

Development and Regulation Committee

10:30	Friday, 25 September 2015	Committee Room 1, County Hall, Chelmsford, Essex
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Quorum: 3

Membership:

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

Chairman

For information about the meeting please ask for:

Matthew Waldie, Committee Officer

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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 Clerk to report receipt (if any)	
2	Declarations of Interest To note any declarations of interest to be made by Members in accordance with the Members' Code of Conduct	
3	Minutes To approve the minutes of the meeting held on 24 July 2015.	7 - 14
4	Identification of Items Involving Public Speaking To note where members of the public are speaking on an agenda item. These items may be brought forward on the agenda.	
5	Minerals and Waste	
5a	Colemans Farm, Rivenhall To consider report DR/24/1, relating to the extraction of an estimated 2.5 million tonnes of sand and gravel together with the provision of a new access from Little Braxted Lane; and the installation/construction and operation of primary processing and ancillary facilities comprising washing and bagging plant, silt lagoons, weighbridge, site management office, mess room and maintenance workshop; with restoration to agriculture and water based nature conservation habitats, on land at Coleman's Farm, Little Braxted Lane, Rivenhall, Witham, Essex, CM8 3EX Reference: ESS/39/14/BTE.	15 - 86

5b	Pitsea Landfill To consider report DR/25/15, relating to the continuation of installation of waste pre-treatment facilities and recontouring of the landfill to facilitate restoration permitted by ESS/35/06/BAS without compliance with condition 4 (completion timescales), to allow waste to be deposited on site until 31 December 2025 and the site restored to nature conservation by 31 December 2027 and without compliance with condition 3 (waste geographical sources) to allow importation of waste from outside Essex and Southend and also without the development of the previously permitted waste pre-treatment facility, at Pitsea Landfill, Pitsea Hall Lane, Pitsea, Basildon, SS16 4UH Reference: ESS/49/14/BAS	87 - 130
5c	Colchester Quarry (Bellhouse) References: ESS/06/15/COL & ESS/07/15/COL. Item withdrawn	
6	Enforcement Update	
6a	Little Warley Hall Farm, Fairsted To consider report DR/27/15, relating to the developments from the decision not to grant planning permission for the construction of an abattoir wash water storage tank and deodorising ring apparatus including associated equipment and container, at Little Warley Hall Farm, Ranks Green, Fairstead, Chelmsford, Essex CM3 2BG Reference: ESS/60/13/BTE Planning Inspectorate reference: APP/Z1585/C/14/2220003	131 - 134
7	Village Green	
7a	Village Green update To note the outcome on applications processed in the last 12 months to register land as a town or village green pursuant to Section 15(2) of the Commons Act 2006 ("the 2006 Act"), as set out in report DR/28/15.	135 - 160
8	Information Item	

- 8a Applications, Enforcement and Appeals Statistics** **161 - 162**
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/29/15
- 9 Date of Next Meeting**
To note that the next meeting will be held on Friday 23 October 2015 at 10.30am. Committee Room 1, County Hall.
- 10 Urgent Business**
To consider any matter which in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

Exempt Items

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

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

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

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

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

MINUTES OF A MEETING OF THE DEVELOPMENT AND REGULATION COMMITTEE HELD AT COUNTY HALL, CHELMSFORD ON 24 JULY 2015

Present

Cllr R Boyce (Chairman)	Cllr M Mackrory
Cllr J Abbott	Cllr M Maddocks
Cllr J Aldridge	Cllr Lady Newton
Cllr K Bobbin	Cllr J Reeves
Cllr M Ellis	Cllr C Seagers
Cllr I Grundy	Cllr S Walsh
Cllr J Lodge	

1. Apologies and Substitution Notices

Apologies were received from Cllr C Guglielmi (substituted by Cllr M Maddocks) and Cllr J Jowers (substituted by Cllr C Seagers).

