

Development and Regulation Committee

10:30	Friday, 23 May 2014	Committee Room 1, County Hall, Chelmsford, Essex
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Quorum: 3

Membership:

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

For information about the meeting please ask for:

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Essex County Council

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Part 1

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

		Pages
1	Apologies and Substitution Notices The Committee Officer to report receipt (if any)	
2	Declarations of Interest To note any declarations of interest to be made by Members	
3	Minutes To approve the minutes of the meeting held on 25 April 2014.	7 - 12
4	Identification of Items Involving Public Speaking To note where members of the public are speaking on an agenda item. These items may be brought forward on the agenda.	
5	Minerals and Waste	
5a	Mackers Metals Use of the site as a waste transfer station for the sorting, grading and transfer of inert, non-hazardous waste and waste electrical and electronic equipment (WEEE). Together with the development of a three sided enclosure to further facilitate the proposed operations. Location: The Yard, Wrexham Road, Laindon, Essex, SS1 5PX. Ref: ESS/07/14/BAS DR/18/14	13 - 84
6	County Council Development	

6a Holy Cross RC Primary School 85 - 98

New single and double storey annexe to accommodate an additional 210 pupil numbers, together with single storey extensions to the main hall and head teacher's room, the provision of a temporary classbase for a period of 12 months and the provision of 8 new cycle parking spaces.

Location: Holy Cross RC Primary School, Tracys Road, Harlow, CM18 6JJ.

Ref: CC/HLW/19/14
DR/19/14

7 Information Items

7a Applications, Enforcement and Appeals Statistics 99 - 102

To update Members with relevant information on planning applications, appeals and enforcements, as at the end of the previous month, plus other background information as may be requested by Committee.

DR/20/14

8 Date of Next Meeting

To note that the next meeting will be held on Friday 27 June 2014 at 10.30am.

9 Urgent Business

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

Exempt Items

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

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

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

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Urgent Exempt Business

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

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

MINUTES OF A MEETING OF THE DEVELOPMENT AND REGULATION COMMITTEE HELD AT COUNTY HALL, CHELMSFORD ON 25 APRIL 2014

Present

Cllr R Boyce (Chairman)
Cllr K Bobbin
Cllr P Channer
Cllr M Ellis
Cllr I Grundy

Cllr T Higgins
Cllr J Lodge
Cllr Lady P Newton
Cllr J Reeves
Cllr S Walsh

1. Apologies and Substitution Notices

Apologies were received from Cllr James Abbott, Cllr Anne Brown, Cllr Carlo Guglielmi (substituted by Cllr Grundy) and Cllr M Mackrory (substituted by Cllr Higgins).

2. Declarations of Interest

Cllr Boyce declared a personal interest in agenda item 5a, Land at Wallasea Island, Rochford, as a Member of Maldon District Council and the County Council Member for the Southminster Division, including Burnham-on-Crouch, situated opposite the island.

Cllr Channer declared a personal interest in agenda item 5a, Land at Wallasea Island, Rochford, as a Member of Maldon District Council District Council, where she is currently Chairman of Planning & Licensing. She has been approached about this, although has made no comment to date. She also serves on the Kent and Essex Inshore Fishing Committee, and the Crouch Harbour Authority Advisory Committee, and has been working on funding issues linking Burnham and Wallasea. Consequently, to avoid any conflicts of interest, she will withdraw for this item.

Cllr Walsh declared a personal interest in agenda item 5a, Land at Wallasea Island, Rochford, as a Member of the RSPB. As the RSPB is the applicant, Cllr Walsh believes there is a conflict of interest and so he will withdraw for this item.

3. Minutes

The Minutes and Addendum of the Committee held on 28 March 2014 were agreed and signed by the Chairman.

4. Identification of Items Involving Public Speaking

The person identified to speak in accordance with the procedure was identified for the following item:

Continuation of the importation of waste to develop a coastal nature reserve without compliance with certain conditions, together with the inclusion of previously agreed non-material amendments to permission ref ESS/54/08/ROC.

Location: Land at Wallasea Island, Rochford, Essex
Ref: ESS/09/14/ROC
Applicant: Royal Society for the Protection of Birds
Public Speaker: Chris Tyas speaking for.

Councillors Channer and Walsh left the meeting at this point

5. Land at Wallasea Island, Rochford

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

The Committee was reminded that the original application had been approved in July 2009 (attached as Appendix 3 to the paper). The main purpose of this application is to make two alterations to the existing permission: to extend the time for cessation and restoration of the development to 2025; and to remove the restriction to inert material, allowing the importation of suitable natural material.

Policies relevant to the application were detailed in the report.

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

The Committee noted the key issues that were:

- Need and Principle of Development
- Policy Considerations
- Environmental Impact
- Amenity Impact
- Traffic and Highways
- Airport Safeguarding

In accordance with the protocol on public speaking the Committee was addressed by Chris Tyas, Project Manager, RSPB Wallasea Island Wild Coast Project. Mr Tyas said:

- The five aims of the project are: to replace coastal habitats; to create new accessible coastline for people to enjoy; to provide a sustainable solution to the flood risk; to move the scientific element forward (this is the largest scheme of this kind in Europe, in terms of land raising/habitat creation); and to develop the Defra marsh site
- It has been successful – attracting 12,000 birds at its winter peak
- 1.7 million tonnes (out of 4 million) have been imported so far; talks are being conducted with both EDF Energy (possible work at Sizewell) and Thames Water (new sewer under London), as potential sources for material
- The RSPB have worked hard to keep the effects of the scheme to a minimum; and local liaison and shipping management groups have been set up
- Only suitable materials are used and the RSPB is committed to completing

the Scheme according to the consented design.

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

- that trials had been carried out on the suitability of the peat to be used for the development and the Environment Agency had confirmed the material was suitable. The EA would regulate material to be used through the Environmental Permit
- a further 3.5 million m³ of material would be required to complete the development from projects other than Cross-rail and that material must be imported by ship. It was not certain at present exactly where the necessary material will come from, however the applicant needs additional time to negotiate large-scale contracts for potential infrastructure projects.

The resolution was moved, seconded and following a unanimous vote in favour it was

Resolved

That planning permission be granted subject to:

- the Secretary of State not calling in the application for his own determination; and,
- the completion within 12 months of a S106a legal agreement relating to the removal of the existing obligation for imported material to be clean, inert and uncontaminated; and,
- conditions covering the following matters:

Conditions to be amended as follows:

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

Except as varied by the following conditions:

4. Within 3 months of the date of this permission, full details of the location, height, design, sensors and luminance of the existing and proposed fixed lighting on site shall be submitted to the Waste Planning Authority for its approval in writing. The details shall ensure the lighting is designed and managed 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. Except for temporary breaching works (which shall not exceed 70dB LAeq), 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, 42-44dB LAeq 1hr in the evening and 42dB LAeq 1hr at night, 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, 42-44dB LAeq 1hr in the evening and 42dB LAeq 1hr at night. 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

38. The development hereby permitted shall be completed by 31 December 2025, 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 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 2025. The unloading facility, conveyor and pipeline shall be removed within 12 months of completion of the final phase of development.

All remaining conditions attached to permission ref ESS/54/08/ROC to be re-numbered, updated, removed or re-imposed as appropriate

Councillors Channer and Walsh rejoined the meeting at this point.

6. Michelins Farm, Rayleigh

The Committee considered report DR/15/14 by the Director of Operations: Environment and Economy.

The Committee was advised that the item concerned the enforcement of planning control: unauthorised development relating to a material change of use of the land from agricultural land to land used for the importation, deposition and spreading of waste materials, substantially raising the land levels.

An enforcement notice was served by the Waste Planning Authority in 2011 and similar notices were also served by the Environment Agency and Rochford District Council. Subsequent site visits demonstrated that these had not been acted upon, and a Regulation 44 Order was served. However, this has not been complied with, even after having its deadline extended, so further action is intended by the EA and Rochford District Council.

Were the County Council, as WPA, also to pursue this further, it would present the defendant with the opportunity to argue abuse of process, as he would be prosecuted for the same offences twice. Consequently, legal opinion on this situation has suggested that the County Council should continue to support the EA and Rochford DC in their prosecution, but should not itself pursue a second prosecution under these circumstances.

In response to a query, Members were reminded that any action taken would be funded from the public purse; and it was not clear at present what further action might be taken, in relation to clearing the site itself.

The resolution was moved and seconded, and with a unanimous vote in favour, it was

Resolved:

That subject to Court Order (issued under the Environment Agency's powers) being enforced or complied with, no further action is taken by the County Council as Waste Planning Authority in respect of the breach of the enforcement notice issued in June 2011.

7. Enforcement Report

The Committee considered report DR/16/14, by the Director of Operations: Environment and Economy, on enforcement matters for the period 1 January to 31 March 2014.

The Committee **NOTED** the report.

8. Statistics

The Committee considered report DR/17/14, Applications, Enforcement and Appeals Statistics, as at end of the previous month, by the Head of Planning, Environment and Economic Growth.

The Committee **NOTED** the report.

9. Date and time of Next Meeting

The Committee noted that the next meeting will be held on Friday 23 May 2014 at 10.30am in Committee Room 1.

There being no further business the meeting closed at 11.08 am.

Chairman

Committee DEVELOPMENT & REGULATION

Date 23 May 2014

MINERALS AND WASTE DEVELOPMENT

Proposal: **Use of the site as a waste transfer station for the sorting, grading and transfer of inert, non-hazardous waste and waste electrical and electronic equipment (WEEE). Together with the development of a three sided enclosure to further facilitate the proposed operations**

Location: **The Yard, Wrexham Road, Laindon, Essex, SS15 6PX**

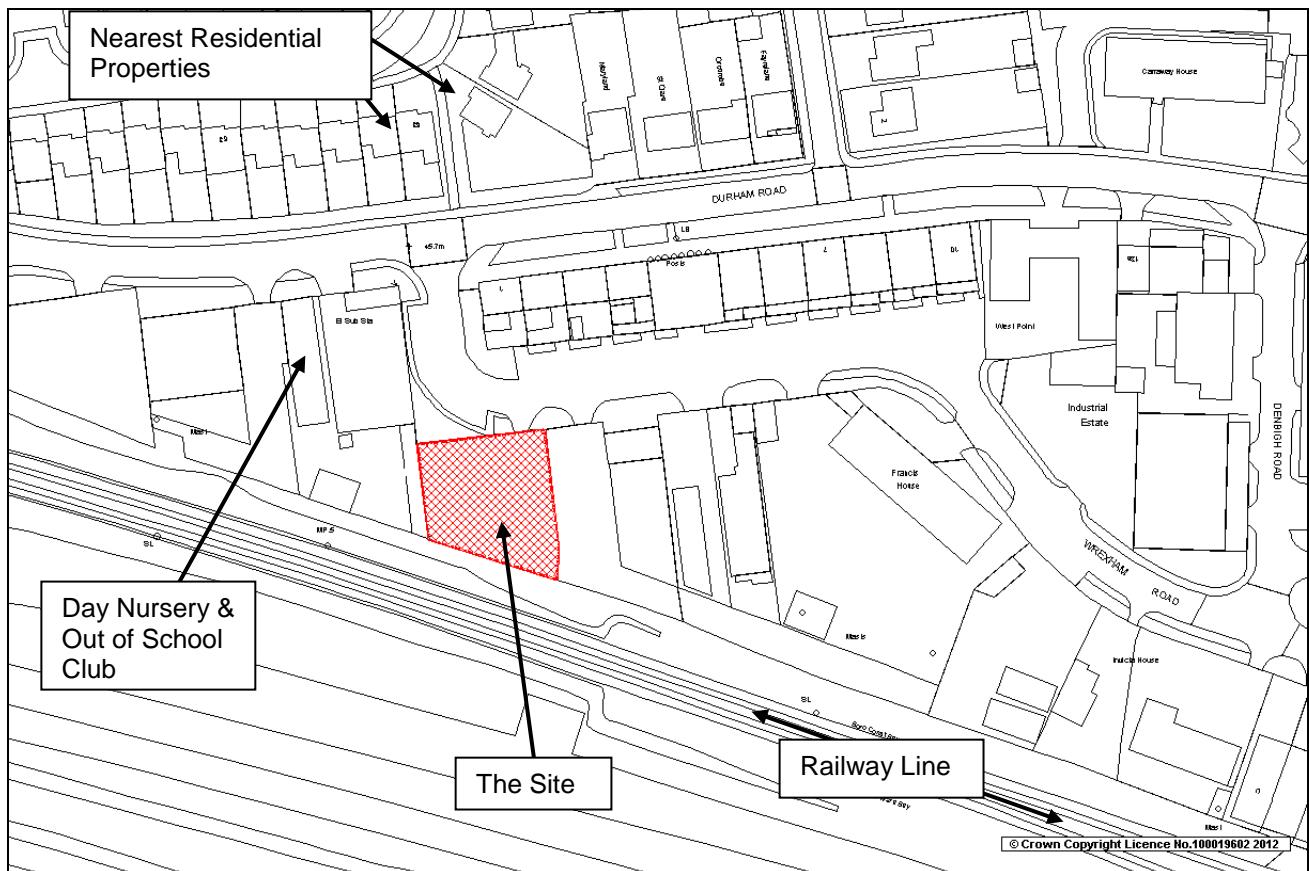
Reference: **ESS/07/14/BAS**

Applicant: **Mackers Metals Ltd**

Report by Director for Operations, Environment and Economy

Enquiries to: Tom McCarthy Tel: 03330 136816

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



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1. SITE & BACKGROUND

The application site is situated in a small scale industrial estate within a predominately urban area to the west of Basildon Town Centre. The site itself is accessed off Wrexham Road which itself is off Durham Road. Vehicular and pedestrian access into the site is also via Wrexham Road to the north of the site.

Currently, there are two temporary office buildings and a storage shed on the site, all situated along the western boundary of the site with one temporary office building situated on top of the other, similar in nature and height to a two storey building. Two high sided skips and a number of smaller storage bins are located along the northern boundary of the site. Car parking for the site is located adjacent to the north west corner of the site, although this is actually outside the red line application area of this proposal.

The application site is allocated as an Existing Employment Zone within Basildon Borough's existing Local Plan and as existing is operating as a car breaking and dismantling facility. This use was deemed 'lawful' by Basildon Borough Council when a Certificate of Lawful Existing Use or Development (CLEUD) was issued in February 2005.

In September 2012 a planning application was submitted to Essex County Council, as the Waste Planning Authority, for the use of the site as i) a waste transfer station for the handling of inert waste, non-hazardous waste and waste electrical and electronic equipment (WEEE) and ii) a vehicle depollution, car breaking and dismantling facility, with a combined total maximum annual throughput of 40,000 tonnes, and operational development comprising of the erection of an associated three sided enclosure (ref: ESS/68/12/BAS). This application was refused planning permission under delegated powers on 25 February 2013 as it was considered the development would have an adverse impact on the amenity of local businesses and nearby residential occupiers by way of noise, therefore not delivering sustainable development as required by the National Planning Policy Framework, contrary to relevant waste and local planning policy. The Officer's delegated report together with the full reason for refusal is attached at Appendix 1 to this report.

An appeal was lodged, by the applicant, against the refusal and the case was determined by way of written representations. The Inspector who was appointed by the Secretary of State for Communities and Local Government to determine the case issued her decision on 22 October 2013 and this is attached at Appendix 2.

The Inspector considered that the main issue in this case was the effect of the proposed development on the living conditions of occupiers of neighbouring properties and the amenity of local businesses with particular reference to noise and disturbance.

The Inspector noted that the existing use has resulted in unacceptable noise being generated. She concluded that, whilst it is accepted that there may not be an objection in principle to the location of the site for the proposed use, as the levels

of noise would remain above those which would normally be considered acceptable and there would be no significant reductions, planning permission should not be granted in context of the fall-back planning position.

The inspector agreed that the granting of planning permission would only be likely to confirm and prolong an already unacceptable situation. The imposition of conditions requiring noise levels to be reduced would be unreasonable and such measures would also likely require further infrastructure which may in itself require planning permission. For these reasons the appeal was dismissed.

At paragraph 15 of the appeal decision, the Inspector nevertheless notes that it is of course open to the appellant to submit a fresh application for the use without the car breaking element in view of the claims that this would 'drastically' reduce the noise levels.

2. PROPOSAL

Planning permission is sought for the use of the site as a waste transfer station for the sorting, grading and transfer of inert, non-hazardous waste and waste electrical and electronic equipment (WEEE). Together with the development of a three sided enclosure to further facilitate proposed operations. It is proposed that the facility would process a selection of materials including paper, soil, hardcore, wood, metal, plastic, glass and WEEE from various waste streams.

The applicant has stated that they intend to apply for a standard waste license, from the Environment Agency, which permits the processing of up to 75,000 tonnes of waste per annum. However, it is acknowledged that due to the site size that this throughput may never be able to be achieved.

The applicant has stated, in relation to vehicle movements, that the site currently receives scrap metal via transit and box vans and although the number of vehicles varies per day, on average the existing use generates approximately 60 vehicle movements (30 in and 30 out). The proposed 'new' use as a waste transfer station it has been detailed would result in a similar level of (similar type) vehicle movements.

In respect of the previous application refused in 2012 (ref: ESS/68/12/BAS), this application differs because the applicant is no longer proposing to process end of life vehicles. The proposal solely seeks the use of the site as a waste transfer station for sorting, grading and transfer of inert, non-hazardous and WEEE waste. If permission is granted for this, the applicant has stated that they would surrender their existing Certificate of Lawfulness for car breaking and dismantling, issued by Basildon Borough Council.

The application proposes hours of operation of 07:00-18:30 Monday to Friday and 07:00-13:00 on Saturdays. There would be no working on Sundays and Bank or Public Holidays.

3. POLICY CONSIDERATIONS

The following policies of the Essex and Southend Waste Local Plan 2001 (WLP) and Basildon Borough Local Plan Saved Policies 1996 (BLP) provide the development framework for this application. The following policies are of relevance to this application:

<u>Policy</u>	<u>WLP</u>	<u>BLP</u>
Sustainable Development, National Waste Hierarchy & Proximity Principle	W3A	
Need for Waste Development	W3C	
Highways	W4C	
Inert Waste Recycling	W7D	
Material Recovery Facilities	W7E	
Scrap Yards	W7F	
Preferred Sites	W8A	
Alternative Sites	W8B	
Alternative Sites	W8C	
Planning Conditions and Obligations	W10A	
Material Considerations: Policy Compliance and Effects of the Development	W10E	
Hours of Operation	W10F	
Existing Employment Areas		BAS E4
Untidy Industry		BAS E6
General Employment Policy		BAS E10

The National Planning Policy Framework (Framework) was published on 27 March 2012 and sets out the Government's planning policies for England and how these are expected to be applied. The Framework highlights that the purpose of the planning system is to contribute to the achievement of sustainable development. It goes on to state that there are three dimensions to sustainable development: economic, social and environmental. The Framework places a presumption in favour of sustainable development. However, paragraph 11 states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

For decision-taking the Framework states that this means; approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.

In respect of the above, paragraph 215 of the Framework, which it is considered is applicable to the WLP and BLP, states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). Consideration of this, as such, will therefore be made throughout the appraisal section of this report. The policies applicable to this application are considered to replicate, with minor exception, those previously

used in the determination of ESS/68/12/BAS. Since this application was determined Basildon Borough Council have however produced their own conformity/compliance checklist with the Framework. This is provided at Appendix 3 and supersedes that previously considered in Appendix 1A in relation to the BLP.

With regard to updates/replacements or additions to the above, the Framework (Annex 1, paragraph 216) states: From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given), and;
- The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The Waste Development Document: Preferred Approach 2011 (now known as the Replacement Waste Local Plan (RWLP)) has yet to reach 'submission stage' and as such is too early in its development to hold any significant weight in decision making.

In respect of Local Plan updates, at the Full Council meeting on 29 June 2006 Basildon Borough Council resolved to withdraw the draft Replacement Local Plan and proceed with a Local Development Framework. In relation to this a Core Strategy Preferred Options Report was published in February 2012 for a six week public consultation (which ended on 11 April 2012). In November 2012, Cabinet considered the 3,300 comments submitted and endorsed a series of recommended actions to ensure the LDF (as known at the time) would have an up to date baseline from which to draw up revised policies. With regard to the changes/actions required, a new Preferred Options Report was issued for consultation in 2014 (consultation ended 01 April 2014). As the replacement Local Plan (now titled Basildon 2031 Local Plan) is still however in its formation it is considered, in context of paragraph 216 of the Framework, that little weight can be applied to applicable policies, especially as objections may be outstanding from consultation.

