Historic Environment Character Zones set out in the Rochford District Historic Environment Characterisation Project (2006);*
- (vii) on the agricultural value of the land;*
- (viii) on the highway network, having regard to the likely scale of tourism that the proposal would generate; and*
- (ix) where the conversion of nationally or locally listed agricultural and rural buildings is proposed it should:*
 - a) not negatively impact on the quality of the listed structure; and*
 - (b) not affect the integrity of the existing structure. A structural engineers report should accompany any application for conversion of a Listed Building.*

Where ancillary facilities are proposed for the purposes of green tourism, it must be demonstrated that such facilities are necessary for the functioning of the activity. Existing agricultural and rural buildings should be reused and converted for the accompanying uses, wherever possible. Any new structures must be the minimum size, height and bulk to accommodate the proposed use. Ancillary facilities should not have an undue impact on the openness of the Green Belt or character of the countryside.

The conversion of existing agricultural and rural buildings to bed and breakfasts/small-scale hotels/holiday lets will be permitted in appropriate locations provided that all of the above criteria are met and:

(a) the application relates to an existing building of permanent and substantial construction; and

(b) the proposal does not exceed the existing footprint of the original building, with the exception of an allowance for additions that would be permitted in accordance with Policy DM11.

Any development which is permitted should be of a scale, design and siting such that the character of the countryside is not harmed and nature conservation interests are protected.'

RDCS Policy GB2 (Rural Diversification and Recreational Uses) cites Green Tourism as a form of rural diversification that may be considered acceptable in the Green Belt in certain circumstances.

The proposed development is considered to be a form of Green Tourism which does not unacceptably impact on the Green Belt, in compliance with RDCS Policy GB2 and the Green Belt aspect of RDDMP Policy DM14. The extent to which the remaining aspects of RDDMP Policy DM14 are complied with will be considered throughout the report.

D FLOOD RISK

The application site is located within Flood Zone 3.

RWLP Policy 11 (Mitigating and Adapting to Climate Change) requires, inter alia, that:

'...Proposals for waste management development will only be permitted where:

- a) there would not be an unacceptable risk of flooding on site or elsewhere as a result of impediment to the flow of storage or surface water, as demonstrated by a Flood Risk Assessment, where required by the National Planning Policy Framework;*
- b) 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 where applicable;*
- c) there would not be an unacceptable risk to the quantity and quality of surface and ground waters, or impediment to groundwater flow...'*

RWLP Policy 10 (Development Management Criteria) also requires that there should be no unacceptable impact on the quality and quantity of water within water courses, groundwater and surface water (among other requirements).

WLP Policies W4A (Flood Control) and W4B (Water Pollution) contain similar requirements.

RDCS Policy ENV3 (Flood Risk) directs development away from high flood risk areas towards Flood Zone 1. However, the policy goes on to state:

‘The Council will continue to work with the Environment Agency to manage flood risk in a sustainable manner through capitalising on opportunities to make space for water wherever possible and through the continued provision of flood defences where necessary.’

To explain the proposed development, whilst tidal volumes would have been controlled by land-raising in the permitted scheme, tidal interaction with the Roach Estuary would now be mainly controlled via a sluice on the south bank of the island. One of the key design principles would be to control the volume of tidal exchange with the estuary, in order to minimise adverse impacts to its morphology and ecology.

This ‘Regulated Tidal Exchange’ (RTE) would restrict tidal water entering Cells 2 and 4, and in turn the amount released to the estuary via Cell 1. The volume released would be almost 100,000m³ per tide. By contrast, the permitted design would have released approximately 1.1million m³.

Water would enter the site via the southern sluice and then be distributed through a network of channels to create 6 large lagoons across Cells 2 and 4, separated by a network of 14km of bunds, with a crest level of 1.6m to 1.8m OD. The bunds would be created from materials obtained from shallow scrapes in the surrounding area. Cell 3 would be connected via a new channel to join it and the 6 new lagoons.

In addition, the sea wall around the southern Old Pool sluice would be restored to address localised erosion.

A Flood Risk Assessment has been submitted. It explains that the most serious risk of flooding at the site remains to be from tidal flooding from the adjacent Roach and Crouch Estuaries.

In the approved scheme, the seawalls around the east and south of the island were assessed as being in poor repair, with a danger of being breached in an unmanaged way, causing significant damage to the land and buildings and endangering residents on Wallasea, and causing damage to the habitats in the Roach in particular.

The approved scheme includes the provision of an engineered seawall (‘counterwall’). This was a necessary feature of the design to contain water in Cells 4 and 3 and prevent it reaching properties on Wallasea Island. Several representations have commented that this seawall is now not proposed and that flood risk would accordingly increase. The new proposal is for controlled entry of sea water into Cells 2, 3 and 4 and retention of the existing seawall. A counterwall is therefore not required.

The approved scheme has been partially completed, such that an unmanaged breach would now allow 8 million m³ of water to spill onto the floodplain, rather than the previous 11 million m³.

The site also has increased flood storage capacity within the 15km of ditches and over 45 ha of lagoons in Cells 3 and 5.

RDCS Policy ENV2 (Coastal Protection Belt) requires that the Council will prevent the potential for coastal flooding; erosion by the sea; and unstable land (e.g. land slips), among other requirements.

An unmanaged breach remains most likely to occur along the central section of the south of the island, where defences are lowest and weakest (the eastern wall has been strengthened through the Cell 1 works). As stated, the proposal therefore includes the strengthening of the sea wall around Old Pool Sluice.

The proposed use of sluices would require greater management than the permitted scheme because of the need to open and close them. However, in light of the lack of suitable fill material to achieve the permitted scheme, the proposals would present an improvement in the risk of flooding compared to the current condition (It also does not preclude the implementation of full realignment in the future, but this would be subject to further planning permission and this is not considered here).

Additionally, a penstock feature would allow inflow to be stopped in advance of surge events to reduce flood risk.

With regard to the comments received relating to potential for increased flooding elsewhere, the Environment Agency has commented that the revised proposals are not expected to have a significant impact on tide levels and as such there is not likely to be increased flood risk elsewhere in the estuary compared to the existing situation.