2. Declarations of Interest

Cllr Abbott declared a personal interest in agenda item 5a, in respect of Colemans Farm, as a member of Braintree District Council and Rivenhall Parish Council, both of which have opposed the application; and as member of the Campaign for the Protection of Rural Essex, which was a consultee. He also opposed this site in the Minerals Local Plan process. He would speak as local member and withdraw for the discussion of the item and thereafter not take part in the vote on the application.

Cllr Boyce declared a personal interest in agenda item 5a, in respect of Colemans Farm, as a member of Maldon District Council, which was consulted.

Cllr Lady Newton also declared a personal interest in agenda item 5a, in respect of Colemans Farm, as a member of Braintree District Council, which opposed the application, and its portfolio holder for Housing and Planning. She also knows Simon Brice, of Brice Aggregates, in a personal capacity.

3. Minutes

The Minutes and Addendum of the Committee held on 26 June 2015 were agreed and signed by the Chairman.

4. Identification of Items Involving Public Speaking

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

Extraction of an estimated 2.5 million tonnes of sand and gravel; provision of a new access from Little Braxted Lane; installation/construction and operation of primary processing and ancillary facilities comprising washing and bagging plant, silt lagoons, weighbridge, site management office, mess room and maintenance workshop; with restoration to agriculture and water based nature conservation habitats.

Location: Land at Colemans Farm, Little Braxted Lane, Rivenhall, Witham CM8 3EX.

Ref: ESS/39/14/BTE.

Applicant: Brice Aggregates.

Public Speakers:

a) speaking against the application:

Cllr Bob Wright

Cllr Clare Dobie (speaking on behalf of Little Braxted PC)

Cllr Michael Lager

Ms Clare Dobie (speaking on behalf of Stop the Quarry Group and as local resident)

b) speaking for the application

Mr Dan Walker, agent for the applicant.

And, speaking as local Members, Cllr J Abbott and Cllr R Bass.

Minerals and Waste

5. Colemans Farm, Rivenhall

The Committee considered report DR/21/15 by the Director for Operations, Environment and Economy.

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

Policies relevant to the application were detailed in the report.

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

The Committee noted the key issues that were:

- Need and principle of development
- Ecological considerations and Habitats Regulations assessment
- Landscape and visual impact
- Noise and dust
- Traffic and highways
- Pipelines
- Water and flood risk
- Heritage impact.

In accordance with the protocol on public speaking the Committee was addressed by Cllr Bob Wright, speaking on behalf of Rivenhall Parish Council, which opposes the application. Cllr Wright made several points:

- The development will have a severe impact on local residents and businesses, and on those living in Burghey Cottages in particular
- Access via Little Braxted Lane is totally unsuitable, requiring widening of this lane and hard cutting back of hedges, and will be hazardous to residents
- Suggestions have been made about producing new footpaths, to enable

pedestrians to avoid the dangers of increased quarry traffic, but these have not been taken up

- HGVs emerging from Little Braxted Lane going onto the A12 southbound will have to cross the slip road bringing traffic coming off the A12 into Witham, usually moving at about 50 mph. The sightlines are not good and do not allow sufficient time for a laden HGV to get up enough speed
- The other access, via Braxted Road, is also unsuitable; it will require removal of hedgerows and, turning right, traffic will have to cross Appleford Bridge, which has suffered damage on several occasions in the past
- Whilst he welcomed the routeing agreement he considered the site needs direct access from the A12.

Clare Dobie then addressed the meeting on behalf of Little Braxted Parish Council. Cllr Dobie said:

- There are many problems associated with the scheme, but the greatest is presented by road safety. The report contains over 50 comments by members of the public relating to road safety concerns
- The slip road at Little Braxted Lane is the greatest concern. It should be longer, straighter and with improved sightlines
- Two other road concerns: (i) there should be a turning circle at the access point to the site; (ii) Little Braxted Lane should be narrowed below the turning circle. This had already been agreed by the Highways Local Panel before this application was submitted, but has been put on hold
- Storage capacity is needed for flood water; this is entirely reasonable to prevent potential flood damage to those properties downstream
- There should be a bond required to ensure that the restoration plan is carried out
- Little Braxted PC opposes the scheme, but seeks the above mitigations if the Committee is minded to approve the application.