With regard to waste policy and guidance, the Framework does not contain specific waste policies, since national waste planning policy will be published as part of the National Waste Management Plan for England (NWMP). The Waste Management Plan for England was adopted in December 2013 and sets out where we are now in terms of the waste we generate in England and how we manage those materials. It furthermore sets out the policies we currently have in place to help move us toward this vision (prevent and manage waste to support the growth of our economy and to continue to protect our environment). An update to the national waste planning policy: Planning for sustainable waste management has been published for consultation by the Department for Environment Food & Rural Affairs and the Department for Communities and Local Government, in support of the aspirations of the NWMP, however this has yet to be adopted. Until formal

adoption Waste Planning Policy Statement (PPS 10) remains the most up-to-date adopted source of Government guidance for determining waste applications.

4. CONSULTATIONS

BASILDON BOROUGH COUNCIL – No objection subject to the imposition conditions to suitably control operations. Conditions suggested include:

1. No cranes shall be used to handle waste materials on site;
2. Plant and machinery shall not be operated or materials handled on Bank Holidays; and
3. Plant and machinery shall not be operated or materials handled on site except between the hours of: 08:00-17:00 Monday to Friday and 08:00-13:00 on Saturdays.

ENVIRONMENT AGENCY – No objection to the development in principle. However, the following information is offered to the applicant and planning authority: an environmental permit would be required for the proposed activities; the existing permit may need to be changed or a new permit applied for; it should be noted that some WEEE waste is classed as hazardous waste and permit restrictions may apply; a three sided enclosure may not meet the requirements of operating under an “in-building” environmental permit; odour mitigation may be required for the storage and treatment of municipal waste and currently this application does not adequately satisfy us (the Environment Agency) that the operator would be able to control these emissions; operating hours would not be controlled by an environmental permit so should be considered within the planning permission; further clarification in respect of the discrepancies in the documentation provided on the waste materials to be handled (in particular municipal waste and WEEE and the layout differences in the south-east corner of the site) would be expected in any application for a permit; and through the permitting process it is expected the following areas would be conditioned: sealed drainage and foul sewer.

Comment from applicant

It has been confirmed by the applicant, in respect of the above, that no hazardous waste or hazardous WEEE would be held on site. In addition to this and references to municipal waste, no biodegradable waste would be held or transferred on site and it is therefore considered odour is unlikely to be issue. In respect of the proposed use of the south-east corner, it has been suggested that this would be a general storage/processing area for material and the size of the mechanical grab is purely for illustrative purposes.

HIGHWAY AUTHORITY – No objection.

NETWORK RAIL – No objection.

ESSEX FIRE & RESCUE SERVICE – Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 – Section 13 and appears to be satisfactory. More detailed observation on access and facilities for the Fire Service would be considered at Building Regulation consultation stage. The architect or applicant is reminded that additional water supplies for firefighting may be

necessary.

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

PLACE SERVICES (Trees) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection subject to conditions. There is at least one tree which may be implicated by the development and whilst no objection in principle is raised an arboricultural survey would be required.

THE COUNCIL'S NOISE QUALITY CONSULTANT – Unfortunately the model used to predict the proposed noise levels could not be opened and subsequently checked. However, further analysis based upon the information provided in the application suggests a point source with a sound level of 101.7dB(A) has been modelled. As that proposed is an open enclosure (i.e. activities would be undertaken externally) concern is raised as to where this rating was taken from. The modelling submitted also appears not to have considered the impact of all the buildings in the locality which may either adversely or positively affect the predictions. Concern is therefore expressed that the noise emanating from the site would be higher than predicted.

Whilst not typically recommended as the imposition of such conditions in view of the above may seriously impede the applicant's ability to operate the site, if the WPA were of a mind to grant planning permission, it is suggested that conditions be attached detailing that noise level rating (as assessed in accordance with BS4142) emanating from the site does not exceed the existing background noise level. This would represent a noise level rating of 46dB(A) Monday to Friday and 45dB(A) at weekends. On the basis of that concluded in the submitted Noise Impact Assessment this should be achievable by the applicant.

ECC comment

In view of the above concerns with this approach (in impeding the applicant's ability to operate the site) the above suggested condition was forwarded to the applicant for comment. Confirmation that the above was acceptable and that the applicant was content with such a restriction was received from Dovetail Architects on 02/05/2014 (email of 17:25).

LOCAL MEMBER – BASILDON – Laindon Park and Fryerns – Request that the application is dealt with by the Development & Regulation Committee as the proposal is controversial and of significant local interest. Any further comments received will be reported.

LOCAL MEMBER – BASILDON – Laindon Park and Fryerns – Any comments received will be reported.

LOCAL MEMBER – BASILDON – Wesley Heights – Request that the application is dealt with by the Development & Regulation Committee as the proposal is controversial and of significant local interest. The strength of local opposition for the following reasons: Durham Road/High Road is not suitable for vast numbers of HGVs; noise pollution; and lack of parking is in-particular noted.

5. REPRESENTATIONS

328 addresses were directly notified of the application. The application was also advertised in the local press and on site. 55 letters of representation have been received, one of which included a petition supported by 445 individuals. These relate to planning issues covering the following matters:

<u>Observation</u>	<u>Comment</u>
The design is out of character within this residential area.	See appraisal.
Increased noise levels and noise nuisance.	See appraisal.
Amenity impacts on neighbouring businesses and residents.	See appraisal.
Inadequate local infrastructure.	See appraisal.
Risk of environmental spillage and/or contamination.	See appraisal.
Health and safety (fire) concerns in context of the locality.	See appraisal.
The site is within close proximity to a children's nursery and play-and-stay centre.	See appraisal.
There is no mitigation proposed with regard to potential odour nuisance.	See appraisal.
Landscape impact from actual facility and the increased use of heavy plant and increasing number of vehicle movements.	See appraisal.
Conflict of use with other general employment uses on the Estate.	See appraisal.
This is an inappropriate location for a waste related use/facility.	See appraisal.
Concerns are raised as to if the site is sufficient to undertake the operations proposed and handle/process the suggested throughput.	See appraisal.

Confirmation is sought that the mechanical grab would no longer be used and would be removed from the site.

Whilst originally this application was submitted with the mechanical grab shown on the 'proposed site layout' drawing, the intention has always been that should planning permission be granted this would be removed. See appraisal for further comment.

This proposal can only worsen an already bad situation in terms of noise impact and the safety of Durham Road.

See appraisal.

The business has simply outgrown the premises and the area can no longer support it, without it causing undue impacts. The site is not sustainable location for such a facility.

See appraisal.

Traffic and the number of vehicle movements this would generate are absolutely outrageous (60 movements per day). Wrexham Road is a very small side road off Durham Road and it is barely big enough for two cars to pass let alone HGVs. There is a children's nursery and play centre situated adjacent to this site (on Durham Road) and these both would become more dangerous for the children if the amount of traffic passing increases.

See appraisal.

There is a constant high noise level from this site, as existing, with the crashing of steel and whirring of hydraulic machinery. Any increase in scrap processing would make this worse.

If planning permission was to be granted, the applicant has stated that they would surrender the existing CLEUD to operate as a car breaking and dismantling facility. To confirm, this application does not propose the breaking and dismantling of cars although metals would be handled, sorted and graded as part of more generic waste transfer activities. See appraisal for further comment.

There is insufficient parking proposed.

See appraisal.

There are plenty of other industrial sites within Basildon which are more appropriate for a facility of this nature and size.

Each application has to be considered on its own merits. See appraisal, especially in context of WLP policies W3A, W8A, W8B and W8C.

Has consideration been given to the impact this could have on the railway line?	Network Rail has been consulted on this application and has raised no objection to the proposal.
This is a light commercial area, why is a heavy industrial business allowed to operate here, let alone expand.	See appraisal.
Risk of increased vermin. The area is already plagued by foxes.	The Environmental Health Service at Basildon Borough Council enforce a wide range of legislation that seeks to safeguard the environment and the health, safety and wellbeing of our community. In respect of foxes however, no service in respect of alleged nuisance is provided. Reference to www.foxproject.org.uk is nevertheless noted for further support.
Concerns are raised over the submitted noise assessment and that the background noise level has been established from one location. The background noise level to the south of the site (across the railway) is likely to have a lower background noise level than that suggested in the assessment.	See appraisal.
The pavements and road verges in the locality are in a poor state of repair and are unfit/dangerous for pedestrians.	See appraisal.
The fence that separates the Day Nursery and Out of School Club is in constant disrepair, allowing dangerous items to fall into the children's play area.	See appraisal.
The Day Nursery and Out of School Club cannot, on some occasions, allow children to play outside because of the noise the yard generates. Scarp, as existing, is also stockpiled high above the fence and health and safety concerns have meant children have been prevented, contrary to the regulations regulating the facility, having access to the outside environment.	See appraisal.
The facility has a long history of failure	See appraisal.

to comply with relevant legislation. A Noise Abatement Notice was served by Basildon Borough Council restricting the hours of working however the operator has no had no regard for this and has carried on working beyond the permitted hours.

Excessive hours of operation.

See appraisal.

House prices have and will continue to be affected.

House prices alone are not a material planning consideration.

Landscape impact. The site is not picturesque, it is unsightly and ugly. Sufficient detail has not been provided on the proposed finish of the three sided enclosure.

See appraisal.

Concern over the potential presence/handling of hazardous waste.

See above applicant comment in respect of that received from the Environment Agency confirming that no hazardous waste or hazardous WEEE would be held on site.

There is a local church, on Bedford Road, which has a congregation of elderly people and visitors. The increased use of the site will increase the risk of accidents.

See appraisal.

Vibration concerns from vehicles access the site and machinery being operated.

See appraisal.

Potential impact having such a facility could have on the Estate in driving other less intrusive uses away.

See appraisal.

This should represent EIA development and an Environmental Statement should have been submitted to support the application.

The proposal was screened for EIA by ECC on 05/02/2014 and the conclusion of this was that in context of the site locality and the proposed waste types to be handled, that the development would not have an impact of more than local importance and therefore, on balance, would not require EIA.

The core strategy for sustainable waste management requires that sufficient opportunities for the provision of waste

This comment appears to be confusing ECC's strategy (and development undertaken) as the Waste Disposal

management are set in appropriate locations, in the heart of a residential area is not appropriate in anyway. ECC have already addressed the issue of waste management and granted applications for six waste transfer stations covering the Essex area, the nearest being 4.5 miles away (Courtauld Road). If there is a requirement for further facilities, such notification would have been placed in the public domain and competitive bids invited for the contract.

Authority and government issued guidance as to suitable locations for waste management (primarily the locational criteria detailed in Annex E of PPS10 although attention is drawn to the comments in the 'Policy Considerations' section of this report). Whilst the government issued guidance carries forward for all waste related proposals and has been considered in respect of this application, to confirm this is an application put forward by a private company, it has not been put forward by or for ECC. ECC are determining the application as the Waste Planning Authority for Essex and the application will be assessed on its individual merits in respect of appropriate planning policy.

One's Human Rights in that the proposal may affect both a person's private life and a person's enjoyment of their home could be disenfranchised.

See appraisal.

Is there really a need for another waste transfer station in Basildon?

See appraisal.

The application submitted in 2012 was refused by ECC and this decision was upheld by the Secretary of State. I fail to see what has changed since then. This is just causing the local community unwarranted stress. The application submitted in 2012 was vigorously opposed with a petition of 400+ signatures being submitted against the proposal.

Without prejudice, this application differs from 2012 submission as the applicant is no longer proposing to process end of life vehicles. The proposal solely seeks the use of the site as a waste transfer station for sorting, grading and transfer of inert, non-hazardous and WEEE waste. If permission is granted for this, the applicant has stated that they would surrender their existing Certificate of Lawfulness for car breaking and dismantling, issued by Basildon Borough Council. See appraisal for further comment.

There are numerous areas of nature conservation in the locality which could be adversely affected.

See appraisal. Nevertheless to confirm, as detailed in the EIA screening opinion issued by ECC, the number of Local Wildlife Sites and areas of Ancient Woodland in the locality are noted. The area however, does not lie or represent

a 'sensitive area' as defined within paragraph 2 of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011.

Routeing arrangements should be secured by way of condition. Access to Durham Road should not be permitted via Somerset Road and then Bedford Road and Cumberland Drive.

See appraisal.

Attention has been drawn to an application which was refused by Basildon Borough Council for a drive-through restaurant with the provision of access, parking and associated works on land adjacent to the police station High Road, Laindon (north of this application site) – application ref: 14/00204/FULL. The reasons for refusal: the design of the development poorly relates to the local context; and that the development would result in unacceptable high levels of noise and disturbance which would be detrimental to the amenity of nearby residential properties are cited as also relating/being relevant to this application.

See appraisal.

6. APPRAISAL

The main issues for consideration are:

A – Need & Site Suitability

B – Impact on Landscape, Amenity & Traffic

C – Human Rights

A NEED & SITE SUITABILITY

As detailed in the report for application reference: ESS/68/12/BAS and in the Inspector's report for the subsequent appeal (ref: APP/Z1585/A/13/2195119), it is considered that in view of the fall back planning position – that a CLEUD exists, allowing the site to operate as a car breaking and dismantling facility – the granting of a 'planning permission' would allow operations undertaken from this site to be better controlled by planning legislation. No objection in principle/reason for refusal was raised during the determination of ESS/68/12/BAS to locating a waste related development on this site and the Inspector in the discussion of her report similarly raised no such concern (in respect of land-use policy). This is a designated employment area and in context of relevant WLP and BLP policy (particularly WLP policies W8A, W8B and W8C), it is considered that this site

potentially could be utilised for a waste development.

Nevertheless looking at the development now before the WPA, in context of the changes made to the proposal, this is a proposed waste transfer station for the sorting, grading and transfer of inert, non-hazardous waste and waste electrical and electronic equipment (WEEE). The applicant has not explicitly detailed a suggested annual throughput within the application although the intention is that a standard Environmental Permit/License would be sought which permits an annual throughput up to 75,000 tonnes. The applicant has acknowledged that because of the site size achieving a throughput at this level is however unlikely. The applicant has suggested that as existing, on average, the site use generates approximately 60 vehicle movements per day (30 in and 30 out) and the change in use would result in a similar level of movements.

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

PPS 10 encourages waste to be managed as per the principles set out in the waste hierarchy. The waste hierarchy promotes, in this order; prevention of waste; re-use of waste; recycling of waste and then any other recovery. It states that the disposal of waste is the least desirable solution and only suitable when none of the above is appropriate. At paragraph 24, in relation to un-allocated sites, details new or enhanced waste management facilities should be considered favourably when consistent with (inter-alia):

- i. the policies contained within PPS 10; and
- ii. the WPA's core strategy.

Further discussion with regard to the suitability of the site in context of the locational criteria of Annex E of PPS 10 and relevant policies within the WLP is explored later in this report. However, the applicant has confirmed that all materials proposed to be brought onto and processed at the site would be sourced from within the administrative borders of Essex and Southend and as this would be a facility seeking the re-use and recycling of waste product it is considered that the proposal, in principle, complies with WLP policy W3A.

B IMPACT ON LANDSCAPE, AMENITY & TRAFFIC

Whilst the proposal may in principle comply with WLP policies W7D, W7E and W7F in terms of location and land use, all these policies are caveated by "provided the development complies with all other relevant policies of this plan; and does not cause unacceptable harm to the environment or residential amenity by virtue of noise, dust or heavy traffic". A position supported in policy terms by WLP policy W10E which, inter-alia, states developments will only be permitted where satisfactory provision is made in respect of the amenity of neighbouring occupiers,

particularly from noise, smell and dust.

The locational criteria of PPS 10, in respect of the above, furthermore includes: protection of water resources; land instability; visual intrusion; nature conservation; historic environment and built heritage; traffic and access; air emissions, including dust; odours; vermin and birds; noise and vibration; litter; and potential land use conflict.

Landscape Impact

Attempting to appraise each of these 'areas' in turn, in context of the application details, the Framework details, at paragraph 56, that good design is a key aspect of sustainable development; it is indivisible from good planning and should contribute positively to making places better for people. Whilst planning policies and decisions should not attempt to impose architectural styles or particular tastes, stifle innovation, originality or initiative it is proper to reinforce local distinctiveness. Paragraph 61 of the Framework goes on to detail that although visual appearance and architecture of buildings are very important factors, security high quality and inclusive design goes beyond aesthetic considerations. BLP policy BAS E10 states that proposals for industrial, business and office development – note the consideration of a waste sui-generis use being considered akin to this – should be of a design, form, scale and materials appropriate and sympathetic to neighbouring developments, particularly adjacent to residential areas.

This is an employment area and the site and surrounding uses by their very nature are not overly conducive to a picturesque environment. Numerous letters of public objection have raised the fact that this is not considered a sustainable location for such a facility/use noting how the employment area has changed over time. It is accepted that the employment zone contains a number of 'light' industrial uses many of which are primarily contained within buildings/structures. However, there are a variety of business operating from the area including a number of scrap metal processing facilities and motor related activities. There is in fact another scrap metal yard adjacent to the application site, similar in appearance to this site.

The existing site is bounded by three metre high sleeper walls on all sides. Internally along the eastern boundary are two temporary-type buildings located on top of one another (forming in essence a two storey building) and a double-opening three metre high, three sided enclosure. Along the southern boundary of the site and the northern boundary are a number of containers and skips used to store material to facilitate existing operations. In the middle of the site and south-western corner the operator tips and sorts material with a large mechanical grab (circa 10-12m arm/boom length). This is considered to be the dominant feature of the site in terms of landscape impact as well as considerably adding to the perceived character/intensity of use.

The proposed development would see the site stay as existing on the eastern and southern boundaries. Although the applicant has stated that should the vehicle parking area outside the red line area of the site, in the future, no longer be able to be used for this purpose the applicant would seek to remove one half of the existing double three sided enclosure and create 3 formal car parking spaces

within the site. As part of this application, to supplement and support the proposed change, the applicant is proposing to install a new three sided enclosure to the north-west corner of the site. This would contain separate areas for the storage of various different waste types and streams. This enclosure would measure 11m in width by 10 metres in depth with ridge roof height of 6m. The roof of the enclosure would rise west to east (from 5m to 6m) at a 1/10 slope and it is proposed there would be eight sky lights cut into the roof structure. The other major change the proposal would result in is the removal of the mechanical grab as it is proposed, should planning permission be granted, waste would instead of being mechanically sorted be predominately sorted and graded by hand. To facilitate operations on site some plant and machinery would be required however any such machinery/equipment would be moveable, in nature, and have a maximum operational height of 7m, which is in effect only 1m above the proposed roof ridge height of the three-sided enclosure.

With regard to the above, it is considered that the proposed new structure is in keeping with the area. Proposed on the western boundary, the structure would border part of the hard-play area of the Day Nursery and Out of School Club adjacent and concerns have been raised, during consultation, about the potential safety of children attending the Nursery. However, in respect of this, the structure should if anything improve the existing situation of open area storage as stockpiles would subsequently be maintained within the structure and a higher boundary barrier would be formed between the uses.

BLP policy BAS E10 specifically details that materials should be appropriate and sympathetic to neighbouring development, particularly adjacent to residential areas. In this regard it is considered that a condition could be imposed, in the event that planning permission is granted, requiring the submission of details of the materials to be used for the external appearance of the structure. This would offer the WPA additional protection of being able to ensure the finish of the structure blends in and fits with the character of the area. With the aforementioned condition attached to any consent, in view of the no objection comments received from Basildon Borough Council and the Council's urban design consultant, in respect of the proposed built form, it is considered the development would comply with BLP policy BAS E10.

In relation to landscape in more general terms, it is accepted that the use in itself could also have an impact on this. To combat and limit potential impact to visual amenity, a condition could be imposed preventing materials to be stockpiled, outside the two structures on site, at a height greater than 3m (the height of the main boundary fence). Furthermore it is noted that there is a prominent, mature street tree adjacent to the entrance of the site which could be adversely affected during the construction phase of the development, should planning permission be granted. No objection has been raised by the Council's tree consultant to the development in principle. However a full arboricultural survey and report detailing any required works to the tree to facilitate the development, together with any tree protection proposed during the construction phase of the development and for the life of the use, has been recommended as a restrictive condition. With regard to proposed lighting, it is noted that some lighting as existing is erected around the site. The applicant has however not provided any detail on this. Should planning

permission be granted, a condition restricting the installation of any fixed lighting would nevertheless seek to ensure no further lighting is installed and allow the WPA to appropriately consider anything that is proposed in conjunction with the need argument put forward.

This site is not considered to be in an area overly sensitive to landscape change from new or enlarged built development. That being said, the site is in close proximity to residential properties and a number of sensitive uses. With conditions attached requiring details of the external materials to be used for the structure; an arboricultural survey; and a restriction on stockpile heights it is considered that the character of the area would however not unduly be changed. This is an employment area and with the above attached to control and limit potential impact it is considered appropriate compliance, in relation to design, has been shown to applicable guidance within the Framework, PPS 10, WLP and BLP.