Overall, the proposed development is considered to present an acceptable option which would address the risk of an unmanaged breach of the sea walls and would not increase flood risk elsewhere. It is considered to comply with RWLP Policies 10 and 11, WLP Policies W4A and W4B and RDCS Policies ENV2 and ENV3.

E PUBLIC ACCESS

The application states that Wallasea Island has the potential to attract 75,500 visits per year.

The application proposes several means of public access to the site, and is linked to a concurrent application for visitor facilities (Ref ESS/12/17/ROC).

For walkers and cyclists, a network of 23km of permissive paths would result from the proposed re-design. This is significantly more than the approved scheme, which provided 15km of permissive paths.

The completion of Cell 1 resulted in the closure of the end of Footpath 21

(shortened by 800m) due to the location of the sea wall breach. This would not alter.

As part of the approved scheme, the conveyor required for importation of waste material dissected Footpath 21 and a footbridge was constructed to maintain access. The new proposals would include the earlier removal of the conveyor and footbridge and reinstatement of the line of Footpath 21.

No new bridleways have been proposed. There have been several detailed representations received relating to the lack of equestrian access. The Essex Bridleway Association and the British Horse Society have objected on these grounds.

In response, it is recognised that the RWLP requires (in summary), at Policy 10 (Development Management Criteria):

'Proposals for waste management development will be permitted where it can be demonstrated that the development would not have an unacceptable impact...on...the definitive Public Rights of Way network...'

'Where appropriate, enhancement of the environment would be sought, including, but not exclusively, the enhancement of the Public Rights of Way network, creation of recreation opportunities...'

The RWLP supporting text requires, at paragraph 9.33:

'...Restoration schemes should, in the first instance, be seen as an opportunity to enhance and upgrade PROW where possible, especially with regard to the provision of Bridleways as multi-user paths as part of any permission granted. In all cases, restoration schemes should provide for access which is at least as good as that existing before workings began....'

WLP Policy W10G (Public Rights of Way) also promotes the safeguarding and improvement of the rights of way network.

The NPPF states that 'Public rights of way form an important component of sustainable transport links and should be protected or enhanced'. It also promotes healthy communities.

RDCS Policy T6 (Cycling and Walking) states:

'The Council will work with Essex County Council, along with other organisations such as Sustrans, to ensure that a safe and convenient network of cycle and pedestrian routes is put in place to link homes, workplaces, services and town centres. Where developments generate a potential demand to travel, developers will be required to contribute to the delivery of such a network. The Council will also continue to require developers to provide facilities for cyclists at all new developments.'

'The Council will also seek the further development of cyclepaths, footpaths and bridleways that, having regard to ecological interests, open up and develop the'

access network alongside the District's rivers. The Council will also encourage new cycle and footpath links with neighbouring authorities'.

Whilst the inclusion of equestrian access would appear to be desirable, it is not specifically required by the above policies and guidance. The policies contain a general encouragement for the enhancement of public rights of way where possible. It is considered that the proposed development has sought to achieve this through the provision of permissive routes. It is also noted that there is no history of bridleways on Wallasea Island. Certainly the current application would allow more public access than the permitted scheme, which already contains extensive permissive routes.

Further, the Public Rights of Way Officer supports the inclusion of permissive paths. Although it is acknowledged by the Public Rights of Way Officer that the permissive paths may have the possibility to accommodate both horses and pedestrians, it is also stated that it has to be a matter for the landowner to decide whether they wish to permit access for horses, as well as cyclists and pedestrians, and hence what to include in their application.

Overall it is considered that the proposals would be of great public benefit, in compliance with RWLP Policy 10, WLP Policy W10G and RDCS Policy T6, and it would not be reasonable to require the provision of equestrian access via planning condition.

Additionally, it is proposed that new access ramps are installed to the east of the Cell 5 tidal exchange sluice. Construction materials would be won from the north-west corner of Cell 3, where new habitats would be 'cut' (see 'Ecological Impact' later in the report).

RDCS Policy T1 (Highways) requires, in summary, that developments are located and designed in such a way as to reduce reliance on the private car. It does, however, recognise that some impact on the highway network is inevitable and the Council will work with developers and the Highway Authority to ensure that appropriate improvements are carried out.

The original development was considered in the context of the waste material being imported by river only. The impacts of the potential visitors to the site were assessed and some improvements were required (and have been implemented) to the surrounding highway network to accommodate them.

The proposed development is for alterations to the restoration scheme only. However, with regard to access by car, the car park is proposed within Cell 5, adjacent to an area proposed for a Reception Hide as part of application ref ESS/12/17/ROC. A car park has been approved as part of the existing permission at the site, but has not been implemented. The approved design would be subject to revision through this current application, providing larger spaces and a small overflow car park alongside. The existing 'Defra' car park would remain as a secondary parking area. The bicycle shelter, currently located within the Defra car park, would be relocated to the new main parking area within a 'visitor hub'.

RDDMP Policy DM30 (Parking Standards) refers to the Parking Standards Design

and Good Practice Supplementary Planning Document (Adopted December 2010), or successor document.

The Parking Standards require, for the type of development proposed, 1 car parking space per 20m² maximum, 10 cycle spaces plus 1 space per 10 vehicle spaces minimum, 1 powered two wheeler space plus 1 per 20 car spaces minimum, and a minimum of 3 disabled bays or 6% of total capacity whichever is greater.

The main car park would contain 87 bays including 9 disabled bays, 12 powered two-wheeler spaces and 16 bicycle spaces (in the relocated shelter), together with two bus parking bays.

The overflow car park would contain space for 72 cars and the existing 'Defra' car park contains 20 spaces plus 2 disabled bays.

Given that the application area is 677 hectares, it is considered inappropriate to allow or require the maximum provision of spaces in this case. The level of car parking proposed has not been objected to by the Highway Authority and is considered appropriate.