Michael Lager then addressed the meeting on behalf of Witham Town Council, to explain residents' concerns. Cllr Lager said:

- Addressing traffic dangers and lorry routeing must be key concerns. Speed of traffic and poor visibility on the bridge are mentioned – but no remedial action is suggested.
- With the proposed widening of the A12 to create a third lane, there should be no mining of the area immediately adjacent to the A12
- There should be a ban on any lorries accessing or leaving the site during rush hours, as there are already queues on the slip roads at these busy times; also site traffic should be banned from the town itself
- On-site retail sales or minerals processing that might cause pollution should be curtailed
- Planting of slow-growing vegetation and landscaping should begin early, rather than be delayed until the end of the site exploitation
- The County Council should receive a single contribution as capitalised amount, to recognise damage to the roads
- Witham Town Council opposes the scheme, but seeks the above mitigations if the Committee is minded to approve the application.

Clare Dobie, a local resident, then addressed the meeting on behalf of “Stop the

Quarry,” a local campaign group. Ms Dobie said:

- Visibility from Little Braxted Lane to the A12 is restricted, not only because of the vegetation, but also because the road is on an incline and a curve. Also, traffic on the slip road travelling towards Chelmsford reduces visibility to less than 160 metres.
- Road safety is the key to this, but there are also concerns about local wildlife. There are otters on the river and provision should be made for them. A buffer zone should be created next to the river, to protect them. There are also bats in the area, which need the hedgerows to forage on.

Dan Walker, a Chartered Mineral Surveyor speaking on behalf of the Applicant, then addressed the meeting. Mr Walker raised several points:

- The site is allocated as Site A46 under the Essex Replacement Local Minerals Plan 2014. As data from technical surveys has been analysed, some extensions to the area under extraction have been proposed, although the total quantity to be extracted has remained the same: 2.5 million tonnes of minerals that will be processed on site to produce graded and bagged products
 - Flood storage capacity will be available throughout the development
 - The applicant has agreed to sign up to certain HGV routeing restrictions to minimise impact on the local community
 - Progressive restoration of natural habitats will be achieved using on-site resources – no waste materials will be imported. It should deliver 30 hectares of new or enhanced habitat (10 hectares more than that required plans under the MLP)
 - Long term management will be financed by a fund accrued during the lifetime of the project, to ensure the delivery of a sustainable development
- It has been identified as a flagship scheme by the County Council. It will create seven new jobs
- All technical issues raised can be addressed by appropriate mitigation measures as included in the planning conditions found in the report.

Cllr Rodney Bass, local Member for Heybridge and Tollesbury, then addressed the meeting. Cllr Bass pointed out that his division included Great Braxted and Little Braxted, and that, as Cabinet Member for Highways, he spoke with some knowledge on highways. However, he added that he was not making any representations on behalf of the Highway Authority, or speaking on its behalf. Usually, Highways officers were constrained from making anything other than technical evaluations of an incremental nature, relating to each individual case. However, politicians must also consider the overall cumulative impact of applications. This was a major project, which should be bonded, and there were no identifiable gains for the community. Having expressed full support for the objections raised by Braintree DC, and full support for and recognition of the representations made by Rivenhall PC, Little Braxted PC, Witham TC and CPRE, he raised four particular highways issues:

- There is a need to discover exactly how the A12 will be widened; the slips at both Witham North and Rivenhall are dangerous and substandard. At least, a running lane is required on both London-bound and Colchester-bound carriageways between Witham North and Rivenhall and the developer should be making a major financial contribution to this.
- There is a need to understand and regulate the traffic flows to be

generated by this development, which will be substantial. The applicant should have engaged with local communities to explain the routeing and should fit this in with the broader considerations regarding routeing, as demanded by Witham Town Council, for example

- There is a serious safety risk in the use of the upper part of Little Braxted Lane as an access and egress point for site traffic, into the path of vehicles that have just left the A12 or are joining the A12 toward Chelmsford. This needs a new junction alignment. The developer should also pay for the mitigation arrangements in the lower part of Little Braxted Lane, which were agreed by the Local Highway Panel but have been put on hold for three years
- The gravel lorries will cause substantial damage to the actual roads at Witham North and the developer should be required to make a contribution toward restitution of this.