Noise Impact

As existing noise nuisance is a problem with this site, and the previous version of this application was indeed refused on amenity grounds. The CLEUD under which operations (car breaking and dismantling) are currently lawfully taking is non-restrictive in terms of operational techniques and as such there is little planning legislation can do to mitigate/off-set this. A Noise Abatement Notice has previously been served by Basildon Borough Council and it has been suggested within the noise impact assessment, submitted as part of this application, that the site, as existing, is operating at +6dB above background noise level Monday to Friday and +9dB on Saturdays (rating as LAeq).

On the basis of the proposed operations it has been suggested that the 'new' use would result in a noise rating level of 45dB (LAeq) Monday to Friday and 45dB (LAeq) on Saturdays. This according to the background noise levels presented for the area, within the same assessment report, would represent a noise level 3dB below the background noise level Monday to Friday and a noise level at background noise level on Saturdays.

WLP policy W10E, BLP policy BAS E10 and PPS10 all seek to ensure that satisfactory provision is made in respect of the effect the development may have on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants. Whilst this site is allocated as an employment zone it is noted that there are number of sensitive uses in close proximity. Noise nuisance and impact has been raised in nearly all public representations received and therefore it is considered that as existing noise nuisance is a major problem and is unduly impacting on the amenity of neighbouring properties. With regard to this it should be noted that this application/proposal would see a decrease in the noise level emanating from the site. An assessment of the background noise level has established that this is 48dB (LA90,1hr) Monday to Friday and 45dB (LA90,1hr) on Saturdays. By applying a +5dB penalty for noise character, in compliance with BS4142, to the predicted noise level from the operations (40dB Monday to Saturday) it has been shown that the predicted noise level from the operations would be below the existing background noise level in the employment area and

therefore the use would not cause undue noise impacts on the locality. Activities below background or at background noise level are it is considered unlikely to result in complaints as this is representative of the existing environment.

Basildon Borough Council (including Environmental Health) has in view of the above raised no objection in principle to the proposal. Conditions have nevertheless been suggested in respect of restricting the use of cranes to handle waste materials on site; controlling the hours of operation of plant and machinery to 08:00-17:30 Monday to Friday and 08:-13:00 on Saturdays; and preventing all operations on Public and Bank Holidays. Initially in respect of this and the proposed condition restricting the use of cranes to handle waste, it is considered that such a condition would not meet the six tests for conditions as prescribed within the National Planning Practice Guidance (precise and reasonable in all other respects). If such a condition was imposed it is considered that this would restrict the applicant in a way which would not be reasonable in context of their operations and in doing so unintentionally restrict the applicant's ability to operate. The applicant has however suggested that the maximum height of any operational machinery to be used in connection with the facility would be 7m and a condition restricting this, it is considered, would meet the six tests and could be imposed to protect against the undue impacts. This it is considered would achieve what Basildon Borough Council were aiming to control/restrict with the proposed imposition of a blanket-restriction on cranes.

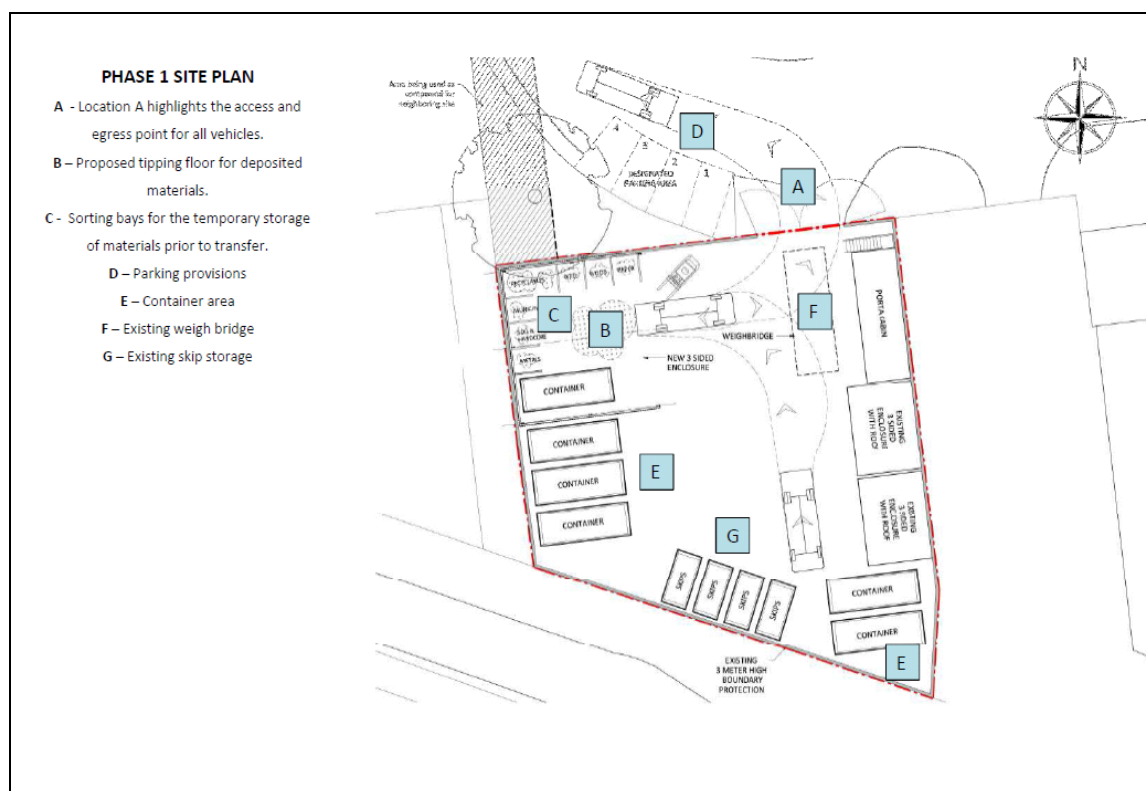
Concern in respect of the findings/conclusion of the submitted noise impact assessment has been raised by the Council's noise consultant. However, the applicant has confirmed that they are content with the findings of the assessment and are confident that the operations would result in the predicted noise levels. In view of the outstanding concern, a condition restricting the maximum noise levels from the site together with the submission of regular noise monitoring results it is considered would ensure that there is in fact no noise impact and that the site can operated as envisaged. Furthermore a condition restricting the proposed hours of operation, as suggested by Basildon Borough Council, would seek to control on-site operations in a bid to prevent undue impacts resulting on amenity. With the aforementioned conditions attached, it is considered that the proposal would demonstrate compliance with WLP policies W10E and W10F; BLP policy BAS E10 and the various stipulations within the Framework and PPS10.

Air Quality and Potential Contamination

As with the conclusion of ESS/68/12/BAS, it is not considered that the proposed use would result in significant adverse air quality impacts. The site is not within an Air Quality Management Area however, it is accepted that given the nature and scale of the proposed development and proximity to residential and business properties that air quality impacts could result from mismanagement of any such facility. A dust drift management scheme has been submitted as part of the application and this states that dust management measures, including the spraying of materials and the yard in dry periods, would be undertaken to inhibit any dust drift from the site to neighbouring properties. In relation to odour it is noted that the proposed operations would predominately be undertaken from within three sided enclosures on site and in any respect the materials proposed to be handled on site

are not noted for being particularly odorous in their natural state. The facility would not handle general municipal (black bag) or biodegradable (food) waste and a condition as such could be applied to any consent issued to ensure this.

In terms of on-site working practices, as material arrives at the site it would be separated and sorted in stockpiles and containers for onward transportation and use. As shown on the submitted plans, and raised by the Environment Agency in its consultation response, there are a number of generic areas/containers within the site identified for storage.



Extract from submitted 'Design & Access Statement' (Rev D), produced by Dovetail Architects and submitted with application ref: ESS/07/14/BAS

The applicant has however suggested that this has been as the business is currently unaware of the exact amounts of different waste that would be received. The applicant has stated that the intention from any site layout would be to ensure safe and efficient operation in that waste is not stockpiled within the yard to the detriment of turning and operating space for vehicles. In respect of planning, and the proposal before the WPA, it is accepted that the provision of skips and containers on-site are temporary in nature and therefore may not be classed as development (requiring planning permission). The above and other indicative site layouts have nevertheless sought to show all permanent provisions proposed by the applicant (and this application) and in this regard it is considered that proposed is unlikely to give rise to significant air quality impacts, contrary to WLP policy W10E or BLP policy BAS E10. In any case the on-site management and practices (including the potential requirement for a sealed drainage system) would furthermore be controlled by the Environmental Permit issued by the Environment Agency and the Framework, at paragraph 122, states local planning authorities should focus on whether the development itself is an acceptable use of the land,

and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes.

Traffic Impact

The Framework states, at paragraph 29, that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Continuing at paragraph 32 it is suggested all decisions should take account of whether: the opportunities for sustainable transport modes have been explored; safe and suitable access can be achieved for all; and if improvements can be undertaken within the transport network to limit any significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.

WLP policy W4C details that access for waste management sites will normally be by a short length of existing road to the main highway network. Vehicular and pedestrian access into the site is via Wrexham Road to the north of the site. Wrexham Road is access off Durham Road which leads to High Road which circa 1.5km, to the north, connects with the A127. The existing vehicle access and egress are considered satisfactory and no change has been proposed to this as part of this application.

Within the application details it is detailed that the site as existing receives scrap metal via transit and box vans and although the number of vehicles varies per day, on average the existing use generates approximately 60 vehicle movements (30 in and 30 out). In respect of this, it has been suggested that the proposed operation as a waste transfer station would result in a similar level of vehicle movements. This would however, to confirm, not be a duplication of vehicle movements and in total the number of vehicle movements that would result be 60, as the two uses would not be undertaken concurrently.

The applicant has stated that the site has access to four designated car parking spaces outside of the red line application area. The applicant, it has been detailed, has established parking rights to this area which has been in such use (parking) for over 10 years. If the agreement for parking on this land was removed in the future it has been suggested that provision would be made within the site. In this scenario it has been suggested that three car parking spaces would be provided in the south-eastern corner of the site. Currently the site is staffed by five employees and, although dependant on the actual amount of material which is received, the applicant has suggested this proposal would see this increase to between eight and ten. Within the Essex County Council Parking Standards – Design and Good Practice document (September 2009) only a maximum parking standard is suggested in respect of the closest sui-generis use/category (Recycling Centre/Civic Amenity Site) and therefore the provision proposed (that outside the red line and that which would be provided should this be removed) complies with this. The Highway Authority has raised no objection to the proposal.

In view of the considered local concern and to further ensure that the scale of operations is controlled, so that there is not detrimental impact on the efficiency of

the highway network, a condition restricting the number of vehicle movement associated with the use could nevertheless be imposed in the interests of ensuring compliance with WLP policy W4C and BLP policy BE10. In respect of potential concerns over increased fire risk, in view of the materials proposed to be handled, Essex County Fire & Rescue Service has been consulted and they are also content with the access to the site. .

C HUMAN RIGHTS

Article 8 of the European Convention on Human Rights (as incorporated by Human Rights Act 1998), provides that everyone is entitled to respect for his private and family life, his home and correspondence.

Article 1 of Protocol 1 of the European Convention on Human Rights provides that everyone is entitled to peaceful enjoyment of his possessions.

In light of the absence of considered significant impacts in terms of noise, odour, dust, lighting, traffic or other amenities, it is considered there is no interference with either Article 8 or Article 1 of Protocol 1. Even if there were such interference, Officers are of the view that the interference would be of such a level as to be clearly justified and proportionate in the public interest.

7. CONCLUSION

This site is already causing undue impacts on the locality and in view that current operations are lawful under a Certificate of Lawfulness there is little the Waste or Local Planning Authority can do to mitigate the current problems. The existing lawful use of the site is a material planning consideration and is known as the 'fall-back position'. Should permission be refused the operator would be able to continue operations largely without any planning control.

It is accepted that the employment area/designation to which this facility is proposed has grown and developed over time. However, in view of the information before the Waste Planning Authority it is considered that, with appropriate the imposition of certain conditions, the facility would be able to operate without causing unacceptable harm or impact.

This is not a preferred site for a waste management facility however it is considered, a position supported in the report produced by the Secretary of State for Communities and Local Government in respect of an previous incarnation of this proposal, that in pure land-use terms the site does comply with appropriate policies of the Essex & Southend Waste Local Plan (2001) – policies W7D, W7E, W7F, W8A, W8B and W8C.

In relation to likely impacts from the operation, it is considered that this proposal would by the granting of a planning permission give the WPA the ability to better control actual operations being undertaken from the site. In consideration of this, and the fall back planning position, the proposed new use would result in a significant decrease in noise levels from the site (-6dB on weekdays and -9dB on Saturdays). With noise limits controlled by condition, and further stipulations

imposed on any consent to limit the potential intensification of use and overall landscape and amenity impact it is considered that the granting of such a consent would likely overcome many of the existing site problems. In this context it is therefore considered that the proposal would bring about positives within the social dimension of planning, as defined within the Framework. In terms of the facility itself, this is a recycling activity and with the further employment opportunities which may result from the proposal it is considered that benefits within the environmental and economic dimensions of planning can also be demonstrated.

For proposals for development in employment/industrial areas conditions wouldn't normally be imposed to restrict operations. However, in view of the existing site and the number of sensitive uses within close proximity of the site it is considered conditional control is necessary to ensure that no unacceptable impacts result. With the aforementioned attached it is considered, in this instance, that the proposal would represent sustainable development compliant with the Framework; PPS10; WLP policies W3A, W4C, W10E and W10F and BLP policies BAS E4 and BAS E10.

Surrendering the Certificate of Lawful Existing Use

It has been detailed that should planning permission be granted, the applicant would be willing to surrender the existing Certificate of Lawfulness issued for car breaking and dismantling, issued by Basildon Borough Council. A condition, in line with that suggested for negatively worded conditions in the National Planning Practice Guidance, prohibiting any development until confirmation that the CLEUD has been surrendered has been recommended to ensure this.

8. RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. COM1 – Commencement within five years
2. COM3 – Compliance with Submitted Details
3. Operations authorised by this permission, including vehicles entering or leaving the site, shall be restricted to the following durations:

08:00-17:30 Monday to Friday
08:00-13:00 Saturday

and shall not take place on Sundays, Bank or Public Holidays.

4. DET5 – Waste Building Design and Construction
5. The total number of vehicle movements associated with the development hereby permitted shall not exceed the following limits:

60 movements (30 in and 30 out) per day Monday to Friday
30 movements (15 in and 15 out) on Saturdays.

No vehicle movements shall take place outside the hours of operation authorised in condition 4 of this permission.

6. The rating noise level, as assessed in accordance with BS4142, emanating from the site shall not exceed (including any attributable penalty):

46dB LAeq, 1hr Monday to Friday; or
45dB LAeq, 1hr Saturday.

7. NSE3 – Monitoring Noise Levels

8. No materials shall be stockpiled or stored, outside of the three-sided enclosure, permitted by this consent, at a height greater than 3 metres when measured from adjacent ground level.

9. LGHT1 – Fixed Lighting Restriction

10. TREE2 – Tree Protection Scheme

11. WAST1 – Waste Type Restriction

12. WAST5 – No Waste Deposit Outside Defined Areas

13. WAST7 – Essex and Southend Waste Restriction

14. No plant and/or machinery shall be erected, installed or operated above ground level. Any such plant and/or machinery erected, installed or operated shall furthermore be no higher (when measured from ground level to full arm extension) than 7 metres.

15. No development shall take place until confirmation has been provided that the existing Certificate of Lawful Use or Development (ref: 04/1556/LDC) issued by Basildon Borough Council to the site has been surrendered. The confirmation shall be provided to the Waste Planning Authority to ensure that the Certificate has formally been surrendered to the satisfaction of Basildon Borough Council and subsequently that the two land uses cannot occur concurrently.

BACKGROUND PAPERS:

ESS/07/14/BAS application file and case management system electronic record.

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010:

The proposed development is not located within the vicinity of a Special Area of Conservation (SAC) or Special Protection Area (SPA) and is not directly connected with or necessary to the management of those sites. Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required.

EQUALITIES IMPACT ASSESSMENT: 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 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. This approach has been taken positively and proactively in accordance with the requirement in the National Planning Policy Framework, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012.

LOCAL MEMBER NOTIFICATION:

BASILDON – Laindon Park and Fryerns
BASILDON – Wesley Heights

Application Number: ESS/68/12/BAS	Case Officer: Matthew Wood Ext: 55755
Site: The Yard, Wrexham Road, Laindon, Essex, SS15 6PX	
Description: Use of the site as i) a waste transfer station for the handling of inert waste, non-hazardous waste and waste electrical and electronic equipment (WEEE) and ii) a vehicle depollution, car breaking and dismantling facility, with a combined total maximum annual throughput of 40,000 tonnes per annum, and operational development comprising of the erection of an associated three sided enclosure	
Secretary of State Referral? No	Date: 22 February 2013

5. BACKGROUND

The site has been operating as a car breaking and dismantling facility for many years. This activity on the site has also been confirmed as being lawful by a Certificate of Lawfulness of Existing Use or Development (CLEUD) issued by Basildon Borough Council in February 2005. However, more recently the site has been the subject of a number of Noise Abatement Notices issued by Basildon Borough Council in relation to the existing activities which are being carried out on site. Although the existing use on the site is consistent with a car breaking and dismantling facility, it is acknowledged that this use has intensified greatly in recent years and hence, where the need for Noise Abatement Notices has arisen from.

There have been no previous planning applications submitted to the Waste Planning Authority in direct relation to this proposal.

2. SITE

The application site is situated on an existing small scale industrial estate within a predominately urban area to the west of Basildon Town Centre. The site itself is accessed off Wrexham Road which itself is off Durham Road. Vehicular and pedestrian access into the site is also via Wrexham Road to the north of the site.

Currently, there are two temporary office buildings and a storage shed on the site, all situated along the western boundary of the site with one temporary office building situated on top of the other, similar in nature and height to a two storey building. Two high sided skips and a number of smaller storage bins are located along the northern boundary of the site. Car parking for the site is located adjacent to the north west corner of the site.

The proposed 3 sided enclosure would be located in the north west corner of the site with a tipping area and storage containers located to the south end of the site.

The application site is allocated as an Existing Employment Zone within Basildon Borough's existing Local Plan.

3. PROPOSAL

The application seeks approval for the use of the site as i) a waste transfer station for the handling of inert waste, non-hazardous waste and waste electrical and electronic equipment (WEEE) and ii) a vehicle depollution, car breaking and dismantling facility, with a combined total maximum annual throughput of 40,000 tonnes per annum, and operational development comprising of the erection of an associated three sided enclosure.

The proposed use would diversify the applicant's business from scrap metal and end of life vehicles into a small waste transfer station.

The proposed development would establish the waste transfer use on the site which would co-exist with a decrease in vehicle handling/breaking/dismantling from existing levels. A maximum of 40,000 tonnes of material per annum would be imported to the site for sorting and grading before being transferred off site to be recycled or landfilled. The types of materials proposed to be imported to the site include the following;

- municipal;
- paper;
- soil / hardcore;
- wood;
- Waste Electrical and Electronic Equipment (WEEE);
- Metals; and
- Recyclables.

This would involve an average of 30 vehicles (60 movements: 30 in and 30 out) per day accessing the site via the site's existing access from Wrexham Road.

The proposed development includes the erection of a 3 sided enclosure located in the north west corner of the site, within which the majority of materials would be sorted, graded and stockpiled ready for transfer off of the site.

The proposed use seeks to reduce the quantity of scrap brought to the site and replace it with the above highlighted materials. The proposed use would receive goods via the same vehicles forms and numbers.

4. POLICY CONSIDERATIONS

The following policies of the Essex and Southend Waste Local Plan (WLP) adopted 2001 and Basildon District Local Plan Adopted 1998 (BDLP) provide the development plan framework for this application. The following policies are of relevance to this application:

	<u>WLP</u>	<u>BDLP</u>
Best Practicable Environmental Option	W3A	
Need for Waste Development	W3C	

Highways	W4C	
Inert Waste Recycling	W7D	
Materials Recovery Facilities	W7E	
Scrap yards	W7F	
Preferred Sites	W8A	
Alternate Sites	W8B	
Smaller-Scale Waste Management Facilities	W8C	
Development Management Criteria	W10E	
Hours of Operation	W10F	
Existing Employment Areas		BAS E4
Untidy Industry		BAS E6
General Employment Policy		BAS E10
Development Control		BAS BE12

The National Planning Policy Framework (NPPF), published in March 2012, sets out requirements for the determination of planning applications and is also a material consideration. It does not contain specific policies on waste, since national waste planning policy will be set out in the future National Waste Management Plan. In the meantime, Planning Policy Statement 10: Planning for Sustainable Waste Management, remains 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 Basildon Borough Local Plan and the Essex and Southend Waste Local Plan is considered at **Appendix 1**.