RDDMP Policy DM31 (Traffic Management) states:

'Any new major developments must include appropriate traffic management measures to facilitate the safe and efficient movement of people and goods by all modes whilst protecting and enhancing the quality of life within communities, facilitating the appropriate use of different types of road and environment, and achieving a clear, consistent and understandable road, cycle and pedestrian network. These measures will comprise, amongst others, reducing the impact of motorised traffic, traffic calming measures, measures to assist public transport (for example bus gates or lanes), cycling, walking and horse riders, congestion relief, and other speed and demand management measures.'

Potential impact on the natural, built and historic environment should also be taken into consideration.'

It is noted here that the proposal is for an alteration to an existing scheme, rather than a new major development. The existing scheme did not require equestrian access.

Importation of waste material was not permitted by road as part of the consented scheme. There would now be no need to import any further waste material; therefore the existing Condition 40 is proposed to be amended.

RDCS Policy T5 (Travel Plans), in summary, requires leisure uses to devise and implement a travel plan to aim to reduce private, single occupancy car use.

As stated, the development includes provision for cyclists. In addition, the applicant is separately pursuing plans to open up the island to a ferry service from Burnham. A new pontoon and linking sea wall path is being investigated and would be subject to a separate planning application to Rochford District Council.

It is therefore considered that, subject to the imposition of conditions, the proposed development would not conflict with RDCS Policies T1 and T5 and RDDMP Policies DM30 and DM31.

F LANDSCAPE AND VISUAL IMPACT

RWLP Policy 10, in summary, permits waste management development where it can be demonstrated that it would not have an unacceptable impact on the appearance, quality and character of the landscape, countryside and visual environment and any local features that contribute to its local distinctiveness, among other requirements.

WLP Policy W10E, in summary, permits waste management development where satisfactory provision is made in respect of the effect of the development on the landscape and the countryside, among other requirements.

RDCS Policy ENV2 (Coastal Protection Belt) requires that the Council will ensure that development which is exceptionally permitted does not adversely affect the open and rural character, historic features or wildlife of the Coastal Protection Belt, among other requirements.

RDDMP Policy DM5 (Light Pollution), in summary, requires developments to be appropriately designed to minimise the impact of light pollution on residential and commercial areas, important areas of nature conservation interest, highway safety and/or the night sky.

The permitted development includes lighting of the unloading facility along the pontoon, conveyor and radial stacking area. The proposed development does not include lighting, aside from that required for navigation, thereby reducing any light impact on residents and the environment and complying with RDDMP Policy DM5.

RDDMP Policy DM14 (Green Tourism), as set out earlier in the report, requires consideration of the character of the countryside and the visual amenity of the surrounding area.

RDDMP Policy DM26 (Other Important Landscape Features) lists landscape features which should be protected from damage.

The proposed development includes the earlier removal of the unloading facility (pontoon and conveyor). The structure would be removed using marine-based vessels and stored within the existing material handling area. The full length of the piling supports are proposed to be removed. The whole process, including removal of the dismantled infrastructure from site, is anticipated to take 36 months.

The new lagoon arrangement would be more structured in appearance than the permitted scheme. However, this would make use of the existing topography and ditches. The new design would be flatter than the completed Cell 1. The main water depth changes would be with the seasons in response to water level management. In the spring, two of the lagoons would be drained to expose the underlying mud for bird nesting. The landscape would therefore be varied. It would

also allow visitors to have an improved visual experience by bringing water closer to the footpaths, which was not possible in the permitted scheme.

Essex County Council's Landscape Officer supports the application. The Officer has commented that the use of type 1 material for surfacing of the car park and for the planting of goat willow, hawthorn and blackthorn to provide softening would be appropriate. It is suggested that car park planting is secured by condition, and this is considered appropriate in the event that approval is granted.

The development is therefore considered to comply with RWLP Policy 10, WLP Policy W10E, RDCS Policy ENV2 and RDDMP Policies DM5, DM14 and DM26.

G ECOLOGICAL IMPACT

RWLP Policy 10, in summary, permits waste management development where it can be demonstrated that it would not have an unacceptable impact on the natural and geological environment (including internationally, nationally or locally designated sites and irreplaceable habitats), among other requirements.

WLP Policy W10E, in summary, permits waste management development where satisfactory provision is made in respect of the effect of the development on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations, among other requirements.

RDCS Policy ENV1 (Protection and Enhancement of the Natural Landscape and Habitats and the Protection of Historical and Archaeological Sites) states that:

'The Council will maintain, restore and enhance sites of international, national and local nature conservation importance. These will include Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Ramsar Sites, Sites of Special Scientific Interest (SSSIs), Ancient Woodlands, Local Nature Reserves (LNRs) and Local Wildlife Sites (LoWSs). In particular, the Council will support the implementation of the Crouch and Roach Management Plan...'

RDCS Policy ENV2 (Coastal Protection Belt) requires that the Council will protect and enhance the landscape, wildlife and heritage qualities of the coastline, recognising the implications of climate change and sea level rise, and the need for necessary adaptation, among other requirements.

As stated previously in the report, RDDMP Policy DM14 (Green Tourism) requires that development should not have undue negative impact on important areas of nature conservation, including any potential disturbance to nearby sites recognised for their importance for biodiversity or geodiversity.

RDDMP Policy DM27 (Species and Habitat Protection) states:

'Proposals should not cause harm to priority species and habitats identified under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. Development will only be permitted where it can be demonstrated that the justification for the proposal clearly outweighs the need to safeguard the nature conservation value of the priority habitat, and/or the priority species or its habitat. In such cases the Local Planning Authority will impose conditions and/or seek the

completion of a legal agreement in order to:

- (iii) secure the protection of individual members of the priority species and/or habitats;*
- (ii) minimise the disturbance to the priority species and/or habitats; and*
- (iii) provide adequate alternative habitats to sustain at least the current levels of population for protected species and/or provide a compensatory habitat to offset potential loss or disturbance of a priority habitat.*

In addition to the UK Biodiversity Action Plan, proposals for development should have regard to Local Biodiversity Action Plans, including those produced at District and County level.'