Cllr James Abbott, local Member for Witham Northern, then addressed the meeting. Cllr Abbott made a number of points:

- This is in contrary to the Adopted Minerals Plan adopted in 2014 in three regards: relating to highways access, as it does not comply with any of the three categories; relating to site boundaries, as at no point were these site boundaries referred to when the Plan was being drawn up; and relating to the Braxted Road access – as there was no second access point agreed in the Plan
- There is very little discussion in the report of the access onto the Coleman's Bridge interchange, which is very dangerous
- This is a high quality river landscape, which will be turned into an industrial landscape. There is a bridleway, which will have to be moved. Little Braxted Lane is ancient, and will have to lose much established hedgerow. There is no mitigation proposed for the impact of HGVs turning on it, even though it is identified as a footway/cycleway in the Braintree District's Adopted Local Plan
- There are a number of properties that will be affected – in particular Burghy Cottages, which will be much nearer to the workings, if the extended boundary is adopted. What justification has been given for moving this boundary? And to moving it nearer to the Blackwater?
- An extraction period of 17 years is a very long time – 14 is the allocated period. Is this necessary?
- The identity of vehicles using the second exit (Braxted Lane) needs to be clarified. If these are HGVs, this is contrary to S11 of the Adopted Minerals Plan
- There is a concern about the maintenance of vegetation by Highways England
- Researched timings for the Colemans Bridge slip road suggest a car travelling at the average speed on leaving the A12 takes 6.2 seconds from entering the sightline to reaching the Little Braxted Lane and 4.2 seconds when travelling at 60 mph – far too short a time to allow the HGVs to emerge and motorists will not expect any such vehicles emerging there
- There will be an impact on wildlife and archaeological assessments have identified a potential prehistoric site there. Appleford Bridge is a listed structure and should be protected
- Has any air quality assessment been made for cumulative effect,

between the A12 and the quarry?

- Descriptions of increased traffic flow expressed in terms of a percentage increase are not appropriate here, as no HGVs currently use Little Braxted Lane.

Councillor Abbott left the meeting at this point.

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

- In response to the highways concerns raised, Officers and Highways England are satisfied that, in view of the information that has been submitted and the independent road safety audit, the impact on the local and strategic traffic situation will be acceptable
- At the Examination into the Minerals Local Plan in November 2013, many of the issues were raised in principle. The highways impact was scored as 'Amber 3', suggesting there were several issues of concern that needed to be addressed at the application stage. Following local concerns raised to the application, the developer has given a commitment to keep visibility splays cleared and maintained on the slip road at Coleman's bridge under licence from Highways England
- All impacts have been fully assessed for the development, including the extended boundaries which avoids mineral being sterilised.
- The National Policy Planning Framework recommends that restoration bonds only be issued in special circumstances; it is unlikely this application is exceptional as the applicant has control of the land and no importation of fill material will be required for restoration
- With regard to the potential damage to roads, the planning authority follows the guidance of the highway authority, which has not suggested that the developer should make any payments. HGV movements would be restricted to 58 per day, and the annual tonnage to 150,000tpa. The development is not large in comparison to some developments
- It is difficult to secure a committed sum for damage to roads as it is hard to pin down precisely which lorries are doing the damage; and there are already substantial HGV movements at Witham North
- The exit into Braxted Park Lane will be used by HGVs, but it is intended as a secondary exit, for traffic going to the Tiptree area only – a very small proportion; this is to avoid HGVs having to join the A12 northbound at Witham North and then travel on other residential roads. A Member noted that the exit at Rivenhall was very poor and suggested that HGVs should not use it at all
- The Government has made a commitment to widen the A12, which is at a very early stage of development as yet; but work must start on the scheme by 2020. It will affect this development and Essex County Council will work with Highways England on this
- HGVs will be deterred from going left onto Little Braxted Lane and there will be appropriate signage to this effect. Errant HGVs that have turned into Little Braxted Lane by mistake will have room to turn around, rather than have to travel further up the lane as they do now; so this will be an improvement.