5. CONSULTATIONS

BASILDON BOROUGH COUNCIL – Object, on the following grounds:

- The proposal will lead to an increase in noise and disturbance within this area, as a result of an increase in activities on the site, together with a potential increase in traffic movements to and from the site, which, due to its proximity to residential properties to the north of Durham Road, would lead to a serious loss of amenity to the occupiers of these properties, and for this reason would be contrary to policy W8B of the Essex and Southend-on-Sea Waste Local Plan, and saved policy BAS E6 of the Basildon District Local Plan.

ENVIRONMENT AGENCY – No objection to the principle of the development proposed as it is theoretically possible to control emissions from the site (e.g. noise, odour, dust). That said the control of these elements is often down to deciding whether to invest in appropriate technology and infrastructure to manage these elements; this is a cost benefit decision.

If planning permission is granted the site would need to vary their Environmental Permit with us to include the proposed activities on site. This would include but not be limited to increasing the waste quantities, additional waste types and additional activities.

However we would not be prepared to accept development of the site (as determined by us under the Permit process) and an increase in waste operations if it cannot be demonstrated that the formal requirements imposed by Basildon District Council in relation to noise will be complied with.

ESSEX FIRE & RESCUE SERVICE – No objection.

NETWORK RAIL – No comments received.

HIGHWAY AUTHORITY – No objection, subject to the following:

- Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed and maintained free from obstruction within the site at all times for that sole purpose;
- Prior to occupation of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of associated materials and manoeuvring shall be provided clear of the highway and retained at all times for that sole purpose as approved in writing by the Local Planning Authority;
- The total number of vehicle movements within the working hours associated with the development hereby permitted shall not exceed 60 movements (30 in and 30 out) per working day.

Also noted that the site currently operates without any restrictions on vehicle movements. This application would enable the regulation and control of vehicle generation by limiting daily movements.

THE COUNTY COUNCIL'S NOISE CONSULTANT – Concerns surrounding the background noise level used within the submitted Noise Impact Assessment with the following considered necessary:

- a) Weekday – given the potential influence of the facility on measured noise levels, advocates the use of the minimum hourly background noise level measured over the survey period during facility hours of operation.
- b) Weekend – Undertake further noise monitoring when suitable weather conditions prevail. Use the lowest hourly measured background noise level during the facilities hours of operation.

N.B. Request tabulated noise level data be provided of the above.

It is anticipated that the above would result in the rating noise level of the site exceeding the update background noise levels by approximately +5 during the week and +9 at the weekend. In this case, mitigation measures would be

necessary to reduce noise emanating from the site by approximately 10 dB.

WASTE DISPOSAL AUTHORITY – No comments received.

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

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

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

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

LOCAL MEMBER – BASILDON – Laindon Park and Fryerns / Westley Heights – No comments received.

LOCAL MEMBER – BASILDON – Laindon Park and Fryerns / Westley Heights – No comments received.

LOCAL MEMBER – BASILDON – Laindon Park and Fryerns / Westley Heights – No comments received.

6. REPRESENTATIONS

309 properties were directly notified of the application. The application was also advertised in the local press. A large number of letters of representation have been received (all against). A table is provided at Appendix B of this report detailing the comments received. The main planning issues raised are summarised below:

- The site is too close to residential properties, and impacts such as;
 - Noise levels and noise nuisance;
 - Increased danger to pedestrians, residents, children, road users;
 - Impact on highway safety and road infrastructure;
 - Highway congestion and illegal/lack of parking;
 - Odour, dust, airborne pollution and
 - hours of operation;

are of increasing concern;

- Proposed vehicle movements would add to existing congestion and road maintenance problems in and around Durham Road and various safety concerns over other road users, pedestrians and cyclists including schools, nurseries, shops and train station users;
- Impact on local landscape from heavy plant and machinery; and

- Proposal not appropriate in this predominately urban and residential location and approval of application could create a precedent.

7. APPRAISAL

The main issues for consideration are:

- A – Need & Principle
- B – Impact on Amenity
- C – Traffic & Highways
- D – Landscape & Visual Impact

A NEED AND PRINCIPLE

WLP policy W3A (Best Practicable Environmental Option) identifies the need for proposals to have regard to the following principles:

- consistency with the goals and principles of sustainable development;
- whether the proposal represents the best practicable environmental option for the particular waste stream and at that location;
- whether the proposal would conflict with other options further up the waste hierarchy;
- conformity with the proximity principle.

Planning Policy Statement 10 (Planning For Sustainable Waste Management) (PPS10), which will remain in force until the National Waste Management Plan for England is produced as the NPPF does not contain specific waste policies, details that waste planning authorities should not require applicants for new or enhanced waste management facilities to demonstrate a quantitative or market need for their proposal, if the proposal is consistent with an up-to-date plan.

Further discussion with regard to whether the proposal is consistent with the WLP and BDLP can be found throughout this report.

PPS10 also encourages waste to be managed as per the principles set out in the waste hierarchy. The waste hierarchy promotes, in this order; prevention of waste; re-use of waste; recycling of waste and then any other recovery. It states that the disposal of waste is the least desirable solution and only suitable when none of the above is appropriate. Given that the proposal is in essence a recycling operation, it is considered that the proposal is in compliance with the objectives of PPS10 and WLP policy W3A as the proposal seeks to move waste management further up the waste hierarchy.

The supporting text of WLP policy W7E (Materials Recovery Facilities) suggests that, material recovery facilities can make a significant contribution to the re-use and recovery of primary aggregates and material from waste. However, it is noted that such facilities can increase vehicular movements locally and subsequent noise, dust and odours from operations can harm local amenity. In

relation to this, WLP policy W7E indicates that sites suitable for proposals such as this, apart from those identified in Schedule 1, should be located in industrial locations (potentially in association with other waste management development) and meet the other stipulations of the WLP including particularly policy W8B (Alternate Sites). This is however also subject to the considerations of WLP policy W8A which stipulates facilities will only be permitted if there is; a need for the facility, it represents Best Practicable Environmental Option, shows compliance with the other policies of the WLP and has been designed and landscaped to a high standard.

WLP policy W8A (Preferred Sites) relates to major sites (facilities with a capacity above 50,000 tonnes per annum). With regard to this policy, six sites are put forward as preferred waste management sites. In relation to this developers should demonstrate, within any application at an alternate site, why the preferred sites would be less suitable or not available for their proposal. This has not been undertaken for this proposal, however the site is currently used as an existing vehicle breaking and dismantling facility with this application proposing to change the use of the site to a waste transfer which would take in a number of waste streams including municipal and WEEE wastes, separating and sorting the waste materials before they are transferred off site for recycling. It is important to note that the maximum annual throughput of the proposed development on the site would be 40,000 tonnes, and therefore classed as a small-scale waste facility as defined by the WLP. Given this and the fact that the principle of a waste management use on this site has already been established it is considered that the proposal is compliant with WLP policy W8A.

Where applications come forward on sites that are not allocated, PPS10 states that they should be considered favourably were they are consistent with the policies and criteria set out in PPS10 and the Waste Planning Authority's (WPA) Waste Replacement Local Plan (WRLP). As the WRLP has not yet been adopted, in Essex, the relevant policies are those in the WLP. PPS10 goes on to require consideration of the physical and environmental constraints of any sites, the neighbouring land uses, cumulative impacts of existing waste management facilities and the capacity of the transport infrastructure. In addition, it encourages waste management facilities to be on previously developed land. This is acceptable although a further appraisal in view of WLP policy W3C (Need for Waste Development) is contained below, and later within this report.

WLP policy W3C restricts waste management development with a capacity over 25,000 tonnes per annum (tpa) when there is no demonstrated need for waste arising in Essex and Southend. For applications with an annual capacity of over 50,000 tpa, waste accepted at the site would be restricted to that arising within Essex and Southend.

No quantitative or market need has been demonstrated for this type of waste transfer facility, however the applicant has stated that all materials proposed to be brought onto and processed at the site would be sourced from within the Essex and Southend Plan area, principally from the Basildon area where the applicant currently runs a metal recycling business therefore complying with WLP policy W3C. This is considered to conform to PPS10 which states that

waste should be disposed of at the nearest appropriate installation.

The NPPF promotes a positive approach to consideration of economic development proposals, with significant weight being placed on the need to support economic growth through the planning system. In regards to this proposal, the proposed development would safeguard the current staff employment levels on the site and would not provide a net increase in staff employed on the site.

WLP policy W8B (Alternate Sites) identifies types of location other than those in Schedule 1 of the WLP at which waste management facilities would be permitted. WLP policy W8B suggests that areas suitable for such development include employment areas (existing or allocated) or existing waste management sites where the proposed facility would not be detrimental to the amenity of any nearby residential area.

WLP policy W8C (Smaller-Scale Waste Management Facilities) states that smaller-scale waste management facilities (generally with a capacity below 25,000 tonnes per annum) will also be permitted at other locations provided all the criteria of policy W8A are complied with, where relevant.

WLP policy W7D (Inert Waste Recycling) stipulates that proposals for inert waste recycling facilities will be supported in industrial locations provided the development complies with all other relevant policies within the WLP.

BDLP Policy BAS E4 (Existing Employment Areas) states, in summary, that, subject to the criteria set out in Policy BAS E10, planning permission for new business and general industrial buildings (including B2 uses) will normally only be permitted within those areas shown as existing industrial estates as identified on the Proposals Map.

A large number of representations have been received partly relating to the proposed development being within an unsuitable and unacceptable location so close to residential properties and away from those areas defined for Industrial uses including the Burnt Mills Industrial Estate, Southfields Business Park, Cranes Farm Road, Pitsea landfill site and the proposed waste disposal site at Courtauld Road, Basildon.

BDLP Policy BAS E6 (Untidy Industry) states, in summary, that the development or expansion of untidy industry sites will be permitted in the Harvey Road and Archers Field area of the Burnt Mills Industrial estate, as identified on the Proposals Map. Untidy industry proposals in other locations within the existing industrial areas will be assessed on the basis of their likely effects on nearby uses. Outside of industrial areas untidy industry will not be allowed.

Although technically the proposed development would be a sui generis use as a waste development, it is considered to be akin to a B2 general industrial use given its nature. The site itself is not designated as being within an existing Industrial Estate on the proposals map, however it is allocated as being an Existing Employment Area and similar in nature to an Industrial Estate albeit on

a smaller scale.

The proposed development is considered to be an Untidy Industry as a waste use, however the proposal would not be located in or in close proximity of Harvey Road or the Archers Field area of Basildon. The proposal is however, considered to be located within an existing designated Employment Area as defined within the BDLP.

Although parts of the Burnt Mills Industrial Estate are designated for untidy industry uses, it is not the Waste Planning Authority's responsibility to tell applicants where they should or should not locate their business. However, different types of land use are heavily influenced by adopted local development plans which should be seen as a key indicator of what types of development may or may not be acceptable in certain locations. In this instance, although the proposed development would not be located within Burnt Mills Industrial Estate, Southfields Business Park, Cranes Farm Road, Pitsea landfill site and or the waste disposal site proposed at Courtauld Road, Basildon, it would be located within an Existing Employment Area and industrial location which is generally supported by the WLP and BDLP.

Initially with regard to the above, it is considered that, principally the proposal would be acceptable and in an appropriate location for a waste use such as that proposed, as defined by WLP policies W3A, W3C, W7D, W7E, W8A, W8B, W8C, and BDLP policies BAS E4 and E6 subject to other criteria contained in these Policies and other Policies contained within these development plans which is discussed later within this report.

B IMPACT ON AMENITY

The NPPF seeks to always secure high a good standard of amenity for all existing and future occupants of land and buildings.

WLP policies W7D (Inert Waste Recycling), W8B (Alternative Sites) and W10E (Development Management Criteria) all seek, in summary, to protect existing amenity, particularly from noise, smell, dust and other potential pollutants.

BDLP Policy BAS E10 (General Employment Policy) states, in summary, that proposals for industrial development shall provide adequate controls to limit the emission of noise, pollutants, discharge and smells which could be associated with the proposed use.

BDLP Policy BAS BE12 (Development Control) states, in summary, that planning permission will be refused if it causes material harm to the character of the surrounding area, including the street scene, overlooking, noise or disturbance to the occupants of neighbouring dwellings and overshadowing.

The nearest residential properties to the application site are situated in Durham Road approximately 40 metres to the north of the site. These properties are distanced from the site by Durham Road itself and a short section of Employment Area road directly opposite these residential properties. The site is

partially screened from view by 3 metre high sleeper walls, however, the site access to the north is open during operational hours meaning that part of the northern boundary of the site is always exposed during operational hours.

There are other residential properties in close proximity of the site beyond the Durham Road to the north of the site in Suffolk Drive, Bedford Road, Rutland Close and Cumberland Drive with these properties distanced by those properties in Durham Road, Durham Road itself and a short length of the Employment Area road. Beyond the west boundary of the site is a belt of mature vegetation with other industrial units to the east of the site and mature vegetation and a railway line to the south, beyond which are residential properties.

Noise

A Noise Impact Assessment (NIA) has been submitted in support of this planning application. The NIA concludes that the noise level from the application site to the nearest residential properties, situated directly to the north of the site in Durham Road, would be predicted to decrease by 2 dBA as a result of the proposed development. The proposed noise level anticipated by the proposal would be of 'marginal significance' for weekdays whilst levels would be anticipated to be between 'marginal significance' and 'complaints likely' for Saturday mornings, as defined by BS 4142 (Method for rating industrial noise affecting mixed residential and industrial areas).

Although the NIA concludes that there would be a 2dBA decrease in noise emitted from the site as a result of the proposed development compared with the existing lawful use of the site as a car breaking and dismantling facility, it is considered that this decrease would be insignificant given that it is widely acknowledged that sound pressure level differences of less than 3 dB will generally be undetectable by humans, even by those with very acute hearing, as highlighted by Basildon Borough Council's Environmental Health Department.

It is also important to note that a 3 sided enclosure is proposed to sort and store imported waste material. However, given the conclusions of the NIA this would not provide effective noise mitigation for the proposed development.

Basildon Borough Council (BBC) has objected to the application on the grounds that the proposal would lead to an increase in noise and disturbance within the local area as a result of an increase in activities on the site, together with a potential increase in traffic movements to and from the site, which, due to its proximity to residential properties to the north of Durham Road, would lead to a serious loss of amenity to the occupiers of these properties, and for this reason would be contrary to policy W8B of the Essex and Southend-on-Sea Waste Local Plan, and saved policy BAS E6 of the Basildon District Local Plan.

It is worth noting that, under the existing CLEUD there are no restrictions on the operation of the site except the use itself and that this application represents an opportunity to control noise and disturbance from the site. Therefore, it is considered that the application would not lead to an increase in noise and disturbance above existing permitted levels because currently, there are no

restrictions on the operation of the site. However, although this application represents an opportunity to control noise and disturbance from the operation of the site, the levels of noise anticipated to be emitted from the site as a result of the proposed development would still be considered to be unacceptable and very likely to have an adverse impact on the local environment and residential amenity given the anticipated noise levels and proximity of the site to nearby small-scale industrial units, a children's nursery and residential properties. Further, both BBC's Environmental Health Officer (EHO) and the County Council's Noise Consultant have highlighted that the proposed noise levels would have an adverse impact on residential amenity.

A large number of representations have been received regarding the potential noise impact of the proposal. A large number of representations have also referred to existing noise levels emitted from the site and its adverse impact on local amenity with the EA also confirming that they are continuing to receive noise complaints from neighbouring residential properties of the site. BBC has also confirmed noise issues regarding the existing operation of the site and that Noise Abatement Notices have been served on the operator of the site in the recent past.

It is important to note that the existing operation on the site is lawful in planning terms given the CLEUD and that there are currently no planning controls over it other than the use of the site itself as a 'car breaking and dismantling facility' as stipulated by the CLEUD. Therefore it is important to note that in terms of elements including, but not exclusively, vehicle movements, noise and general disturbance, there is no current limitation in terms of the existing use and operation of the site in planning terms.

It is understood that, since the CLEUD was issued on the site in 2005, there has been a significant 'intensification' of use of the site which has culminated in increased noise levels being emitted from the site. However, the Waste Planning Authority is satisfied that the current use of the site is lawful and in compliance with the CLEUD.

However, even though this planning application represents an opportunity for the Waste Planning Authority to gain better control over the operations on the site, potentially minimising its impact on the local environment, it is still considered that the benefits this would create would be outweighed by the significant noise levels proposed given the close proximity of other Industrial Units, a children's nursery and residential properties. Further, even though the proposed noise levels would be similar to existing levels experienced at the site, these levels are considered to be unacceptable and likely to continue to cause an adverse impact on nearby Industrial Units, a children's nursery and residential properties and that planning permission could not be justified on this basis purely because of the fall-back position.

Taking the above into account, it is considered that noise issues can be overcome by investing in appropriate technology and infrastructure to manage such elements. The EA has stated that they would not accept development of the site and an increase in waste operations if it cannot be demonstrated that

the formal requirements imposed by BBC in relation to Noise Abatement Notices on the site can be complied with. However, BBC's EHO has stated that they do not agree that noise levels can be controlled and that, even if noise levels were reduced to those stipulated by the Noise Abatement Notices, this would not prevent detriment to the amenity of the neighbourhood. Concerns over the adequacy and accuracy of the NIA have also been raised by the County Council's Noise Consultants.

These concerns regarding noise have been forwarded onto the applicant to respond to. The applicant has stated that they hope, with the proposed change in waste process on the site and the replacement of existing machinery on the site, that their business can diversify to avoid noise complaints. The applicant has also pointed out that noise is also generated from a neighbouring waste use site of a similar nature to that of the application site.

The applicant states that, due to the proposed decrease of scrap metal operations on the site, lower stockpile heights and that waste materials brought onto the site would be predominately housed within the proposed 3 sided enclosure, noise levels emitted from the site would be reduced. The applicant has also stated that current BS4142 noise assessment levels involve continuously running mechanical plant, however the assessment provided for the proposed use is the worst case scenario and would be unlikely to be experienced often give the reduced frequency of operating machinery due to the proposed change of use. The applicant has also confirmed that the adequacy and accuracy of the NIA has been discussed between the applicant's acoustic engineers and the County Councils Noise Consultants and that agreement has been reached regarding the NIA with a conclusion that the current information as submitted is acceptable.

The applicant has provided further justification for the proposed development but they have failed to address the need for further noise mitigation measures on the site although the opportunity has been extended to them. Given this lack of additional justification, the WPA continues to be of the opinion that proposed noise levels emitted from the site would have an adverse impact on nearby uses including industrial, educational and residential land uses.

Another option is to explore whether or not a condition could be attached to planning permission should it be granted requiring additional noise mitigation measures to be implemented to reduce noise emissions from the site to acceptable levels. However, it is accepted that substantial infrastructure and technology would be required to achieve this which, in its own right, is very likely to require planning permission in its own right and which, is something which could not be addressed by condition.

Therefore, in relation to noise, it is considered that the proposed development would have an adverse impact on nearby industrial units, a children's nursery and the amenity of occupiers of nearby residential properties. Although it is acknowledged that the proposed noise levels would be reduced from existing levels by 2dBA and that the application represents an opportunity to gain greater control over operations on the site than is previously the case, the fact that the

proposed noise levels emitted from the site would continue to have an adverse impact on the local area as highlighted by BBC's EHO and the County Council's Noise Consultant, it is considered that this adverse impact would outweigh the possible benefits of such a proposal. Further, the WPA would not consider it acceptable to grant permission for a proposal that would clearly have an adverse impact on the amenity of the local area purely because of the fall-back position. Subsequently the proposal is considered to be contrary to the principles of the NPPF and sustainable development, WLP Policies W7D, W8B, W10E, and BDLP Policies BAS E4, BAS E6, BAS E10 and BAS BE12.

Dust and Air Quality

The site is not within an Air Quality Management Area. However, given the nature and scale of the proposed development and proximity to residential and business properties it is considered necessary to assess the dust and air quality impact of the proposal.

A Dust Drift Management Scheme (DDMS) has been submitted in support of this planning application. The DDMS states that, if dust is generated within the 3 sided enclosure through the processing and handling of waste (during dry weather periods) the area would be sprayed with water and that during periods of dry weather, any dust generated externally would be controlled by the use of spray equipment, with spray equipment attached to the site's water supply or a mobile water browser which would prevent dust from drifting beyond the site's boundaries.

Given the proposed waste materials which would be imported to the site, including inert materials, it is likely that the proposed development would have significant potential to create dust.