When compared to the permitted development, the proposed development would have much less interaction with the estuary.

A tidal inlet pipe would allow fish to enter Cells 2 and 4.

Given that open breaches are now not proposed in Cells 2 and 4, there would be no potential for the scheme to affect the oyster layings in the Roach, as was a concern previously.

The proposed development would provide a vast area of shallow saline lagoons, important for high-tide feeding areas for waterbirds. It would provide feeding and resting environments when other parts of the coast are inundated by tidal water.

Cell 3 would be altered to provide construction material for the new access ramps in Cell 5. This would provide a series of small, shallow pools and channels which would benefit grazing birds, such as Wigeon and Brent Greese, which prefer feeding on grassland close to water.

The seawall work and pontoon/conveyor removal are proposed to be undertaken outside of the October to March period to avoid disturbance to overwintering birds.

Mitigation is proposed for protected species, as follows:

- Reptiles would be displaced (to Cell 5) from Cells 2 and 4 in the areas surrounding the cultivated fields by regular cutting of the vegetation sward until the site is inundated with water.
- Water vole populations would be surveyed in Spring 2017. This would inform mitigation measures, but it is expected that water voles would be displaced (not translocated) from Cells 2 and 4 to the established habitat in Cell 5 or to the proposed bunds.
- Badgers would be surveyed in Spring 2017. A plan would be put in place with Natural England to close the existing setts and to develop suitable fencing to add to the anti-predator ditch/fence network. This would form a continuous north-south barrier across the site.
- Nesting birds would not be impacted upon due to the required vegetation management for reptiles.

The County Council's Ecologist supports the development subject to the carrying out of the ecology recommendations in the Environmental Statement and the

provision of a mitigation plan for species likely to be impacted by the works, including reptiles, water voles, badgers and breeding birds.

The Environment Agency has raised no objection in general or on ecological grounds.

Overall, the development is considered to present an option which improves the ecology of the site as existing. RWLP Policy 10, WLP Policy W10E, RDCS Policies ENV1 and ENV2 and RDDMP Policies DM14 and DM27 are considered to be complied with.

H AMENITY IMPACT

RWLP Policy 10, in summary, permits waste management development where it can be demonstrated that it would not have an unacceptable impact on local amenity (including noise levels, odour, air quality, dust, litter, light pollution and vibration), among other requirements.

WLP Policy W10E, in summary, permits waste management development where satisfactory provision is made in respect of the effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants, among other requirements.

As stated previously in the report, RDDMP Policy DM14 (Green Tourism) requires that development should not have undue negative impact on the amenity of local residents.

The main noise impact from the permitted development was the potential noise from night time deliveries of waste material to the pontoon (these were dictated by the tides), and the general operation of the pontoon and conveyor. These noise risks would now be removed.

The landscaping of Cells 2 and 3 would be further from Burnham than many of the more recently completed works, none of which caused disturbance.

In terms of dust, the County Council's Air Quality Consultant has commented that the development would be acceptable with the continued use of best practice techniques and appropriate dust management and mitigation employed during previous phases.

The Consultant has further commented that, if an on-site power plant is required, information of design and specification should be required to establish potential emissions to air from boilers/power sources. No such power plant is required.

It is therefore considered that there would be no significant impact on amenity, in compliance with RWLP Policy 10, WLP Policy W10E and RDDMP Policy DM14.

The social benefits of the development have also been set out by the developer, for consideration under the NPPF sustainable development definition. The development would provide improved access to the coast with new facilities; it would connect people with the coastline; it would adapt to climate change, provide

enhanced visual landscape and a focus for volunteering opportunities.

I EQUALITY ISSUES

The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc on the grounds of a protected characteristic unlawful
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

Two user groups representing equestrians have asserted that the proposal has a negative impact on their members and the Essex Bridleway Association state this would be on the grounds of age and gender as they say older women tend to ride horses more than other groups. They do not produce any evidence to demonstrate this is the case.

No negative impact on existing access to equestrian routes is proposed by the application. However, there is no enhancement to equestrian access either, in comparison to cyclists and pedestrians. The issue has been raised with the applicant who has explained that there are safety concerns at the application site, specifically that there would be constrained footpaths along bunds, close to the water's edge with less room for users to move off the paths. This is in contrast with some of the other sites that the applicant operates, and they have accordingly declined to alter their access proposals. The lack of enhancement of equestrian access is not considered to be a consideration which would warrant refusal of the application.

8. CONCLUSION

In conclusion, it is considered that the proposed alterations would present a sustainable option in light of the lack of availability of fill material to complete the approved scheme.

Development of the site is generally supported by the Rochford Local Plan, in particular by RDCS Policy URV2.

Although the site is located within the Green Belt, it is considered that the development would not be inappropriate and would not significantly impact on the openness of the Green Belt, in compliance with WLP Policy W10E, RWLP Policy 10 and RDCS Policy GB1.

Furthermore, the proposed development is considered to be a form of Green Tourism which does not unacceptably impact on, and can be promoted within, the Green Belt, in compliance with RDCS Policy GB2 and the Green Belt aspect of RDDMP Policy DM14.

In terms of flood risk, the application has carefully considered the risks of the proposed changes. Overall, the proposed development is considered to present an acceptable option which would address the risk of an unmanaged breach of the sea walls and would not increase flood risk elsewhere. It is importantly noted that the Environment Agency does not object to the proposals, which are considered to comply with RWLP Policies 10 and 11, WLP Policies W4A and W4B and RDCS Policies ENV2 and ENV3.

Public access would be improved in comparison to the approved scheme and it is considered that the proposals would be of great public benefit, in compliance with RWLP Policy 10, WLP Policy W10G and RDCS Policy T6. It is not considered reasonable to require the provision of equestrian access via planning condition.

The application has also considered sustainable transport and parking provision, and would not conflict with RDCS Policies T1 and T5 and RDDMP Policies DM30 and DM31.

The landscape and visual impact of the scheme is considered to be appropriate, in compliance with RWLP Policy 10, WLP Policy W10E, RDCS Policy ENV2 and RDDMP Policies DM5, DM14 and DM26.

The consideration of ecology is integral to the scheme design and is considered to be of benefit to the site, in compliance with RWLP Policy 10, WLP Policy W10E, RDCS Policies ENV1 and ENV2 and RDDMP Policies DM14 and DM27.

There is considered to be no unacceptable on amenity as a result of the proposed changes, in compliance with RWLP Policy 10, WLP Policy W10E and RDDMP Policy DM14.

The proposal is considered to conform with Policy W10C of the WLP as the site will be restored, albeit without any further waste importation, to an acceptable and sustainable afteruse and the minimum amount of waste has been used over the wider site to achieve this – in accordance with RWLP Policy 13

On balance, taking into account the NPPF and the relevant policies of the Development Plan taken as a whole, the proposal represents sustainable development in the context of the NPPF and therefore planning permission should be granted.

9. RECOMMENDED

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

- The completion, within 6 months, of a deed of variation to update the

- existing legal agreement; and,
- Conditions covering the following matters:

Conditions to be amended as follows:

- 2 The development hereby permitted shall be carried out in accordance with the details submitted by way of the application dated November 2008, covering letters dated 28 November 2008 and 16 December 2008 and accompanying Planning Statement, together with drawings numbered 'Location of Wallasea Island' Figure 1 (July 08), 'Planning Application Boundary' Figure 3a (Oct 08), 'Proposed Design' Figure 5 (Oct 08), 60039950/IPER/50 Rev 03 (11/12/08), 60039950/3563/65 (27/11/08), 60039950/3563/66 (26/11/08), 'Aerial View Visualisation at Mean Low Water' Figure 10 (Sept 08), 'Aerial View Visualisation at Mean High Water' Figure 11 (Sept 08), 'Aerial View Visualisation as Viewed from the East at Mean Low Water' Figure 12 (Sept 08), 'Selection of Photos Describing the Key Habitat Types to be Created' Figure 14 (Nov 08), 60039950/3563/60 (26/11/08), 'Location of the Unloading facility and Route of the Conveyor Belt and the Wet Chalk Pipeline' Figure 16 (Oct 08), 60039950/3563/51 Rev 01 (26/11/08), 'Locations of the Footpaths on Wallasea Island' Figure 17 (sept 08) as amended by email from RSPB 'Footpath 21 Supplementary Submission' dated 20 March 2009, 'Topography of the whole of Wallasea Island' Figure 3 (Oct 08), 60039950/3563/100 Rev 01 (11/12/08), Schematic Cross Sections Showing Design of Key Features of the Proposed Realignment Scheme' Figure 9 (Oct 08), 60039950/IPER/101 Rev 02 (15/07/08), 'Location and Extent of the Five Cells' Figure 4 (Oct 08), 60039950/3593/53 November 2008, 60039950/3563/53 Rev 01 (11/12/08), 'Existing and Indicative Standards of Protection along the Crouch and Roach Estuaries' Figure 6 (July 08), 'Historic Embankments, Creeks and Postulated Medieval Marsh Boundaries' Figure 8 (Oct 08) and 'Location of Historical EHER References' Figure 25 (Oct 08) and Environmental Statement dated November 2008 and Appendices A-R, together with email from RSPB dated 11 December 2008, email from RSPB headed 'Burnham Access' dated 09 February 2009, email from RSPB headed 'Working Hours Submission' dated 04 March 2009, email from RSPB headed 'Impacts on Oyster Fishery' dated 06 March 2009, email from RSPB headed 'Wallasea: Supplementary Sailing Submission' dated 20 March 2009, email from RSPB headed 'Wallasea: Supplementary Submission Spreading Hedge Parsley' dated 13 March 2009, email from RSPB headed 'Green Belt Submission' dated 24 March 2009, email from RSPB headed 'PROW steps' dated 25 March 2009, email from RSPB headed 'Wallasea: Supplementary Submission Working Hours (2)' dated 20 March 2009, email from RSPB headed 'Wallasea: 1900-0700 Noise Generation and Mitigation' dated 20 March 2009, email from RSPB headed 'Permissive Paths' dated 26 March 2009, email from RSPB headed 'further submissions' dated 06 April 2009, email from RSPB headed 'Supplementary Submissions' dated 02 April 2009, email from RSPB headed 'Roach Erosion' dated 02 April 2009, email from RSPB headed 'Supplementary Submission: Landscape' dated 02 April 2009 and Design and Access Statement,

AS AMENDED BY

- The details of the application dated 17 January 2014;
- covering letter from ABPmer dated 17 January 2014;
- Planning Statement by ABPmer Report no. R.2213 Version 2.0 dated 17

- January 2014, including appendices A-C; and
- the Environmental Impact Assessment by ABPmer Report no. R.2202 Version 3.0 dated 17 January 2014, including appendices A-D.

AS AMENDED BY

- The details of the application dated 31 October 2014;
- Covering letter from ABPmer dated 31 October 2014;
- Planning Statement by ABPmer Report no. R.2316 dated October 2014, including appendices A and B;
- The Environmental Impact Assessment by ABPmer Report no. R.2314 dated October 2014.
- Document entitled 'RSPB Wallasea Island Wild Coast Project: Supplementary Submission no.1' dated 17 December 2015.