A large number of representations have been received partly relating to the potential for dust to be generated by the proposed operations on the site.

Dust mitigation is proposed in the form of water spraying during dry periods and a 3 sided enclosure in order to enclose waste materials so that they are sorted and stored internally, reducing the likelihood of dust escaping the site. In addition the site is well screened by 3m sleeper walls along all site boundaries minimising any dust nuisance as a result of the proposal.

Given these mitigation measures and the size and scale of the proposal, it is considered unlikely that the proposal would result in an adverse impact from dust generation. Therefore it is further considered that the proposal would conform to the NPPF, WLP Policies W7D, W8B, W10E, and BDLP Policies E4, BAS E10 and BAS BE12 in this respect.

Odour / Air Quality

A large number of representations have been received, partly relating to the

potential odour and air quality impact of the proposed development.

In terms of odour and air quality, there is the possibility of some impact on local amenity given the nature of a small amount of the waste materials proposed to be imported to the site. However, a 3 sided enclosure is proposed seeking to minimise any potential odour or air quality impact. Further, the application does not propose any kind of incineration or discharge of emissions given that the proposed operations would only consist of the sorting, grading, separation and storage of waste materials before they are moved off site within a 48 hour period.

The applicant has also stated that the application does not seek permission to store or transfer any putrescible (food wastes and other organic wastes that decay quickly) on the site therefore significant odour emissions from the site are unlikely. Further, the Environment Agency has raised no objection to the proposed development on odour / air quality grounds.

Therefore, given this and the scale of the proposed development it is considered unlikely that the proposal would have an adverse odour or air quality impact on the local environment. Further, the Environment Agency has raised no objection to the proposed development.

Other Pollutants / General Disturbance

A letter of representation has been received partly relating to the fact that the Environment Agency has stated that pollutants including ammonia, hydrogen chloride, nitrogen, phosphorus, zinc and copper are likely to be released in significant amounts. The representation also states that if it is proposed to thermally treat municipal solid waste matter then consideration must be given to the residual toxins especially Tetrachlorodibenzodioxin (TCDD). However, no treatment of any waste is proposed with the application purely seeking to change the use of the site to a waste transfer station sorting and separating waste before it is removed off site to be treated elsewhere.

The Environment Agency has been consulted on this planning application and has raised no objection to the proposed development. Given this, the nature of the waste materials proposed to be imported to the site and the proposed size of the operation it is unlikely that the proposal would have an adverse impact on the local environment in terms of pollutants.

A number of representations have been received regarding concern over the hours of operation of the site given that, at the moment, the operations on site do not have any time restrictions

WLP policy W10F (Hours of Operation) stipulates that where appropriate the Waste Planning Authority (WPA) will impose a condition restricting hours of operation on waste management facilities having regard to local amenity and the nature of the operation.

Given the nature of the location, proximity of residential properties and the type

of facility proposed it is likely that restricting the hours of operation of the proposed facility would be necessary in order to safeguard local amenity. Therefore should planning permission be granted a condition could be attached stipulating the hours of operation for the facility in compliance with WLP policy W10F.

C TRAFFIC & HIGHWAYS

The NPPF states that Transport policies have an important role to play in facilitating sustainable development but also recognises that maximising sustainable transport solutions will vary from urban to rural areas.

WLP policy W4C stipulates that access for waste management sites will normally be by a short length of existing road to the main highway.

BDLP Policy BAS E10 (General Employment Policy) states, in summary, that proposals for industrial development will be considered with regard to the surrounding roads being adequate to accommodate the increase in vehicle traffic generated, developments relating to the primary road network without using residential estate roads, adequate car parking being provided and adequate servicing and turning areas being provided on the site.

BDLP Policy BAS BE12 (Development Control) states, in summary, that planning permission will be refused if it causes traffic danger or congestion.

The application site is accessed from the main highway (Durham Road) by a short length of existing industrial estate road.

The application site currently receives scrap metal via transit and box vans. The number of vehicles accessing the site daily can substantially vary on a week to week basis and can be greatly influenced by a number of factors. The proposed development would generate an average of 30 vehicles (60 movements: 30 in and 30 out) per day accessing the site via the site's existing access from Wrexham Road. Given that the existing use on the site currently has no vehicle restrictions it is unlikely that the vehicle movements proposed would have an adverse impact on surrounding roads. The application site is also well connected to the main highway network minimising any potential increase in traffic on residential estate roads.

The proposed development would include 4 car parking spaces. The Essex Parking Standards: Design and Good Practice gives guidance on the parking requirements for different types of development. There are no specific standards for waste transfer stations, as this is a sui generis use class, but akin to an industrial use. The Highway Authority has raised no objection to the parking provisions and therefore, it is considered that the level of parking proposed would be sufficient and conform to the Essex Parking Standards.

However, the Highway Authority has requested that the following conditions are attached to planning permission should it be granted:

- Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed and maintained free from obstruction within the site at all times for that sole purpose;
- Prior to occupation of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of associated materials and manoeuvring shall be provided clear of the highway and retained at all times for that sole purpose as approved in writing by the Local Planning Authority;
- The total number of vehicle movements within the working hours associated with the development hereby permitted shall not exceed 60 movements (30 in and 30 out) per working day.

These requirements could be covered by conditions attached to planning permission should it be granted.

A large number of representations have been received partly relating to highway matters and concerns relating to increased congestion, highway safety and the ability of the existing road infrastructure to deal with the vehicles movements generated by the proposed development. However, as previously stated, currently the site and its operation do not have any vehicle restrictions, therefore the proposal, subject to conditions requested by the Highway Authority, would represent a restriction on vehicle movements to the site ensuring any adverse impact on road safety and congestion on surrounding roads is minimised. Further, and as previously stated, the Highway Authority has raised no objection to the proposed development.

Therefore, it is considered that the proposal would represent the opportunity for vehicle movements to be better controlled in relation to the operations on the site than is currently the case, ensuring that any impact on the local highway network in terms of road safety and congestion is minimised. As a result it is further considered that the proposed development conforms to the NPPF, WLP Policy W4C and BDLP Policies BAS E10 and BAS BE12.

D LANDSCAPE & VISUAL IMPACT

The NPPF seeks to protect and enhance valued landscapes.

BDLP Policy BAS E10 (General Employment Policy) states, in summary, that proposals for industrial development shall make appropriate provision for the landscaping and screening of buildings and storage areas and the design, form, scale, and materials of the development being appropriate and sympathetic to neighbouring developments, particularly adjacent to residential areas.

WLP Policy BAS E4 states, in summary, that, subject to the criteria set out in Policy BAS E10, that new buildings will only be permitted where there is no adverse impact on residential amenities.

The existing site is bounded by 3 metre high sleeper walls on all sides and includes two portakabin-type buildings located on top of one another to form a

two storey office building measuring 6 metres in height, a 3 metre high 3 sided enclosure and a number of storage skips which are all screened from view by the boundary sleeper walls.

The proposed development would include the addition of a new 3 sided enclosure to house waste materials brought onto the site. This proposed 3 sided enclosure would measure 11 metres in width, 10 metres in depth with a frontal height of 6 metres and rear height of 4.5 metres. Given existing built development in and around the site this proposed structure is considered to be in keeping with the small-scale industrial area. Given the boundary screening afforded to the application site by way of existing 3 metre high sleeper walls it is further considered that the proposed structure would have an appropriate amount of screening from existing infrastructure.

Although residential properties are approximately 40 metres from the application site, given the size and scale of the proposed structure it is very unlikely that this would have an adverse impact on residential amenities. Further Basildon Borough Council has not raised an objection to the application in relation to this and the County Council's Urban Design Consultant has also raised no objection to the proposed development.

Therefore, it is considered that the proposal would not have an adverse visual impact or adverse impact on the local landscape. As a result it is further considered that the proposal complies with the NPPF and BDLP Policies BAS E10 and BAS E4.

8. CONCLUSION

In conclusion, this planning application represents the opportunity for the WPA to gain greater planning control over the operations on site given that the existing operation is lawful by way of a CLEUD and that there are no other current planning restrictions relating to the site and its operation. WLP Policy also stipulates that Employment Areas such as that which the application site is within, is an acceptable location in principal for a waste use where it is shown that the proposed development would not be detrimental to the amenity of any nearby residential area. However, when taking into account these considerations it is the WPA's view that the benefits arising from gaining greater planning control over the operations on site would clearly be outweighed by the noise impact and noise disturbance associated with the proposal which would have an adverse impact on nearby businesses and the amenity of nearby residential occupiers given the location of the site and its proximity to other businesses and residential properties.

As highlighted previously within this report, although noise levels from the proposed development would be anticipated to reduce by 2dB from existing levels, the level anticipated would still cause an adverse impact and as a result, the WPA consider that a positive recommendation on this application could not be justified purely because of the fallback position when it is clear that granting permission for the proposed development would cause adverse impact contrary to development plan policy including those relating to the WLP.

The applicant has had the opportunity to address these noise impact concerns as part of the planning application process, however, no additional noise mitigation or associated infrastructure has been put forward or proposed which would be likely to reduce noise levels below that currently anticipated.

Although it is acknowledged that the proposed development would help diversify the existing business occupying the site helping to safeguard its future there are no clear net economic gains associated with the proposal which would outweigh the harm caused to the local amenity by way of noise.

Therefore it is considered that the proposed development would not provide social and environmental gains and therefore, that the proposal would not constitute sustainable development as defined by the NPPF. It is further considered that the proposed development would be contrary to WLP Policies W7D, W8B, W10E, and BDLP Policies BAS E4, BAS E6, BAS E10 and BAS BE12, and therefore, that it would not be appropriate to grant planning permission for the proposed development.

9. RECOMMENDATION

That planning permission be **refused** for the following reason:-

1. The development would have an adverse impact on the amenity of local businesses and nearby residential occupiers by way of noise, therefore not delivering sustainable development as required by the NPPF and contrary to Waste Local Plan (2001) policies W7D (Inert Waste Recycling), W8B (Alternative Sites), W10E (Development Management Criteria) and Basildon District Local Plan (1998) policies BAS E4 (Existing Employment Areas), BAS E6 (Untidy Industry), BAS E10 (General Employment Policy) and BAS BE12 (Development Control).

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

The proposed development would not be located adjacent to/within screening distance to a European site (name SAC/SPA).

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

EQUALITIES IMPACT ASSESSMENT

The report only concerns the determination of an application for planning permission and takes into account any equalities implications. The recommendation has been made after consideration of the application and supporting documents, the development plan, government policy and guidance, representations and all other material planning considerations as detailed in the body of the report.

STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE

APPLICANT IN A POSITIVE AND PROACTIVE MANNER

In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. Issues of concern have been brought to the applicant's attention in a timely manner affording the opportunity to consider whether such matters can be suitably resolved. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012. In this instance, however, it has not been possible to resolve the issues of concern so as to overcome the harm as identified in the reason for refusal. The Waste Planning Authority is willing to offer pre-application advice in respect of any future revised proposal.

And there are no other policies or other material considerations which are overriding or warrant the withholding of permission.

Statement of Reasons

In conclusion, this planning application represents the opportunity for the WPA to gain greater planning control over the operations on site given that the existing operation is lawful by way of a CLEUD and that there are no other current planning restrictions relating to the site and its operation. WLP Policy also stipulates that Employment Areas such as that which the application site is within, is an acceptable location in principal for a waste use where it is shown that the proposed development would not be detrimental to the amenity of any nearby residential area. However, when taking into account these considerations it is the WPA's view that the benefits arising from gaining greater planning control over the operations on site would clearly be outweighed by the noise impact and noise disturbance associated with the proposal which would have an adverse impact on nearby businesses and the amenity of nearby residential occupiers given the location of the site and its proximity to other businesses and residential properties.

As highlighted previously within this report, although noise levels from the proposed development would be anticipated to reduce by 3dB from existing levels, the level anticipated would still cause an adverse impact and as a result, the WPA consider that a positive recommendation on this application could not be justified purely because of the fallback position when it is clear that granting permission for the proposed development would cause adverse impact contrary to development plan policy including those relating to the WLP.

The applicant has had the opportunity to address these noise impact concerns as part of the planning application process, however, no additional noise mitigation or associated infrastructure has been put forward or proposed which would be likely to reduce noise levels below that currently anticipated.

Although it is acknowledged that the proposed development would help diversify the existing business occupying the site helping to safeguard its future there are

no clear net economic gains associated with the proposal which would outweigh the harm caused to the local amenity by way of noise.

Therefore it is considered that the proposed development would not provide social and environmental gains and therefore, that the proposal would not constitute sustainable development as defined by the NPPF. It is further considered that the proposed development would be contrary to WLP Policies W7D, W8B, W10E, and BDLP Policies BAS E4, BAS E6, BAS E10 and BAS BE12, and therefore, that it would not be appropriate to grant planning permission for the proposed development.

APPENDIX A

Consideration of consistency of Policies

Ref: Policy

Consistency with NPPF and PPS10

W3A	<p>The WPAs will:</p> <p>In determining planning applications and in all consideration of waste management, proposals have regard to the following principles:</p> <ul style="list-style-type: none"> • Consistency with the goals and principles of sustainable development; • Whether the proposal represents the best practicable environmental option for the particular waste stream and at that location; • Whether the proposal would conflict with other options further up the waste hierarchy; • Conformity with the proximity principle. <p>In considering proposals for managing waste and in working with the WDAs, WCAs and industrial and commercial</p>	<p>Paragraph 6 of the NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development.</p> <p>PPS10 supersedes 'BPEO'.</p> <p>PPS10 advocates the movement of the management of waste up the waste hierarchy in order to break the link between economic growth and the environmental impact of waste.</p> <p>One of the key planning objectives is also to help secure the recovery or disposal of waste without endangering human health and without harming the environment, and enable waste to be disposed of in one</p>
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	<p>organisations, promote waste reduction, re-use of waste, waste recycling/composting, energy recovery from waste and waste disposal in that order of priority.</p> <p>Identify specific locations and areas of search for waste management facilities, planning criteria for the location of additional facilities, and existing and potential landfill sites, which together enable adequate provision to be made for Essex, Southend and regional waste management needs as defined in policies W3B and W3C.</p>	<p>of the nearest appropriate installations.</p> <p>See reasoning for Policy W8A.</p> <p>Therefore, Policy W3A is considered to be consistent with the NPPF and PPS10.</p>
W3C	<p>Subject to policy W3B, in the case of landfill and to policy W5A in the case of special wastes, significant waste management developments (with a capacity over 25,000 tonnes per annum) will only be permitted when a need for the facility (in accordance with the principles established in policy W3A) has been demonstrated for waste arising in Essex and Southend. In the case of non-landfill proposal with an annual capacity over 50,000 tonnes per annum, restrictions will be imposed, as part of any planning permission granted, to restrict the source of waste to that arising in the Plan area. Exceptions may be made in the following circumstances:</p> <ul style="list-style-type: none"> • Where the proposal would achieve other benefits that would outweigh any harm caused; • Where meeting a cross-boundary need would satisfy the proximity principle and be mutually acceptable to both WPA5; • In the case of landfill, where it is shown to be necessary to achieve satisfactory restoration. 	<p>Paragraph 3 of PPS 10 highlights the key planning objectives for all waste planning authorities (WPA). WPA's should, to the extent appropriate to their responsibilities, prepare and deliver planning strategies one of which is to help implement the national waste strategy, and supporting targets, are consistent with obligations required under European legislation and support and complement other guidance and legal controls such as those set out in the Waste Management Licensing Regulations 1994.</p> <p>Therefore, as Policy W3C is concerned with identifying the amount of waste treated and its source the policy is considered consistent with the requirements of PPS10.</p>
W4C	<p>1. Access for waste management sites will normally be by a short</p>	<p>Paragraph 21 (i) of PPS10 highlights that when assessing</p>

	<p>length of existing road to the main highway network consisting of regional routes and county/urban distributors identified in the Structure Plan, via a suitable existing junction, improved if required, to the satisfaction of the highway authority.</p> <ol style="list-style-type: none"> 2. Exceptionally, proposals for new access direct to the main highway network may be accepted where no opportunity exists for using a suitable existing access or junction, and where it can be constructed in accordance with the County Council's highway standards. 3. Where access to the main highway network is not feasible, access onto another road before gaining access onto the network may be accepted if, in the opinion of the WPA having regard to the scale of development, the capacity of the road is adequate and there would be no undue impact on road safety or the environment. 4. Proposals for rail or water transport of waste will be encouraged, subject to compliance with other policies of this plan. 	<p>the suitability of development the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use modes other than road transport.</p> <p>Furthermore, Paragraph 34 of the NPPF states that 'Decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised'.</p> <p>Policy W4C is in conformity with paragraph 34 in that it seeks to locate development within areas that can accommodate the level of traffic proposed. In addition the policy seeks to assess the existing road networks therefore, being in accordance with the NPPF and PPS10.</p>
W7D	<p>Proposals for inert waste recycling will be supported at the following locations:</p> <ul style="list-style-type: none"> • The waste management locations identified in Schedule 1 (subject to policy W8A); • Industrial locations as defined in policy W8B; • In association with other waste management development; • Current mineral working and landfill sites, provided the development does not unduly prejudice the agreed restoration timescale for the site and the use ceases prior to the permitted completion date of the 	<p>See explanation notes for Policy W3C, W8A and W8B as these are relevant and demonstrate conformity with the NPPF and PPS10.</p>

	<p>site (unless an extension of time to retain such facilities is permitted);</p> <ul style="list-style-type: none"> • Demolition and construction sites where the spoil is to be used in the project itself. <p>Provided the development complies with all other relevant policies of this Plan and, in particular, does not cause unacceptable harm to the environment or residential amenity by virtue of noise, dust or heavy traffic.</p>	
W7E	<p>To facilitate the efficient collection and recovery of materials from the waste stream, in accordance with policy W3A, the WPAs will seek to work with the WDAs/WCAs to facilitate the provision of:</p> <ul style="list-style-type: none"> • Development associated with the source separation of wastes; • Material recovery facilities (MRF's); • Waste recycling centres; • Civic amenity sites; • Bulking-up facilities and waste transfer stations. <p>Proposals for such development will be supported at the following locations:</p> <ul style="list-style-type: none"> • The waste management locations identified in Schedule 1 (subject to policy W8A); • Other locations (subject to policies W8B and W8C); • In association with other waste management development; • Small scale facilities may be permitted at current landfill sites, provided the development does not unduly prejudice the agreed restoration timescale for the site and the use ceases prior to the permitted completion date of the site (unless an extension of time to 	<p>See explanation notes for Policy W3C, W8A and W8B as these are relevant and demonstrate conformity with the NPPF and PPS10.</p>

	<p>retain such facilities is permitted).</p> <p>Provided the development complies with other relevant policies of this plan.</p>	
W7F	Scrap yards and vehicle dismantling facilities will only be permitted within industrial locations as defined in policy W8B	See explanation notes for Policy W3C, W8A and W8B as these are relevant and demonstrate conformity with the NPPF and PPS10.
W8A	<p>Waste management facilities will be permitted at the locations shown in Schedule 1 provided all of the following criteria, where relevant, are complied with:</p> <ul style="list-style-type: none"> • There is a need for the facility to manage waste arising in Essex and Southend (subject to policy W3C); • The proposal represents the Best Practicable Environmental Option (BPEO) for the particular waste stream, having regard to any alternative options further up the waste hierarchy; • The development complies with other relevant policies of this Plan, including the policy/ies in Chapter 7 for the type(s) of facility proposed; • Adequate road access is provided in accordance with policy W4C. Access by rail or water will be supported if practicable; • Buildings and structures are of a high standard of design, with landscaping and screening provided as necessary; and • Integrated schemes for recycling, composting, materials recovery and energy recovery from waste will be supported, where this is shown to provide benefits in the management of waste which would not otherwise be obtained. 	<p>PPS10 at paragraph 17 identifies that 'Waste planning authorities should identify in development plan documents sites and areas suitable for new or enhanced waste management facilities for the waste management needs of their areas. Waste planning authorities should in particular:</p> <ul style="list-style-type: none"> – allocate sites to support the pattern of waste management facilities set out in the RSS in accordance with the broad locations identified in the RSS; and, – allocate sites and areas suitable for new or enhanced waste management facilities to support the apportionment set out in the RSS. <p>The WPA has identified sites within the Waste Local Plan under policy W8A which seek to support the pattern of waste management and that are suitable for new or enhanced waste management facilities. Therefore, the policy is in conformity with the requirements of the PPS10.</p>