AS AMENDED BY

- The details of the application dated 25 January 2017;
- Covering letter from ABPmer dated 25 January 2017;
- Environmental Statement for s73 Application by ABPmer dated January 2017;
- Planning Statement for s73 Application by ABPmer dated January 2017;
- Supplementary Submission for s73 Application by ABPmer dated April 2017;

together with the following drawing numbers:

- 202808-C2-205 Rev P2 Proposed Cell 2-4 Works General Arrangement Plan dated 17/01/17;
- 202808-C2-401 Rev P2 Reception Hide Car Parks Arrangement dated 16/01/17;
- 202808-C2-150 Rev P1 Cell 5 pedestrian Access Ramps dated 15/12/16;
- 202808-C2-400 Rev P2 Reception Hide Access Road and Typical Cross Sections dated 16/01/17;
- 202808-C2-002 Rev P2 Proposed Cell 2-4 Works Cross Section A-A Existing Sluice Modifications dated 13/01/17;
- 202808-C2-003 Rev P2 Proposed Cell 2-4 Works Cross Section B-B Inlet Structures Typical Details dated 17/01/16;
- 202808-C2-006 Rev P2 Proposed Cell 2-4 Works Banks and Ditches Typical Details dated 17/01/16;
- 202808-C2-001 Rev P2 Proposed Cell 2-4 Works 18Ha Fresh Water Control Structure Typical Details dated 13/01/17;
- 202808-C2-402 Rev P3 Reception Hide Car Park Cross Sections dated 20/11/17;
- 202808-C2-004 Rev P2 Proposed Cell 2-4 Works Cross Section C-C Outlet Structures Typical Details dated 17/01/17;
- 202808-C2-005 Rev P2 Proposed Cell 2-4 Works Cross Section D-D Culvert to Cell 3 Typical Details dated 17/01/16;
- 202808-C2-007 Rev P2 Proposed Cell 2-4 Works Crossing Culverts Typical Details dated 17/01/16.

Except as varied by the following conditions:

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order evoking and re-enacting that Order with or without modification) no building, structure, fixed plant or machinery other than shown on drawings 202808-C2-206 Rev P2 General Arrangement RSPB Compound dated 15/12/16 and 202808-C2-204 Rev P2 General Cell 2 and 4 Works General Arrangement Contractor Site Compound dated 15/12/16, permitted under ref ESS/12/17/ROC, shall be erected, installed or replaced on the site without the benefit of express planning permission.
- 4 No lighting on site shall be erected, installed or operated unless in accordance with the details as set out in the application form dated 14 August 2014, document entitled 'Wallasea Island Lighting Management Plan' dated 07 August 2014 and drawing numbers:
 - GA-005, Rev Z1, Sheet 1 of 15 dated 09/07/13;
 - CS54480 dated 10/08/14;
 - GA-005, Rev Z1, Sheet 2 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 3 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 4 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 5 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 6 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 7 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 8 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 9 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 10 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 11 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 12 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 13 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 14 of 15 dated 09/07/13;
 - GA-005, Rev Z1, Sheet 15 of 15 dated 09/07/13;

approved on 29 September 2014 under permission ref ESS/09/14/ROC

except as amended by details of the location, height, design, luminance and operation, which have been submitted to and approved in writing by the Waste Planning Authority prior to the installation of any further lighting on site. That submitted shall include an overview of the lighting design including the maintenance factor and lighting standard applied together with a justification as why these are considered appropriate. The details to be submitted shall include a lighting drawing showing the lux levels on the ground, angles of tilt and the average lux (minimum and uniformity) for all external lighting proposed. Furthermore a contour plan shall be submitted for the site detailing the likely spill light, from the proposed lighting, in context of the adjacent site levels. 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.

- 6 The free field Equivalent Continuous Noise Level (LAeq, 1hr) at noise sensitive premises adjoining the site shall not exceed background levels plus 10dB during normal working hours, except at Burnham Wick Farm where the free field Equivalent Continuous Noise Level (LAeq, 1hr) shall not exceed 46 – 48 dB during normal working hours. Measurements shall be made no closer than 3.5 m from the façade of properties or other reflective surface and shall be corrected for extraneous noise.
- 8 Noise levels shall be monitored at three monthly intervals from the date of the commencement of development at noise sensitive properties, namely Grapnell's Farm Cottages, Burnham Wick Farm, Anchorage Apartments and Belvedere Apartments, approved on 19 May 2010 under permission ref ESS/54/08/ROC. 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 results shall be submitted to the Waste Planning Authority within 1 month of the monitoring being carried out. Noise monitoring shall be undertaken for a minimum of one hour at each noise sensitive property during the measurement period. The frequency of monitoring shall not be reduced, unless otherwise approved in writing by the Waste Planning Authority.
- 12 The dismantling and removal of the wharf, pontoon and conveyors shall only be carried out during the following times:
- 07:00 – 19:00 hours Monday to Friday
07:00 – 13:00 hours Saturdays
- outside of the bird overwintering period (01 October to 31 March), unless otherwise agreed in writing by the Waste Planning Authority
- and at no other times, or on Sundays, Bank or Public Holidays.
- All other development shall only be carried out during the following times:
- 07:00 – 19:00 hours Monday to Friday
07:00 – 13:00 hours Saturdays
- and at no other times, or on Sundays, Bank or Public Holidays.
- Except non-disturbing preparatory works, repairs and maintenance, which shall only be carried out during the following times:
- 07:00 – 19:00 hours Monday to Friday
07:00 – 13:00 hours Saturdays
08:00 – 16:00 hours Sundays
- and at no other times, or on Bank or Public Holidays
- 16 The development hereby permitted shall take place in accordance with the scheme for the creation of barriers/ditches to discourage badgers from areas containing ground nesting birds as set out in the application form dated 26 March 2010, statement dated 25 March 2010, letter from Natural England dated 15 February 2010 and Figure 3A 2 (Feb 10), approved on 22 April 2010 under

permission ref ESS/54/08/ROC.

- 22 Prior to the commencement of construction of the Reception Hide Car Parks, shown in principle on drawing ref 202808-C2-401 Rev P2 dated 16/01/17, full details of the car parking areas, bays and surfacing materials shall have been submitted to the Waste Planning Authority for its approval in writing. The car parking areas shall be implemented and retained in accordance with the approved details for the life of the development hereby permitted and shall not be used for any other purpose than the parking of vehicles that are related to the use of the development. The development shall be implemented in accordance with the approved details.
- 25 A revised aftercare scheme detailing the steps that are necessary to bring the land to the required standard for a nature reserve/amenity use shall be submitted to the Waste Planning Authority for its approval in writing prior to the completion of the development of Cells 2 and 4, shown on drawing ref 202808-C2-205 Rev P2 dated 17/01/17. The scheme shall provide an outline strategy for the 5 year aftercare period and provide a detailed annual programme of care including planting in the car park areas. The scheme shall be implemented in accordance with the approved details.
- 26 The Rights of Way and Permissive Routes as shown on Figure 11 (Drawing 4479 R2724_Fig_Footpaths.mxd) dated Jan 17 shall be maintained..
- 28 Until the conveyor is removed, the footbridge shall be maintained in accordance with the details as set out in the application form dated 22 July 2010, accompanying statement entitled 'Ref ES/54/08/ROC/Approval of details 5B' and drawing numbers 60101958/3563/02 Rev 04 dated August 2009 and 60148989/3519/SK/P3A Rev 03 dated May 2010, approved on 11 August 2010 under permission ref ESS/54/08/ROC and as amended by the revised design and location as detailed in the application dated 18/04/11, supporting statement dated 22/04/11 and drawing number 60039950/3563/123 Rev 02 (14/04/11), approved on 03 June 2011 under ESS/54/08/ROC/NMA.
- 30 Landscaping shall take place in accordance with the 'RSPB Wallasea Island Wild Coast Project Submission 3 Document: Car park location, construction, facilities and landscaping', and Drawing No.202808-290 Rev 2 received on 19/06/15, approved by the Waste Planning Authority on 03/07/15, except as varied by details of a landscape scheme for the car park associated with the reception hide, shown on drawing ref 202808-C2-401 Rev P2 (dated 16/01/17) which shall be submitted to the Waste Planning Authority for its approval in writing prior to the commencement of construction of the Reception Hide Car Parks, shown in principle on drawing ref 202808-C2-401 Rev P2 dated 16/01/17. The scheme shall include details of areas to be planted with species, sizes, spacing, protection and programme of implementation. The scheme shall be implemented within the first available planting season (October to March inclusive) following completion of the reception hide car park hereby permitted in accordance with the approved details and maintained thereafter in accordance with condition 31 of this permission.
- 32 The cells walls and flood defence wall shall be constructed and maintained in accordance with the details set out in the application form dated 22 July 2010,

accompanying statement entitled 'Ref ES/54/08/ROC/Approval of details 5D' and 'Table 1' and drawing number 60148989/3519/SK/P33 Rev 01 dated March 2010 as amended by

the altered design of cell 1 as detailed in the application dated 12 July 2012, supporting statement entitled 'Ref ESS/54/08/ROC/Non-material Amendment 5A – Changes to Cell 1 design' dated 12 July 2012, letter from ABPmer dated 02 August 2012 and accompanying drawing 'proposed revised design for the Wallasea Island Wild Coast Project - revised design August 2012', covering letter dated 12 July 2012, and drawing numbers 60148989-3519-201 Rev 06 dated 25/04/12, 60148989-3519-203 Rev 03 dated 25/04/12 and 60148989-3519-204 Rev 03 dated 25/04/12, approved on 05 September 2012 under ref ESS/54/08/ROC/NMA9 and as amended by

the details of the application dated 14 December 2012, covering letter dated 14 December 2012, supporting statement entitled 'Ref ESS/54/08/ROC/Non-material Amendment 7A: Revision to cell embankment details' dated 14 December 2012 and, drawing numbers 60148989-3519-207 Rev 06 dated 14/09/12 and, 60148989-3519-201 Rev 08 dated 14/09/12, as approved on 29 January 2013 under ref ESS/54/08/ROC/NMA11 and as amended by

the details set out within Condition 2 of this permission.

- 34 The archaeological evaluation of major relict creeks shall be carried out in accordance with the submission received on 16th April 2015 and validated on 28th April 2015 in respect of Condition 34 of planning permission reference ESS/44/14/ROC, approved by the Waste Planning Authority under condition 34 of planning permission ref ESS/44/14/ROC on 18/06/15.
- 36 The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment by Faber Mansell dated November 2008, as amended by the updated flood risk assessment by ABPmer ref R.2212 version 2.0 dated 17 January 2014, as amended by the 'Wallasea Island Wild Coast Project: Updated Flood Risk Assessment for a S73 Application' ref R.2315 dated October 2014, and the sea walls and internal cell walls shall be constructed with a minimum crest level of 5.0m AOD

except as amended by the Updated Flood Risk Assessment for a Section 73 Application: Wallasea Island Wild Coast Project 202808-C2-R01-C dated January 2017.
- 37 Signage to show the status of proposed intertidal creeks in terms of public access rights and to mark the breaches for navigational safety shall be implemented and maintained in accordance with the 'signage (public access rights) as per drawing in Appendix A' approved by the Waste Planning Authority under condition 37 of planning permission ref ESS/44/14/ROC on 17/06/15.
- 38 The development hereby permitted shall be completed by 31 December 2022, by which time operations shall have ceased and the site shall have been reinstated and restored to a coastal nature reserve and shall be the subject of aftercare for a period of 5 years.

- 39 Any building, plant, machinery, foundation, hard standing, roadway, structure or erection in the nature of plant or machinery used in connection with the development hereby permitted, including the unloading facility and conveyor, shall be removed from the site when they are respectively no longer required for the purpose for which built, erected or installed and in any case not later than 31 December 2022.
- 40 Waste material shall not be imported to the site from the date of the commencement of the development hereby permitted.
- 41 The applicant shall notify the Waste Planning Authority in writing at least 5 working days in advance of the completion of each phase of development.

Additional Condition as follows:

- 42 No development shall take place until a detailed mitigation plan for the reptiles, water voles, badgers and breeding birds identified including their breeding sites and resting places has been submitted to and approved in writing by the Planning Authority. The development hereby permitted shall be carried out in accordance with the approved details.

Existing Conditions 7, 9, 15, 18, 19, 27 and 29 to be removed.

All remaining conditions attached to permission ref ESS/44/14/ROC to be re-numbered, updated, removed or re-imposed as appropriate.

BACKGROUND PAPERS

Consultation replies
Representations

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (as amended)

The proposed development would be located adjacent to a European site (the Essex Estuaries Special Area of Conservation and the Crouch and Roach Estuaries) and would be directly connected with or necessary for the management of that site for nature conservation (see letter from Natural England dated 09/11/16).