W8B	<p>Waste management facilities (except landfill to which policies W9A and W9B apply) will be permitted at locations other than those identified in this plan, provided all of the criteria of policy W8A are complied with where relevant, at the following types of location:</p> <ul style="list-style-type: none"> • Existing general industrial areas; • Areas allocated for general industrial use in an adopted local plan; • Employment areas (existing or allocated) not falling into the above categories, or existing waste management sites, or areas of degraded, contaminated or derelict land where it is shown that the proposed facility would not be detrimental to the amenity of any nearby residential area. <p>Large-scale waste management development (of the order of 50,000 tonnes per annum capacity or more, combined in the case of an integrated facility) will not be permitted at such non- identified locations unless it is shown that the locations identified in Schedule 1 are less suitable or not available for the particular waste stream(s) which the proposal would serve.</p>	<p>Policy W8B is concerned with identifying locations for sites that have not been identified within the Plan as preferred sites of waste related developments. By setting a criteria for non-preferred sites this allows for the protection of the natural environment in conformity with the third strand of the three dimensions of sustainable development. Additionally, in conformity with paragraph 17 of the NPPF, the policy contributes to the conservation and enhancement of the natural environment. The NPPF goes on to state that 'Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework.</p>
W8C	<p>Notwithstanding policy W8B proposals for smaller-scale waste management facilities (generally with a capacity below 25,000 tonnes per annum) and except landfill to which policies W9A and W9B apply, will also be permitted at other locations provided all the criteria of policy W8A are complied with, where relevant, at urban locations where they serve the local community, subject to protection of residential amenity and in rural</p>	<p>See explanation notes for Policy W3C, W8A and W8B as these are relevant and demonstrate conformity with the NPPF and PPS10.</p>

	<p>locations where they would:</p> <ul style="list-style-type: none"> • Be mainly located within existing buildings not requiring significant adaptation or extension or, in the case of green waste composting, at the types of location listed in policy W7B; • Not prejudice the openness or character of the rural location; and • Not, in the case of farm buildings or hardstandings, result in a need to be replaced with other buildings or hard standings. <p>In addition, temporary waste recycling and composting facilities may be permitted at current mineral working and landfill sites, subject to policies W7B and W7D.</p> <p>Development required for the provision of sewage and sludge treatment processes will be considered on its merits and expected to conform to this policy as far as is practicable.</p>	
W10E	<p>Waste management development, including landfill, will be permitted where satisfactory provision is made in respect of the following criteria, provided the development complies with other policies of this plan:</p> <ol style="list-style-type: none"> 1. The effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants (the factors listed in paragraph 10.12 will be taken into account); 2. The effect of the development on the landscape and the countryside, particularly in the AONB, the community forest and areas with special landscape designations; 	<p>Policy W10E is in conformity with the NPPF in that the policy is concerned with the protection of the environment and plays a pivotal role for the County Council in ensuring the protection and enhancement of the natural, built and historic environment. The policy therefore, is linked to the third dimension of sustainable development in the meaning of the NPPF.</p>

	<ol style="list-style-type: none"> 3. The impact of road traffic generated by the development on the highway network (see also policy W4C); 4. The availability of different transport modes; 5. The loss of land of agricultural grades 1, 2 or 3a; 6. The effect of the development on historic and archaeological sites; 7. The availability of adequate water supplies and the effect of the development on land drainage; 8. The effect of the development on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations; and 9. In the Metropolitan Green Belt, the effect of the development on the purposes of the Green Belt. 	
W10F	<p>Where appropriate the WPA will impose a condition restricting hours of operation on waste management facilities having regard to local amenity and the nature of the operation.</p>	<p>In addition Paragraph 123 of the NPPF states that planning decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new developments, including through the use of conditions. Furthermore, paragraph 203 states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.</p> <p>It is considered that as policy W10F is concerned with the protection of amenity and seeks to impose conditions to minimise this policy W10F is in conformity with the requirements of the NPPF.</p>

		Also see above regarding PPS10 and conditions.
	BASILDON LOCAL PLAN POLICIES	
BAS E4	<p>Subject to the criteria set out in Policy BAS E10, planning permission for new business and general industrial buildings, extensions to existing buildings and changes of use of existing buildings to business and general industry (Use Classes B1 and B2), will normally only be permitted within those areas proposed or shown as existing industrial estates as identified on the Proposals Map.</p> <p>Subject to the criteria set out in Policy BAS E10, elsewhere within the urban area proposals for new business (Use Class B1) buildings, extensions to existing buildings or the change of use of buildings to business, will only be permitted where there is no adverse impact on residential amenities. All planning applications storage and distribution (Use Class B8) will be considered with regard to Policy BAS E8.</p>	<p>The NPPF at paragraph 17 stipulates that planning policies should proactively drive and support sustainable economic development to deliver business and industrial units that the country needs. Plans should allocate sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities</p> <p>The NPPF at Paragraph 17 also states that policies should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings</p> <p>The BBLP under policy BAS E4 allocates sufficient land which is suitable for industrial development and the policy also seeks to strike a balance between growth and safeguarding existing amenity</p>
BAS E6	<p>The development or expansion of untidy industry sites will be permitted in the Harvey Road and Archers Field area of the Burnt Mills Industrial estate, as identified on the Proposals Map. Untidy industry proposals in other locations within the existing industrial areas will be assessed on the basis of their likely effects on nearby uses. Outside of industrial areas untidy industry will not be allowed.</p>	<p>See explanation notes for Policy BAS E4 as these are relevant and demonstrate conformity with the NPPF.</p>
BAS	Proposals for industrial, business and	The NPPF at paragraph 29

E10	<p>office development (Use Classes B1 to B8) will be considered with regard to the following criteria:</p> <ul style="list-style-type: none"> - The surrounding roads must be adequate to accommodate the increase in vehicle traffic generated. A Traffic Impact Assessment may be required; - Developments should relate to the primary road network without using residential estate roads; - Adequate car parking should be provided in accordance with the Council's Car Parking Standards in Appendix Three; - Adequate servicing and turning areas should be provided on the site in accordance with the Council's Highway Standards; - Provision for the landscaping and screening of buildings and storage areas with a landscaping strip abutting all highways will normally have a minimum width of 5 metres to be retained at all times; - The design, form, scale, and materials of the development will be expected to be appropriate and sympathetic to neighbouring developments, particular adjacent to residential areas; and - Adequate controls should be installed to limit the emission of noise, pollutants, discharge and smells which could be associated with the proposed use. 	<p>states that transport policies have an important role to play in facilitating sustainable development with paragraph 32 stipulating that safe and suitable access to development sites should be achieved for all people and where necessary improvements undertaken within the transport network that limit the significant impacts of the development.</p> <p>The NPPF at paragraph 109 states that the planning system should protect and enhance valued landscapes.</p> <p>The NPPF at Paragraph 17 also states that policies should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings</p> <p>The BBLP under policy BAS E10 seeks to facilitate sustainable development through its transport requirements and protect the natural environment and amenity from inappropriate development.</p>
BAS BE12	<p>Planning permission for new residential development, and for the alteration and extension of existing dwellings, will be refused if it causes material harm in any of the following ways:-</p>	<p>See explanation notes for Policy BAS E4, BAS E6 and BAS E10 as these are relevant and demonstrate conformity with the NPPF.</p>

	<ul style="list-style-type: none"> ii. Harm to the character of the surrounding area, including the street scene; iii. Overlooking; iv. Noise or disturbance to the occupants of neighbouring dwellings; v. Overshadowing or over-dominance; and vi. Traffic danger or congestion. 	
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APPENDIX B

Summary of Representations Received

<u>Observation</u>	<u>Comment</u>
Unsuitable location for proposed use: awkward approach for number of vehicle movements proposed	See appraisal
Effect on access of other users of estate	See appraisal
Odours from site would be blown over large residential area	See appraisal
Number of movements proposed is quantum leap on present use having adverse impact on local road network	See appraisal
Proposal will create unacceptable noise impacts on local residents and environment	See appraisal
Danger of vermin	See appraisal
No need for proposal with waste transfer	See appraisal

sites nearby at Burnt Mills, Cranes Farm Road, tip at Pitsea and disposal site at Courtauld Road	
Concerns regarding hours of operation	See appraisal
Proposal will create additional traffic congestion	See appraisal
Increased hazard along Durham Road giving current parking situation, road is part of a bus route and the nearby nursery school	See appraisal
Danger to local community from increased vehicle movements	See Appraisal
Blocking of public footpath along Durham Road	See appraisal
Use too close to residential properties	See appraisal
Increased pollution	See appraisal
Increased traffic would be hazard to pedestrians including children attending local nursery, cyclists and other traffic	See appraisal
Local roads not designed for this use	See appraisal
Industrial Estate used for light industry, proposed use doesn't fit here	See appraisal
Increase in dust and airborne pollution	See appraisal
If need for further waste transfer capacity, existing sites should be expanded first	See appraisal
Area would not be able to support vehicle movements proposed	See appraisal
Durham Road already heavily congested	See appraisal
History shows that applicant does not abide by the rules	Not a material planning consideration
Applicant should move his business to a more appropriate location	See appraisal
Visibility in Durham Road would be reduced	See appraisal
Far too close to adjacent children's nursery increasing danger to children	See appraisal
Impact on house prices	Not a material planning consideration
Proposal would impact on safety of people attending local church	See appraisal
Adverse impact on local landscape	See appraisal
Local road infrastructure would be churned up by increase in HGVs and inconsiderate parking	See appraisal
HGVs would have to park on footpaths endangering pedestrians	See appraisal
Danger from chemical use and possible combustion from paper and wood recycling	See appraisal
Durham Road needs re-surfacing even	See appraisal

without the proposed development	
Dangerous for nature/wildlife	See appraisal
Increased fire hazard	See appraisal
There are other far more suitable sites available away from residential properties namely Burnt Mills and Southfields Business Park	See appraisal
Are hours of operation going to change?	See appraisal
How would Council monitor compliance?	See appraisal
How high would proposed enclosure be and what would it be constructed of, what would the finished appearance resemble in terms of material?	See appraisal
What types of vehicles would be shipping the waste?	See appraisal
Are there any restrictions on existing vehicle movements?	See appraisal
Which route would the vehicles be permitted to take when approaching and exiting the site?	See appraisal
Would any machinery/equipment be of a higher decibel rating?	See appraisal
How would increase in fire, noise, leeching of substances be contained within site?	See appraisal
Would site attract private vehicles?	See appraisal
Would additional parking be provided?	See appraisal
Proposal would have adverse impact on highway safety	See appraisal
Road surface in Durham Road is in poor condition	See appraisal
There have been Instances of speeding motorists along Durham Road with road safety further compromised by proposed development	See appraisal
Use would cause significant disruption to local people and environment	See appraisal
If HGVs use Laindon railway bridge it could damage/compromise integrity of structure and land slippage/movement with taxpayers footing bill	See appraisal
Vehicular access to the site is only through residential areas	See appraisal
Increased risk of fire could impact on nearby electrical substation and children's nursery	See appraisal
Site backs onto railway and train movements could be affected.	See appraisal
Congestion would cause problems for	See appraisal

emergency services trying to access area	
Ideal location for use would be Courtauld Road to isolated site which would not be economic in both time and fuel	See appraisal
HGVs would cause unacceptable levels of vibration on local housing	See appraisal
Noise from operation and machinery would be adverse	See appraisal
Traffic levels are already above acceptable levels for a residential area	See appraisal
Nearby Laindon railway station already causes considerable traffic/parking problems	See appraisal
Understand that this company had another site located on Burnt Mills Industrial Estate and that this use should be moved there	See appraisal
Use totally out of proportion with other uses on Industrial Estate	See appraisal
Location inappropriate as its small and narrow	See appraisal
Road infrastructure not adequate and deteriorating	See appraisal
The turnaround time for waste on the site is unachievable	See appraisal
We have a right to quiet possession of our homes which would be lost	See appraisal
Design out of character with residential area	See appraisal
Adjacent businesses and safety of their customers would be severely compromised	See appraisal
Bus stops and their safety would be adversely impacted	See appraisal
Site boundary is not secure allowing debris to escape the site	See appraisal
Impact on adjacent nursery – Regulations state children should have access to outside environment which they are not fulfilling because of danger from adjacent site	See appraisal
Site very close to pick up and drop off point of local school bus increasing danger to children	See appraisal
Fully supportive of expansion of local businesses but waste sites should be sited much further away from residential areas	See appraisal
Proposal would create bigger eyesore	See appraisal

than currently	
Proposal would lead to increased traffic on minor narrow roads	See appraisal
3 sided enclosure would not adequately mitigate impacts of proposal i.e. noise, odour, dust etc	See appraisal
Existing parking and weight restrictions and proposed double yellow lines along Durham Road in place to protect road network and infrastructure, proposal would make matter worse	See appraisal
Any explosion, leak etc from site could impact on railway and safety of its users	See appraisal
Lack of good access for fire appliances	See appraisal
Very limited size of site and turning for vehicles would be a hazard	See appraisal
Reputation of scrap yard has been put to the test many times over several years with the police constantly visiting site	See appraisal
The continued need to monitor additional varieties of waste would be a drain on police authorities and their already stretched budgets	See appraisal
Courtauld Road has the capacity to take the waste of Laindon	See appraisal
Site is in a dangerous location and would cause harm to local residents by way of health and traffic risk	See appraisal
Proposal does not offer substantial employment opportunities	See appraisal
Proposal has no benefit for local residents	See appraisal
There have already been a number of road accidents in the local area with this situation likely to get worse as a result of the proposal with no safety measures which could improve this situation	See appraisal
Proposal would set a precedent for area with this use escalating and snowballing	See appraisal
Danger of further contamination of site and impact on air quality	See appraisal
Proposal would further restrict views of motorists travelling along Durham Road when their HGVs are inconsiderately parked	See appraisal
Air quality will damage flora and fauna incorporating nature reserves and reserved habitats for plants and animals including on the verges of Mandeville Way	See appraisal

Proposed hosing of site would not be effective in view of water shortages during dry spells and would not be environmentally sound as we live in England's driest County	See appraisal
Local area already has a parking problem	See appraisal
Area already has noise from cars and railway line	See appraisal
Wrexham Road and its access with Durham Road is narrow and already congested	See appraisal
Increase in rubbish escaping the site	See appraisal
Noise level is almost certainly contravening European Law on noise pollution	See appraisal
Applicant has other sites not close to residential areas which he should use	See appraisal
Industrial Estate not designed for quantity of vehicle movements proposed	See appraisal
Insufficient room for HGVs to manoeuvre	See appraisal
Site has restricted access	See appraisal
Stockpiled material could be exposed causing pollution	See appraisal
Material may contain asbestos	See appraisal
Potential presence of hazardous waste	See appraisal
Previous intensification of use on the site has resulted in significant unacceptable noise increases emitted from the site	See appraisal
Proposed structure would be unsightly	See appraisal
There would be no guarantee or adequate supervision to ensure waste did not accumulate on site	See appraisal
Combustion danger from paper and wood recycling	See appraisal
Proposal would result in pollution emissions to the atmosphere	See appraisal
Repercussions of any accident involving proposed use would be disastrous so close to a residential area	See appraisal
Site already has 'overspill' outside of its perimeter causing potential issues to local environment and adjacent railway line	See appraisal
Significant health and safety implications which are already being breached with existing use	See appraisal
Current stockpiles of cars on site already visible as is a crane which is illuminated at night, having an adverse visual impact on the local area	See appraisal

Pollution including water pollutants and emissions from proposed material sorted on site	See appraisal
Impact on and viability of adjacent nursery	See appraisal

APPENDIX 2



Appeal Decision

Site visit made on 14 October 2013

by Katie Peerless Dip Arch RIBA

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

Decision date: 22 October 2013

Appeal Ref: APP/Z1585/A/13/2195119

Macker's Metals Ltd., Wrexham Road, Basildon, Essex SS15 6PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Macker's Metals Ltd. (Mr C McDermott) against the decision of Essex County Council.
 - The application Ref ESS/68/12/BAS, dated 3 September 2012, was refused by notice dated 25 February 2013.
 - The development proposed is use of the site as a waste transfer station including the sorting, grading and transfer of inert materials and scrap metal including vehicle depollution, car breaking and dismantling with a maximum annual throughput of 40,000 tonnes per annum and the erection of an associated three sided enclosure.
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider that the main issue in this case is the effect of the proposed development on the living conditions of occupiers of neighbouring properties and the amenity of local businesses with particular reference to noise and disturbance.

Site and surroundings

3. The appeal property is on an industrial estate where there are a variety of businesses operating, including existing scrap metal processing and motor related activities. A Certificate of Lawful Use (CLU) was issued for the site in 2004 which confirms it can be used for car breaking and dismantling and this use is presently taking place on the site.
4. There is another scrap metal yard adjacent to the appeal site and the nearest residential properties have gardens backing onto Durham Road, about 60m from the site. There is a children's nursery, also in Durham Road, separated from the site by an electricity sub-station. At present the site contains a double height portacabin, 2 open fronted covered storage areas and areas of open storage piled with scrap metal and cars. At the time of the site visit there was also a large grab crane on the site.

Appeal proposal

5. The application seeks approval for a change of use that would allow the site to operate as a waste transfer station, with a reduced level of car breaking. It also includes the erection of a 3 sided enclosure that would be used for sorting and storing the waste. The amount of waste throughput would be limited to 40,000 tonnes per annum and would involve deliveries from 30 lorries per day, resulting in a total of 60 vehicle movements to and from the site each day.

Reasons

6. The existing use has resulted in unacceptable noise being generated by the activities on the site, to the extent that it is now subject to a Noise Abatement Notice. The appellant submits that the proposed use would serve to reduce the noise levels and has commissioned a Noise Impact Assessment (NIA) that concludes there would be a drop of about 2Db if the new use was implemented as applied for. The Council's noise consultants consider that the existing noise levels from the site are considerably higher than claimed in the NIA and, even if the appellant's figures are correct, a 2Db reduction would make no perceptible difference to the noise climate in the vicinity of the site, which would still be far higher than normally considered acceptable.
7. The appellant claims that some of the assumptions made by the Council's noise consultants are based on the use of equipment which has now been removed from site or will be used less intensively than at present. However, without a definitive list of the equipment proposed, their acoustic properties and the extent of the proposed use, I cannot assume that the Council's predictions are necessarily inaccurate.
8. The appellant submits that his NIA demonstrates that the change of use would not result in any additional harm to the amenities of local residents and businesses over and above the 'fall back' position of the existing authorised operation. He also notes that the grant of a planning permission would allow conditions to be attached to limit the operations on site.
9. The Council accepts this, and does not object in principle to the location of the site for the proposed uses but considers that, as the levels of noise would remain above those which would normally be considered acceptable and there would be no significant reductions, planning permission should not be granted for the proposal, notwithstanding the 'fall back' position. It notes that although the existing use is lawful through the passage of time, the existing noise levels are so disruptive that they would not be outweighed by any benefits that may arise from the grant of a planning permission.
10. Judged on its own merits, the proposal would conflict with policies W7P and W10E of the Essex and Southend Waste Local Plan (2001) which require, among other things, waste development not to 'cause unacceptable harm to the environment or residential amenity by virtue of noise. Although this Plan is of some age, the relevant policies are nevertheless consistent with the objectives of paragraph 17 of the National Planning Policy Framework which seeks to resist development that would not result in a good standard of amenity for neighbouring occupiers.