Following consultation with Natural England and the County Council's Ecologist no issues have been raised to indicate that this development would adversely affect the integrity of the European 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.

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

In determining this planning application, the Local Planning Authority (LPA) has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary. The LPA has regularly attended Local Liaison Meetings and engaged with the developer prior to the submission of the application. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

LOCAL MEMBER NOTIFICATION

ROCHFORD – South
ROCHFORD – North
MALDON - Southminster

ENVIRONMENTAL IMPACT ASSESSMENT (EIA) FOR: WALLASEA ISLAND (Application Ref: ESS/13/17/ROC)

Note: This application is being considered under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, under the transitional provisions set out in Regulation 76 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

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:

- Hydrodynamic Effects
- Ecology and Nature Conservation
- Public Rights of Way
- Landscape and Visual Impacts
- Noise

The significance of each key subject area has been identified as either insignificant, minor adverse significance, moderate and major adverse significance.

Hydrodynamic Effects

The proposed design would remove open breaches into the Cell 2 and 4 areas. Therefore 1million m³ of tidal water would no longer be released into the Roach in this middle estuary location.

An inlet pipe would allow up to 0.09 million m³ into Cells 2 and 4, released back into the Roach Estuary via Cell 1. There would be no major release of water back out through Cells 2 and 4.

The volume and speed of flow out of the site through the Breach 1 in Cell 1, via Cell 3, would be slightly greater than in the permitted scheme. This scheme would have seen the water discharged via Cells 1 and 2. The proposed maximum flow changes as a result of the altered design would be small and no significant localised erosion of the breach is expected.

The expected accretion of sediment in Cell 1 would mean that there would be very little further changes to the hydrodynamics of the Roach and Crouch Estuaries.

Overall, the effects on the estuary have been assessed as negligible/insignificant and less than the permitted scheme (which was minor adverse).

Ecology and Nature Conservation

The Crouch and Roach Estuaries are designated as detailed within the Committee Report. Another SPA is within 3km of the site (Foulness). The estuaries are also part of a Marine

Conservation Zone for the protection of native oysters. The proposed sluice works and the unloading facility are the only part of the scheme that would encroach on the designations. There is no requirement for an Appropriate Assessment, since the project is required for the conservation management of the designated sites.

Since no breaches are proposed, the hydrodynamic interaction with the estuary would be insignificant. The development would, however, still address the risk of an unmanaged breach and flooding event.

The temporary effects of the construction period would be reduced.

Mitigation is proposed for protected species, as follows:

- Reptiles would be displaced (to Cell 5) from Cells 2 and 4 in the areas surrounding the cultivated fields by regular cutting of the vegetation sward until the site is inundated with water.
- Water vole populations would be surveyed in Spring 2017. This would inform mitigation measures, but it is expected that water voles would be displaced (not translocated) from Cells 2 and 4 to the established habitat in Cell 5 or to the proposed bunds.
- Badgers would be surveyed in Spring 2017. A plan would be put in place with Natural England to close the existing setts and to develop suitable fencing to add to the anti-predator ditch/fence network. This would form a continuous north-south barrier across the site.
- Nesting birds would not be impacted upon due to the required vegetation management for reptiles.

There is no expectation that the proposed development would introduce any new problems with respect to invasive plant species.

It is expected that fish would enter the site through the Cell 2 and 4 tidal inlet pipe when it is open. A small fish flap would allow small volumes of water to return to the estuary on the ebb tide. This would encourage smaller fish to enter the site during ebb periods, and to allow fish to exit.

The alteration to the scheme so that breaches in the Cells 2 and 4 frontage are no longer proposed, means that there is no potential for the scheme to affect the oyster layings in the Roach. Further, E.coli levels have been monitored from Jubilee Marsh. This has showed that oysters near Breach 3 were of comparable quality to those in the cultivated beds. The proposed re-design is anticipated to have no adverse effect on E.coli levels.

Overwintering birds are not anticipated to be disturbed by the construction period. The seawall work and pontoon/conveyor removal are proposed to be undertaken outside of the October to March period to avoid disturbance.

Salinity and temperatures within the proposed lagoons would be adjusted according to external conditions, to allow appropriate dilution, thus not impacting invertebrates.

Overall, the project would reduce physical interactions with the adjacent estuary when compared with the permitted scheme. It has been assessed as moderate beneficial, which is unchanged from the permitted scheme.

Public Rights of Way

The proposed development would include the earlier removal of the conveyor and footbridge over Footpath 21, and the Footpath would be restored to its baseline condition.

As there would be no further breaches and a longer network of bunds, 8km of additional permissive paths would be created including more circular walks.

Additionally, the northerly seawall would be improved with access ramps so that walkers/cyclists could access from Cell 5.

Minor further benefits are expected when compared to the permitted scheme.

Landscape and Visual Impacts

The main alteration to Cells 2 and 4 would be the larger proportion of lagoons to that permitted. They would alter their appearance according to the water levels, which would change with the tides but mainly with the seasons.

Habitats would be lagoonal, marsh and mud habitats and the area would be flatter than the surrounding Cell 1.

The design would allow saline and fresh water close to visitor footpaths. This would enhance the visitor experience and, overall, minor benefits are expected.

Noise

The proposed development would include the dismantling of the unloading facility, which is expected to create the highest noise levels but not so loud as to result in adverse effects.

The proposed landscaping works would mainly be on the central and southern parts of the Island, at a greater distance from Burnham than permitted activities already undertaken. Machinery would be mainly below the height of the surrounding seawalls.

The proposals are assessed as having insignificant effects.

Finally, the application also assesses the 'do nothing' alternative. This would mean waiting for land-raising materials to become available, which is very uncertain. A period of delay would require the unloading facility to be retained and maintained for the entire time and the island would be at continued risk of unmanaged breach, particularly along the southern stretch. Ecological and visitor benefits would be delayed for an unknown period of time.