11. The appellant claims that there would be appreciable benefits gained from allowing the appeal but I note that the Noise Abatement Notice already limits the Db levels from the site, albeit at higher levels than are claimed to be produced at present, and restricts the hours of operation. As noted above, the noise climate from the existing use and from the uses proposed in the application would be very similar. The other benefits claimed mainly relate to the decrease in noise which could result from the reduction in the extent of the vehicle depollution and car breaking activities, which the appellant states he is intending to eventually phase out.
12. However, the site has been the subject of numerous complaints and, in the absence of any overriding benefits, I agree with the Council's view that the grant of planning permission would only be likely to confirm and prolong an already unacceptable situation. The imposition of a condition requiring noise levels to be reduced to an acceptable level would be unreasonable, given the scale of the reduction needed and the measures that would be required to achieve such a reduction. Such measures would be likely to require further infrastructure which would, in itself, need a grant of planning permission before the appellant could implement the proposed new use. Such a condition would not therefore meet the tests set out in Circular 11/95.
13. During the appeal process, the appellant has proposed to remove the vehicle depollution and dismantling parts of the operation from the uses proposed in the application. He claims that this would 'drastically' reduce the noise levels and the NIA notes that the predicted difference between the background noise level and the proposed use without car breaking would be -3Db.
14. This may be so, but this permutation has not been specifically commented on by the Council's noise experts, nor have the other implications of a single use as a waste transfer station been fully examined or consulted upon. I consider the change in the proposed use is materially different to that applied for and, in accordance with the judgement in *Bernard Wheatcroft Ltd v Secretary of State for the Environment* [JPL 1982], I do not have the authority to consider a development that is so different in substance from the original. It would mean changing the terms of the application, as I could not limit the use applied for by the imposition of a condition. I have therefore made my decision on the mixed use as applied for, including the car breaking element, and find that would be unacceptable for the reasons set out above.
15. It will, of course, be open to the appellant to submit a fresh application for the use without the car breaking element, together with all supporting information, if he so wishes, to enable the Council to consider fully the revised proposal. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Katie Peerless

Inspector

APPENDIX 3

Review of Local Plan Saved Policies – Compliance with NPPF (March 2012)

Saved Policy	Conformity	Observations in relation to NPPF	Whether supported on appeal
BAS GB1 The Definition of the Green Belt	<u>Compliant</u>	Paragraphs 81 – 86 deal with the approach that should be taken in defining green belts. Paragraphs 83, 153 and 157 give the basis for defining them in a Local Plan.	Yes
BAS GB3 Replacement dwellings in the Green Belt	<u>Compliant</u>	Paragraphs 87, 92 provide guidance relevant to these areas, supporting replacement and extensions providing it is not excessive, in addition to limited infilling or the complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt and the purpose of including land within in than the existing development.	Yes
BAS GB4 Extension to dwellings in the Green Belt	<u>Compliant</u>		Yes
BAS GB5 Definition of a Dwelling	<u>Compliant</u>		
BAS GB6 Agricultural Workers Dwellings	<u>Compliant</u>		
BAS GB7 Re-use of Buildings in the Green Belt	<u>Compliant</u>		
		<i>Note: NPPF also supports non-residential enlargement, further reinforced by Changes to permitted development rights. It also defines certain development as not being inappropriate (subject to caveats) including mineral extraction, engineering operations, local transport infrastructure and development brought forward by a Community Right to Build Order</i>	
BAS S2 Housing Sites	<u>Generally Compliant</u>	However, of the list of identified sites, only one remains undeveloped. The NPPF supports sustainable development whilst indicating the importance of a supply of land to boost the supply of housing and meet the objectively assessed housing needs of the area. Paragraph 49 is clear that local planning policies for housing supply are not considered to be up to date if the LPA cannot demonstrate a five-year supply of deliverable housing sites.	
BAS S3 Areas of Special Reserve	<u>Generally Compliant</u>	The NPPF supports sustainable development. Paragraph 49 is clear that local planning policies for housing supply are not considered to be up to date if	

Saved Policy		Conformity	Observations in relation to NPPF	Whether supported on appeal
			the LPA cannot demonstrate a five-year supply of deliverable housing sites.	
BAS S5	Affordable Housing (1999 Alterations)	<u>Compliant</u>	Where a 5 year land supply cannot be demonstrated Areas of Special Reserve, as part of the allocated supply of sites could be required to come forward ahead of the completion of the Local Plan review. Para 50 supports the inclusion of affordable housing with development in accordance with set policies. Favours on-site provision but where robustly justified, can be supported off-site or by way of a financial contribution.	
BAS C1	Protected Areas – SSSI's, SNIC's & important wildlife habitats	<u>Compliant</u>	Paragraph 109 provides support for protecting and enhancing the natural environment. However, in stating that major developments should be refused in National Parks, the Broads and Areas of Outstanding Natural Beauty is may be interpreted to weaken the protection of areas with a lesser designation. Nevertheless, there are other paragraphs that reinforce the need to minimise impacts on biodiversity and geodiversity and to promote preservation, restoration and re-creation of priority habitats. Mitigation is encouraged with compensation regarded as a last resort.	
BAS C2	Country Parks – protects Country Parks from adverse development	<u>Compliant</u>		
BAS C5	Trees and Woodlands – Protection of Ancient Woodlands	<u>Compliant</u>		
BAS C7	The Marshes Area – protection from damaging development	<u>Compliant</u>		
BAS C13	Water Wildlife	<u>Compliant</u>		
BAS C15	Hazardous Substances – population's health and safety	<u>Compliant</u>	NPPF para 172 in its guidance on plan preparation states that policies should be based on up-to-date information on the location of major hazards and on the mitigation of the consequences of major accidents.	
BAS C16	Hazardous Substances – hazardous installations	<u>Compliant</u>		
BAS E1	Comprehensive Development Areas – Gardiners Lane South	<u>Generally Compliant</u>	Paragraph 9 of the NPPF promotes sustainable development, which includes making it easier for jobs to be created, replacing poor design with better design and improving the conditions in which people live, work, travel and take leisure. Para 19 stresses that significant weight should be placed on the need to support economic growth.	

Saved Policy		Conformity	Observations in relation to NPPF	Whether supported on appeal
			<p>Para 21 determines that Local Plans should set criteria, or identify strategic sites for local inward investment to meet anticipated needs over the plan period. Para 22 does stress however that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose.</p> <p>Site BAS E1 is subject to an adopted Supplementary Planning Guidance in 2003 and a hybrid outline planning permission (subject to a s.106 agreement) in 2005 for a mixed use scheme of employment, residential and recreation uses; however its delivery in this form is not viable and therefore it has not been built. Para 22 advises that in circumstances where sites allocated have no reasonable prospect of being used for that purpose: Local Planning Authorities need to consider the merits for alternative uses for land or buildings having regard to market signals and the relative need for different land uses.</p> <p>The Council resolved to grant planning permission for a 15 pitch Gypsy and Traveller site subject to certain agreements was made in December 2012 given that its development would not prejudice the wider, comprehensive development of the site.</p>	
BAS E2	Proposed Employment Sites – Terminus Drive	Compliant	<p>The NPPF's commitment to economic growth in order to create jobs and prosperity, (paras 18 – 22) is seen as support for the provision and protection of employment areas to meet future needs for the area.</p>	
BAS E3	Proposed Employment Sites – land north of Courtauld Road, opposite Repton Close.	Compliant		
BAS E4	Existing Employment Areas	Compliant		
BAS E5	Ford Research and Technology Centre -	Generally Compliant		

Saved Policy		Conformity	Observations in relation to NPPF	Whether supported on appeal
	Restrictive Automotive Research and Development Uses		<p>jobs to be created, replacing poor design with better design and improving the conditions in which people live, work, travel and take leisure.</p> <p>Para 22 stresses that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose – and that in these circumstances alternative uses for land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses.</p> <p>Planning permission was granted for residential development on the eastern part of this site, where other material considerations such as the demands for housing, the lack of a 5 year land supply and particular circumstances of the application, justified a departure from the adopted policy.</p> <p>For the remainder of the site the policy is still compliant and covers the existing Ford Technical Centre cluster of buildings, test tracks and expansion land.</p>	
	BAS E6 Unify Industry	<u>Compliant</u>	<p>The NPPF's commitment to economic growth in order to create jobs and prosperity, (paras 18 – 22), is seen as support for the provision and protection of employment areas to meet future needs for the area. Local policy encourages good design of new development reinforced in the general approach to design and improving the environment contained within section 7. Flexibility to accommodate alternative use is encouraged, but still seen to be compatible with BAS E7.</p>	
	BAS E7 Alternative Uses of Industrial Premises	<u>Compliant</u>		
	BAS E10 General Employment Policy	<u>Compliant</u>		Tested on appeal, that although allowed, gave support, just different interpretation/judgement
BAS SH1	New Retail Development – sequential test	Generally Compliant	In Section 2, ensuring the vitality of town centres, the concept of the sequential approach to sites is	

Saved Policy		Conformity	Observations in relation to NPPF	Whether supported on appeal
			supported with the caveat on existing plans being up-to date. The NPPF defines what is meant by the terms edge of centre, out of centre and out of town.	
BAS SH3	Town Centre Retail Development Sites – land allocations	<u>Generally Compliant</u>	Whilst the NPPF supports ensuring the vitality of town centres and therefore a degree of compliance with the local policy, there may be other competing land uses, such as residential development or a mixed use, that may also be supported in these locations where seen as aiding economic recovery.	
BAS SH4	Town Centre Shopping Frontages – primary shopping frontages 1999 Alterations	<u>Generally Compliant</u>	Whilst the NPPF supports ensuring the vitality of town centres and therefore a degree of compliance with the local policy, some flexibility may be required and consideration given to viability issues where a change of use is resinded.	
BAS SH5	Town Centre Shopping Frontages – areas outside primary shopping frontages	<u>Generally Compliant</u>		
BAS SH6	Retailing on Industrial Estates	<u>Compliant</u>	This policy is consistent with the NPPF in supporting economic growth whilst protecting town centres.	
BAS SH7	Local Shopping Centres – new developments and extension to existing	<u>Compliant</u>	The local policy adopts a flexible approach and applies to small scale development serving local communities that is consistent with creating sustainable neighbourhoods.	
BAS SH8	Local Shopping Centres – protection of their retail function	<u>Compliant</u>	Consistent with the guidance in section 2 of the NPPF, however, consideration will need to be given to viability issues in considering changes of use.	Yes
BAS SH9	Temporary Retail Uses – boot sales Sunday markets etc.	<u>Generally Compliant</u>	The NPPF is silent on this matter, however, as these often occur in the Green Belt in Basildon Borough, the NPPF Green Belt policies and those of the Local Plan Saved Policies would be material in decision making.. If they are located within town centres however, they would be seen to contribute to the vitality of the area. (par 23).	
BAS TC1	District Wide Town Centre Policy	<u>Generally Compliant</u>	Aim of local policy is to protect town centre, however, greater attention may now be given to economic viability in assessing schemes with some loss of exiting retail space potentially being accepted.	

	Saved Policy	Conformity	Observations in relation to NPPF	Whether supported on appeal
BAS TC3	Wickford Town Centre – site allocation	<u>Compliant</u>	Policy refers to 2 sites where comprehensive development compatible with a town centre will be supported. This is seen as consistent with paragraph 23 of the NPPF that seeks to ensure the vitality of town centres.	
BAS TC4	Pitsea Town Centre – site allocation	<u>Compliant</u>	Part of this site has already been developed as a mixed use scheme, (residential and retail). However the remainder lends itself to uses appropriate to a town centre and consistent with paragraph 23 of the NPPF that seeks to ensure the vitality of town centres.	
BAS TC5	Markets – protection for Basilton, Pitsea and Wickford market sites	<u>Compliant</u>	In ensuring the vitality of town centres, (para 23), it states that local planning authorities should retain and enhance existing markets and, where appropriate, re-introduce or create new ones ensuring the markets remain attractive and competitive.	
BAS TC6	Residential Development in Town Centres – allows residential development in the town centres whilst protecting ground floor retail units from conversion to housing.	<u>Generally Compliant</u>	Section 2 of NPPF supports ensuring the vitality of town centres, the intent of the local policy. However, recent legislative changes promote a more flexible approach such that less support is given to the loss of ground floor shop units.	
BAS R1	Open Space - protection	<u>Generally Compliant</u>	Section 8 of the NPPF deals with promoting healthy communities, with high quality open spaces which encourage the active and continual use of public areas included as part of the criteria. This provides support for their protection, albeit this will need to be balanced with the need to accommodate more housing to meet demand.	
BAS R4	Proposed Open Space – Hannikens Farm, Billericay	<u>Generally Compliant</u>	Section 8 of the NPPF deals with promoting healthy communities, with high quality open spaces which encourage the active and continual use of public areas included as part of the criteria. This provides support for the provision of new open space in Billericay.	
BAS R11	Sports Facilities	<u>Limited</u>	The biodiversity qualities now present on this site	

Saved Policy		Conformity	Observations in relation to NPPF	Whether supported on appeal
	Allocation – Church Road/Basilidon Road, Laindon	<u>Compliance</u>	may conflict with previous aspirations to develop the land for sporting facilities, but this would need to be assessed in accordance with detailed ecology surveys and the need to examine the potential for mitigation.	
BAS R15	Golf Courses – golf driving ranges design and siting considerations	<u>Compliant</u>	Local policy sets out need for minimising impact on visual and residential amenity which is consistent with the broader objectives of the NPPF.	
BAS R16	Noisy and Disturbing Sports - protects local amenity	<u>Compliant</u>	Whilst there appears to be no special reference to noise pollution and disturbance, design Para 17 seeks good standard of amenity for all existing and future occupants of land and buildings	
BAS T5	Public Transport – improved facilities at public transport interchanges	<u>Compliant</u>	Para 29 – 41 focus on promoting sustainable transport which provides good support for local policy.	
BAS BE12	Development Control	<u>Compliant</u>	Section 7 of the NPPF focuses on the requirement for good design. Para 17 seeks good standard of amenity for all existing and future occupants of buildings. Paragraph 58 determines that policies and decisions should aim to ensure developments will function and will add to the overall quality of the area, establish a strong sense of place, respond to local character and history and be visually attractive as a result of good architecture and appropriate landscaping.	Support given on appeal, (including related DC guidelines)
BAS BE13	Areas of Special Development Control Policy - Ramsden Bellhouse	<u>Generally Compliant</u>	Within Section 7 relating to good design, is the recognition that development should respond to local character and history and reflect the identity of local surroundings and materials whilst not preventing or discouraging appropriate innovation.	
BAS BE14	Areas of Special Development Control Policy – Sugden Avenue Wickford	<u>Generally Compliant</u>	Whilst the NPPF supports the use of design codes, it insists that local policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, landscape, materials and access of new development in relation to neighbouring buildings and the local area more generally.	Yes
BAS BE15	Areas of Special Development Control Policy – Bowers Gifford	<u>Generally Compliant</u>		

Saved Policy	Conformity	Observations in relation to NPPF	Whether supported on appeal
BAS BE17 Shop Fronts	<u>Compliant</u>	Section 7 of the NPPF focus on the requirement for good design, whilst section 2 seeks to ensure the vitality of town centres. Local policy is therefore seen to accord with these broader principles. Protection of local heritage and character is also a feature of the NPPF, (section 12), and this reinforces design control in Conservation Areas and for Listed Buildings.	Yes
BAS BE18 Advertisements – general	<u>Compliant</u>	Paragraphs 67 – 68 indicate the level of control that should apply to advertisements, in the interests of amenity and public safety. It is not specific on those located in the Green Belt, but the broader general NPPF Green Belt considerations will apply.	
BAS BE19 Advertisements – Green Belt	<u>Compliant</u>		
BAS BE20 Telecommunications	<u>Compliant</u>	Paragraphs 42 – 46 support a high quality communications infrastructure that is consistent with the criteria applied in local policy.	
BAS BE21 Healthcare Developments – new primary & community facilities	<u>Compliant</u>	Paragraph 69 provides general support for promoting healthy communities. It recognises the importance of social, recreational and cultural facilities and services the community needs, without specific reference to healthcare developments. Guidance on plan preparation, (para 171), advises working with public health leads and health organisations to understand and take account of health status and health needs of the local community.	
BAS BE22 Healthcare Developments – Extensions to Hospital facilities	<u>Compliant</u>		
BAS BE24 Crime Prevention	<u>Compliant</u>	Paragraphs 58 & 69 promote the creation of safe and accessible environments where crime and disorder and the fear of crime, do not undermine quality of life or community cohesion.	

DR/19/14

committee DEVELOPMENT & REGULATION

date 23 May 2014

COUNTY COUNCIL DEVELOPMENT

Proposal: **New single and double storey annexe to accommodate an additional 210 pupil numbers, together with single storey extensions to the main hall and head teacher's room, the provision of a temporary classbase for a period of 12 months and the provision of 8 new cycle parking spaces.**

Location: **Holy Cross RC Primary School, Tracyes Road, Harlow, CM18 6JJ**

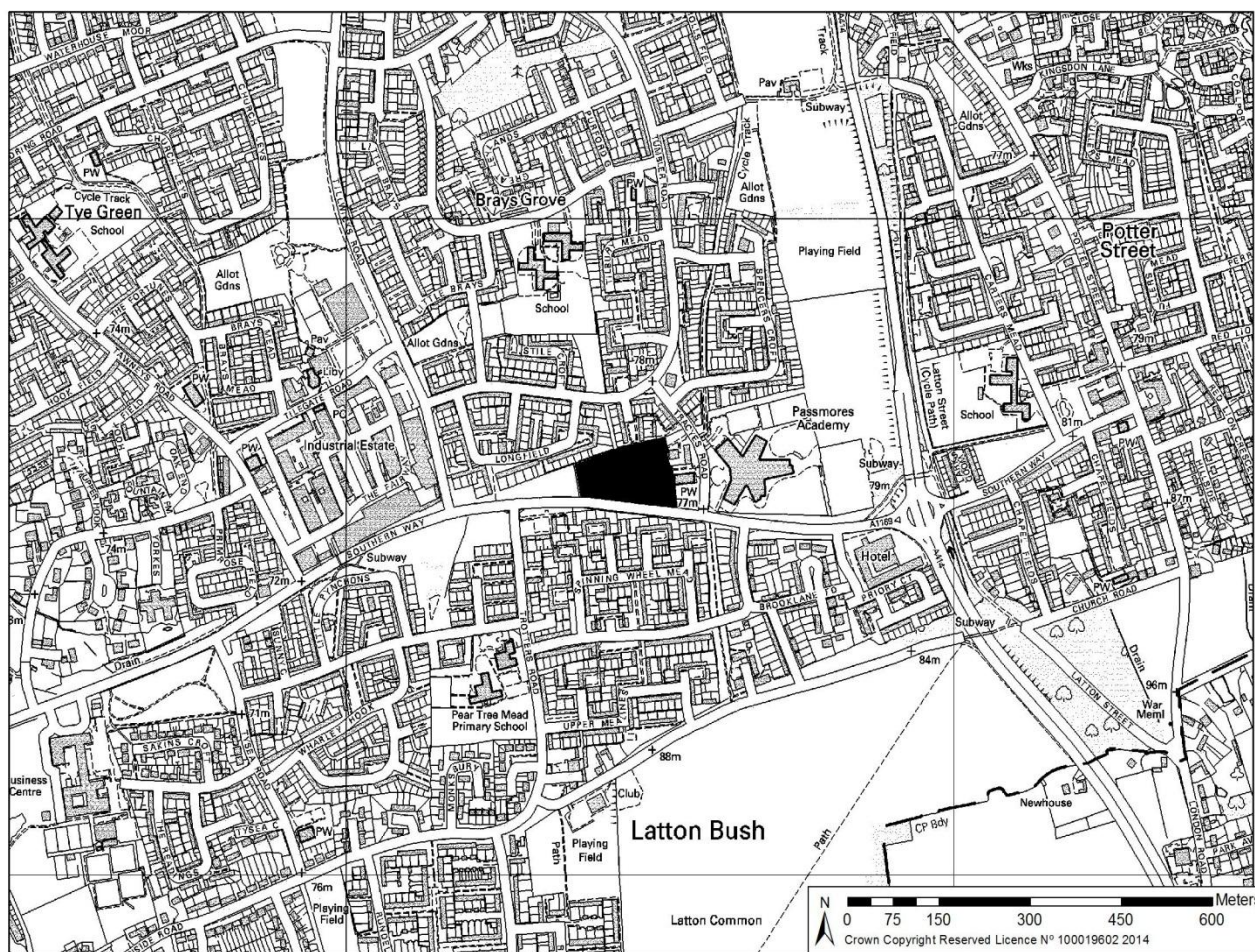
Ref: **CC/HLW/19/14**

Applicant: **Essex County Council**

Report by Director of Operations, Environment and Economy

Enquiries to: Shelley Bailey Tel: 03330136824

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



1. BACKGROUND & SITE

The 1.55ha application site is located north of the A1169 Southern Way in Harlow. It occupies a prominent frontage on the gateway to the Brays Grove estate. Pedestrian and vehicular access is currently provided via Tracyses' Road, located off Southern Way.

The site is bounded to the east by the Holy Cross RC Church and Presbytery, to the west by the Longfield and Spencers Croft residential areas, to the north by the Spencers Croft residential area and to the south by Southern Way. The new Passmores Academy is located to the east of the church, across Tracyses Road.

The southern and western boundaries are well screened by an existing manicured hedge. The northern and eastern boundaries are more sparsely vegetated.

The existing buildings associated with the Holy Cross Roman Catholic Primary School are a mix of two storey and single storey elements, located centrally to the east of the site, with the playing fields to the west. The buildings date back to the 1960's, with the most recent additions being built in 2003 and 2004.

The site is located within the Green Wedge according to the Adopted Harlow Local Plan.

Development at the school site has been historically permitted by Harlow District Council. The website does not show complete records; however, relatively recent permissions relate to the extension of the car park to provide 8 additional spaces; the erection of a single storey canopy extension and extended playground area; and a single storey extension to provide playground toilets.

2. PROPOSAL

The application is for the expansion of the existing school from a single form entry to two form entry school. Space for an additional 210 pupil numbers is proposed.

The proposed annexe would provide 7 new classrooms, with 2 of those located on the first floor of the proposed two-storey element of the building.

The building would be located to the south of the existing school buildings on an area currently used for informal play.

Extensions to the head teacher's office and main hall are also proposed, together with the location of a temporary classroom to the north of the existing buildings.

8 new cycle parking spaces would be provided.

3. POLICIES

The following policies of the Adopted Replacement Harlow Local Plan, (HLP), provide the development plan framework for this application. The following policies are of relevance to this application:

HLP

Character and Identity	BE1
Accessibility	BE4
Green Wedge	NE1
Trees and Hedgerows	NE11
Vehicle Parking	T9

The National Planning Policy Framework (NPPF), published in March 2012, sets out requirements for the determination of planning applications and is also a material consideration.

Paragraph 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 NPPF. The level of consistency of the policies contained within the Harlow District Local Plan is considered throughout the report.

4. CONSULTATIONS

HARLOW DISTRICT COUNCIL – Objects due to insufficient car parking within the school site.

ESSEX FIRE & RESCUE – No objection. Notes that access for fire service purposes appears satisfactory, but that this will be considered further at Building Regulations stage. Reminds the applicant that additional water supplies may be required for firefighting. Strongly recommends the installation of automatic water suppression systems.

Comment: The consultation response has been forwarded to the applicant.

SPORT ENGLAND – No objection, subject to the imposition of a condition relating to the removal of the construction access road prior to the first occupation of the development and for the area to be subsequently reinstated to playing field use.

THE ENVIRONMENT AGENCY – No specific comments to make. Confirms that the development site lies in Flood Zone 1 and refers to the Flood Risk Standing Advice.

THE COUNTY COUNCIL'S NOISE CONSULTANT – No objection. Comments that the building would need to comply with Building Bulletin 93 (BB93) at Building Regulations stage. Considers it unlikely that the proposed development would give rise to elevated noise at residential receptors; however, seeks confirmation that music would not be played within the temporary classroom proposed in the playground.

HIGHWAY AUTHORITY – No objection subject to the submission of a School Travel Plan prior to occupation.

PLACE SERVICES (Ecology) - No objection subject to a condition restricting tree/shrub removal to outside of 1st March and 1st September unless an ecological assessment has confirmed no species would be adversely affected by such removal.

PLACE SERVICES (Trees) – No objection subject to compliance with the methodology set out in the application.

PLACE SERVICES (Urban Design) – Following confirmation of verge, windows and brise soleil details, raises no objection.

PLACE SERVICES (Landscape) - Following confirmation of plant species, sizing and density, raises no objection.

PLACE SERVICES (Archaeology) – No objection. Confirms that evaluation trenching has established that there is no archaeology on the site. No further work would be required.

LOCAL MEMBER – HARLOW – Harlow South East – Any comments received will be reported.

5. REPRESENTATIONS

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

<u>Observation</u>	<u>Comment</u>
No objection is raised; however clarification is sought on:	
- the location of the proposed temporary classroom;	The temporary classroom is proposed on the play area to the north of the existing building, as shown on the submitted drawings.
- provision for displaced staff parking and contractors' parking during construction;	Displaced staff car parking is proposed to be located in the playground if required. Contractor's parking would be within the proposed compound or in the playground if necessary.
- risk assessment for pupils during construction;	This has been fully considered, with the contractors' access fenced and manned at break times.
- consideration of a site entrance off Southern Way;	This was considered but discounted due to highway concerns.

- 7 spaces within the garaged parking area adjacent to the site should be discounted due to the proposed installation of a gate;	The adjacent garaged area does not form part of the application.
- Infrastructure changes proposed in the 'park and stride' option are not included in this application and there is no light controlled crossing at Tilegate Road;	Park and stride options would be investigated through a Travel Plan.
- Suggests that the parking opposite the Vicar's residence is used as a manned drop off zone rather than for parking.	A drop off zone does not form part of this application.
Parents currently park irresponsibly and there is potential for this to worsen.	See appraisal.
The last Holy Cross permission has not been adhered to – the front was supposed to be green and is not.	This permission was granted by Harlow District Council and is the responsibility of that Council if there are enforcement requirements.
Tracyes Road cannot cope with the current volume of traffic and there is potential for an accident.	See appraisal.
Direct neighbour notification was not carried out.	Direct neighbour notification was carried out in accordance with the Adopted Statement of Community of Involvement. The application was also advertised on site and in the local press, in accordance with statutory requirements.

6. APPRAISAL

The key issues for consideration are:

- A. Need
- B. Policy considerations
- C. Traffic and highway impact
- D. Impact on the environment and amenity

A NEED

Paragraph 72 of the NPPF states :

'The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- give great weight to the need to create, expand or alter schools; and*
- work with schools promoters to identify and resolve key planning issues before applications are submitted.'*

Holy Cross is currently a 210 place school. The proposed development would allow a doubling of this number to 420 from September 2015 – allowing the school to become a 2 form entry (2FE) school (i.e. admitting 60 pupils per year).

There is a predicted deficit of 76 reception places at Harlow schools in 2014/15. This has potential to rise to 88 places with new housing being built. Essex County Council as the Local Authority has commissioned 60 places elsewhere, resulting in an additional need for between 16-28 places in 2014/15. The predicted need rises over the following years.

The proposed temporary classroom is required to house this additional intake scheduled for September 2014. The proposed new building would be in place by September 2015, thus allowing the temporary classroom to be removed.

The head teacher's room is currently below standard for a 2FE school. The proposed extension would also usefully allow meetings to take place within this room.

The Department for Education standard for hall provision for a 2FE school is 230m². Currently, the school has a useable hall area of 142m². The proposed extension would assist with provision for whole school assemblies.

It is therefore considered that there is an identified general need for expansion of schools in Harlow. Whether this need is specific to the Holy Cross school is considered further in the report.

B POLICY CONSIDERATIONS

Holy Cross is located within the Green Wedge, as identified by the Adopted Harlow Local Plan.

HLP Policy NE1 (Green Wedge) seeks to protect the Green Wedge from inappropriate development. In summary, only small scale and replacement buildings will be permitted, and such development must not have an adverse effect on the roles of the Green Wedge.

It is not considered that the development would compromise the roles of the Green Wedge or would adversely harm the amenities afforded in this location.

Although Harlow District Council has raised an objection to the development, the

accompanying report confirms that the principle of this development in the Green Wedge is not objected to and it concurs with the statement above.

In addition to the need for reception pupil places identified previously in the report, the overall demand for primary school places across Harlow has also seen an increased demand for places at Catholic primary schools.

Holy Cross is a Roman Catholic School. The Diocese of Brentwood has confirmed its desire for the particular expansion of Holy Cross school, as well as the school's location in an area with overall need for additional primary school places.

The alternative to providing space at Holy Cross school would be the transportation of pupils across Essex to schools that do have capacity. This would have cost and journey time implications and could also affect the integration of the community with the school as a community asset.

The school shares close ties with the Holy Cross Church, the church hall and presbytery, thereby reinforcing its purpose of serving the local community.

The proposed development is therefore considered to accord with HLP Policy NE1.

C TRAFFIC AND HIGHWAY IMPACT

HLP Policy T9 (Vehicle Parking), in summary, requires that vehicle parking shall be provided in accordance with the adopted Vehicle Parking Standards.

The adopted standards for Essex are the Parking Standards: Design and Good Practice dated September 2009. The maximum vehicle parking standards for primary education are 1 space per 15 pupils.

For a 420 place school such as that proposed, this would equate to a maximum requirement for 28 parking spaces.

A Transport Statement has been submitted with the application. It proposes the use of 60 car parking spaces, 3 of which are for disabled drivers.

Harlow District Council has objected to the development due to insufficient parking facilities within the school site.

It is acknowledged that the school site can only provide 24 vehicle parking spaces. The remaining 36 spaces are outside of the application site boundary. However, the applicant has confirmed that the land is under the same ownership of the school.

In light of this, the applicant has also confirmed that there would be sufficient parking for the proposed school expansion, the existing nursery and the church.

In addition, the application proposes staggered starting times so that there is not coincidental pressure with the opening times at Passmores Academy.

The Highway Authority has raised no objection, subject to the submission of a School Travel Plan prior to occupation. It is considered that this could be required by informative should permission be granted.

The Highway Authority also acknowledges that there are local issues regarding the short term parking by parents along Tracyses Road; however, this is for a limited period at the beginning and end of the school day, during term time.

The Highway Authority notes that the school will be updating and monitoring their travel plan as part of the application and it is clear from its content that the school is doing everything possible to promote sustainable modes of travel to and from school by encouraging parents and pupils to walk/cycle to school where possible and discourage inappropriate parent parking.

The provision of additional parking restrictions in the vicinity of the school has not been considered as part of this application, or required by the Highway Authority, as it is considered by the Highway Authority that this would do little to solve the short term school parking and there are already extensive existing parking restrictions in place in the vicinity.

The proposal to change the school starting time so as not to coincide with Passmores Academy is considered by the Highway Authority to greatly help alleviate the traffic impact to the benefit of all highway users.

Taking into account the fact that the parking standards are maximum standards which may be lowered where the educational establishment is located in an urban area with good access to alternative forms of travel, and considering the proposed Travel Plan, the use of parking space agreement and the proposed staggered start times, it is considered that the development would not have undue impact on highway safety or local amenity through traffic generation or parking.

The proposed development is therefore considered to comply with HLP Policy T9.

D IMPACT ON THE ENVIRONMENT AND AMENITY

Design

HLP Policy BE1 (Character and Identity) requires, in summary, that all new and extended buildings should relate to their setting and strengthen, enhance, protect or create local character.

The proposed development is considered to be ideally located within the site, avoiding visual or noise impact on the residential properties to the north.

The design style would follow that of the extensions built in 2003 and 2004 in terms of form and material type. The roof would be constructed from zinc and would be mainly sloping, thereby reducing the impact towards Southern Way.

A mix of vertical timber cladding, buff yellow facing bricks to match existing, white

aluminium windows to match existing, blue grey zinc verges and soffits, and blue bricks on the window detailing, is proposed to reflect the existing building whilst remaining sympathetic to the surroundings.

It is therefore considered that the proposed building and extensions would not over dominate the existing building and would be appropriate in their setting, in compliance with HLP Policy BE1.

The proposed temporary classroom, whilst not of a design which would usually be considered acceptable for a permanent building, would be fit for purpose. It would be located in a suitable position on site to allow convenient access from the main buildings whilst avoiding impact on the sports facilities and adjacent residential properties. Given its temporary nature, it is not considered that it would result in any significant harm to the appearance of the school site, in compliance with HLP Policy BE1. It is considered that a condition could be imposed requiring its removal by 30th September 2015, in the event that permission is granted.

The location of the building would avoid undue impact on the existing sports facilities. The long jump area would be permanently relocated within the site to make way for the new building but the playing fields themselves would not be impacted upon except during construction. Sport England has requested the removal of the construction access prior to the first occupation of the development and for the area to be subsequently reinstated to playing field use. This is considered to be a reasonable requirement to ensure the playing pitch provision is not compromised in the long term, and it is therefore considered that an appropriately worded condition could be imposed, in the event that permission is granted.

HLP Policy BE4 (Accessibility), in summary, requires that educational buildings provide for access for people with disabilities.

The proposed development is considered to comply with this policy.

It is further noted that the Urban Design Officer has raised no objection.

Landscape

HLP Policy NE11 (Trees and Hedgerows), in summary, requires a tree survey, opposes the loss of important trees and may impose conditions to replace them or protect them during construction.

A Weeping Willow tree is located in the south east corner of the site. A Tree Survey has been submitted with the application and proposes that the tree would be protected during construction. The Tree Officer has no objection to this approach, subject to a condition securing the proposals within the Tree Survey. It is considered that such a condition would be appropriate, in the event that permission is granted.

The Ecologist has raised no objection, subject to a condition restricting tree/shrub removal to outside of 1st March and 1st September unless an ecological

assessment has confirmed no species would be adversely affected by such removal.

The applicant has confirmed that no trees or shrubs would be removed between 1st March – 1st September in any year; however it is considered that, for certainty, a condition could be imposed in the event that permission is granted.

It is therefore considered that the proposals would comply with HLP Policy NE11.

Amenity

The proposed location of the new permanent building would be to the south of the existing school building, between it and Southern Way. It is considered that this is the most appropriate location to ensure minimal impact on amenity, since the adjoining properties are located to the north.

In terms of noise, the County Council's Noise Consultant considers it unlikely that the proposed development would give rise to elevated noise at residential receptors; however, seeks confirmation that music would not be played within the temporary classroom proposed in the playground.

Taking into account the temporary nature of the classroom and considering the proximity of residential properties, it is considered that a condition could be imposed, in the event that permission is granted, to ensure that noise would not adversely affect residents.

It is therefore considered that the proposals would not have any significant undue impact on the surrounding environment or local amenity.

7. CONCLUSION

In conclusion, it is considered that, not only is there a general need for additional school places across Harlow, there is an identified specific need at the application site. There is also a temporary need for a temporary classroom

It is recognised that there is local objection to additional traffic generation in the area. The applicant has proposed adequate vehicle parking spaces, in accordance with the adopted standards. The applicant has also proposed a School Travel Plan which actively encourages alternatives means of travel. It is considered that this complies with HLP Policy T9.

The design of the proposed building, extensions and temporary classroom are considered to be appropriate for the area, in compliance with HLP Policies BE1 and BE4.

The applicant proposes to protect the existing Weeping Willow tree and to plant additional vegetation across the site, in accordance with HLP Policy NE11.

Further, the overall impact on amenity is not considered to be significant.

In balancing the need for the development against the potential impacts, and taking account of the proposed mitigation measures, it is considered that there is no reason to refuse permission and the development would be suitable within the Green Wedge, in compliance with HLP Policy NE1.

The economic, social and environmental gains of the proposed development are considered to have been proven, thereby constituting sustainable development, for which there is a presumption in favour according to the NPPF.

It is further considered that the policies referred to in this report are consistent with the NPPF.

8. RECOMMENDED

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

1. The development hereby permitted shall be begun before the expiry of 5 years from the date of this permission. Written notification of the date of commencement shall be sent to the County Planning Authority within 7 days of such commencement.
2. The development hereby permitted shall be carried out in accordance with the details of the application dated 03 March 2014, cover letter dated 07 March 2014, together with
 - Design Analysis for Proposed Extension and Alteration Works by Roffmarsh Partnership Ltd;
 - Supporting Planning Statement by Capita dated 28 February 2014;
 - Report to Cabinet Member dated 12 December 2013;
 - Statement of Community Involvement;
 - Consultation on proposals to increase primary provision in Harlow from September 2014 dated November 2013;
 - Sustainability Statement;
 - Statement of Utilities and Services;
 - Construction Statement;
 - Transport Statement by Robert West dated February 2014;
 - Noise survey and assessment by Adrian James Acoustics Ltd dated 14 February 2014;
 - Flood Risk Assessment by GTA Civils Ltd dated 09 April 2014;
 - Soft Landscape Specification by Wynne-Williams Associates dated February 2014;
 - Specification by Wynne-Williams Associates dated April 2014
 - Preliminary Ecological Appraisal by Essex Ecology Services Ltd dated January 2014;
 - Tree Survey, Arboricultural Impact Assessment, Preliminary Arboricultural Method Statement and Tree Protection Plan by Hayden's Arboricultural Consultants dated 21 February 2014;

- Archaeological Evaluation by Trial-Trenching dated February 2014;
- Emails from Roffmarsh dated 08 April 2014, 09 April 2014, 10 April 2014, 14 April 2014, 16 April 2014, 17 April 2014, 01 May 2014, 06 May 2014;
- Email from the School Organisation Officer dated 15 April 2014

together with drawing numbers:

- 1401/LL/101 Rev A dated 04/14/14;
- 1401/LD/501 dated 04/04/14;
- 1401/LP/301 Rev A dated 08/04/14;
- HD/9254/03A dated 08/05/14;
- 3943-D dated 21/02/14;
- 3875-E-302 Rev P1 dated 19/02/14;
- DBS/13692/01 Rev P2 dated 20/02/14;
- M340/WD21/T1 dated March 2014;
- M340/F1 dated May 2013;
- M.340/F2 dated May 2013;
- M340/F3 dated October 2013;
- M340/F5 dated January 2014;
- M340/F6 dated January 2014
- M340/F7 dated January 2014;
- M340/F9 dated February 2014;
- M340/F10B dated 08/05/14;
- M340/F11 dated February 2014;
- M340/F12 dated February 2014;
- M340/F13 dated February 2014;
- M340/F14 dated February 2014;

And in accordance with any non-material amendment(s) as may be subsequently approved in writing by the County Planning Authority, except as varied by the following conditions: -

3. No removal of trees or shrubs shall be carried out on site between 1st March and 1st September inclusive in any year, unless an ecological assessment has been undertaken, submitted to and approved in writing by the County Planning Authority which confirms that no species would be adversely affected by the removal of trees/shrubs.
4. The temporary construction access shown on drawing ref M340/F10A dated 08/05/14 shall be removed and the land shall be reinstated to playing field use prior to the first beneficial occupation of the development hereby permitted.
5. The development hereby permitted shall be carried out in accordance with the tree protection methodology as set out in the Tree Survey, Arboricultural Impact Assessment, Preliminary Arboricultural Method Statement and Tree Protection Plan by Hayden's Arboricultural Consultants dated 21 February 2014 and drawing ref 3943-D dated 21/02/14.
6. The use of the temporary classbase hereby permitted, as shown on drawing

ref M340/F10B dated 08/05/14, shall cease by 30 September 2015 and within 3 months of that date the unit shall be removed from site and the land restored to its former condition within a further 28 days.

7. Adequate control measures shall be applied to ensure noise emanating from the temporary classroom shown on drawing ref M340/F10B dated 08/05/14 does not result in adverse noise impacts to nearby residents. This may include, but is not restricted to, the closing of windows, aural observations at the site boundary and minimisation of the use of amplified music.

BACKGROUND PAPERS

Consultation replies
Representations

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

The proposed development would not be located adjacent to a European site.

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

EQUALITIES IMPACT ASSESSMENT

This report only concerns the determination of an application for planning permission. It does however take into account any equality implications. The recommendation has been made after consideration of the application and supporting documents, the development plan, government policy and guidance, representations and all other material planning considerations as detailed in the body of the report.

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

The County Planning Authority has attended numerous pre-application meetings with the applicant and facilitated pre-application consultations where appropriate.

Throughout the determination of the application, the applicant has been kept up to date with consultation responses and progress. Additionally, the applicant has been given the opportunity to address any issues with the aim of providing a timely decision.

LOCAL MEMBER NOTIFICATION

HARLOW – Harlow South East

DR/20/14

Committee DEVELOPMENT & REGULATION

date 23rd May 2014**INFORMATION ITEM****Applications, Enforcement and Appeals Statistics**

Report by Director of Environment & Economy

Enquiries to Robyn Chad – tel: 03330 136 811

or email: robyn.chad@essex.gov.uk**1. PURPOSE OF THE ITEM**

To update Members with relevant information on planning applications, appeals and enforcements, as at the end of the previous month, plus other background information as may be requested by Committee.

BACKGROUND INFORMATION

None.

Ref: P/DM/Robyn Chad/

MEMBER NOTIFICATION

Countywide.

SCHEDULE**Minerals and Waste Planning Applications**

No. Pending at the end of previous month

17

No. Decisions issued in the month

2

No. Decisions issued this financial year

2

Overall % in 13 weeks this financial year (target 60%)

50%

% on target this financial year (CPS returns count)	50%
Nº Delegated Decisions issued in the month	2
Nº Section 106 Agreements Pending	1
<u>County Council Applications</u>	
Nº. Pending at the end of previous month	10
Nº. Decisions issued in the month	1
Nº. Decisions issued this financial year	1
Nº of Major Applications determined (13 weeks allowed)	0
Nº of Major Applications determined within the 13 weeks allowed	0
Nº Delegated Decisions issued in the month	1
% age in 8 weeks this financial year (Target 70%)	100%
<u>All Applications</u>	
Nº. Delegated Decisions issued last month	3
Nº. Committee determined applications issued last month	0
Nº. of Submission of Details dealt with this financial year	14
Nº. of Submission of Details Pending	79
Nº. of referrals to Secretary of State under delegated powers	0
<u>Appeals</u>	
Nº. of appeals outstanding at end of last month	1
<u>Enforcement</u>	
Nº. of active cases at end of last quarter	33
Nº. of cases cleared last quarter	9

Nº. of enforcement notices issued last month	1
Nº. of breach of condition notices issued last month	0
Nº. of planning contravention notices issued last month	0
Nº. of Temporary Stop Notices Issued last month	0
Nº. of Stop Notices Issued last month	0