A Member proposed that, in view of a number of issues and concerns that had been raised, that the item should be deferred, to allow for further work and negotiation with the applicant and that a site visit is held to help Members consideration of the application and better understand issues of concern.

Members were informed that, without an agreed extension of time, the applicant would have a right of appeal to the Secretary of State for non-determination at the end of August should the application remain undetermined by then. This was noted.

A motion to defer the decision was proposed and seconded. Following a vote of ten in favour and one against, it was

Resolved

That the decision be deferred, to allow for a site visit at the soonest convenient date and for further consideration and discussion with the applicant, where appropriate, with regard to the following:

- a) Traffic concerns raised at the meeting, including the question of a possible contribution being made by the applicant for damage to the roads and for junction improvements, and improvements/protection works on Little Braxted Road
- b) The question of whether a restoration bond may be acquired
- c) The protection of the River Blackwater and a buffer against the area of extraction.

Councillor Abbott rejoined the meeting at this point.

6. Martells Quarry, Ardleigh

The Committee considered report DR/22/15 by the Director of Operations: Environment and Economy.

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:

- Appropriateness and need for the development in this location
- Environmental issues - Traffic
- Environmental issues - Noise

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

- There is no requirement in the existing wording that the imported material should be used for blending purposes only; this could be included under Condition 7
- The application would permit the annual importation of up to 20,000 tonnes of mineral, but the output would remain at 125,000 tonnes per

annum, including the imported material. Restrictions in respect of HGV movements would remain the same, although it was thought an average of up to 2 extra movements per day might occur as a result of the change.

The resolution was proposed, incorporating the amendment in respect of Condition 7 of the original permission, as agreed by the Committee, and for a requirement on blending to be included, and seconded. Following a vote of 11 in favour, none against, with Cllr Abbott abstaining, it was

Resolved

That planning permission be granted subject to:

- 1) Condition 7 of planning permission ESS/46/14/TEN being amended to read: "No more than 20,000 tonnes of mineral per annum shall be imported into the processing area as defined on Drawing No M13.227.D.005 entitled "Final", and;
- 2) Condition 7 of planning permission ESS/46/14/TEN being amended to include a requirement for blending use only, and;
- 3) All other conditions of planning permission ESS/46/14/TEN being carried forward and appropriately reviewed and updated to reflect current practice.

7. Statistics

The Committee considered report DR/23/15, Applications, Enforcement and Appeals Statistics, as at end of the previous month, by the Director of Operations, Environment & Economy.

The Committee **NOTED** the report.

8. Date and time of Next Meeting

The Committee noted that the meeting scheduled for 28 August 2015 had been cancelled to allow a member site visit to take place and therefore the next meeting would be held on Friday 25 September 2015 at 10.30am in Committee Room 1.

There being no further business the meeting closed at 12.20 pm.

Chairman

DR/24/15

committee DEVELOPMENT & REGULATION

date 25 September 2015

MINERALS AND WASTE DEVELOPMENT

Proposal: Extraction of an estimated 2.5 million tonnes of sand and gravel together with the provision of an new access from Little Braxted Lane; and the installation/construction and operation of primary processing and ancillary facilities comprising washing and bagging plant, silt lagoons, weighbridge, site management office, mess room and maintenance workshop; with restoration to agriculture and water based nature conservation habitats.

Location: Land at Colemans Farm, Little Braxted Lane, Rivenhall, Witham, Essex, CM8 3EX.

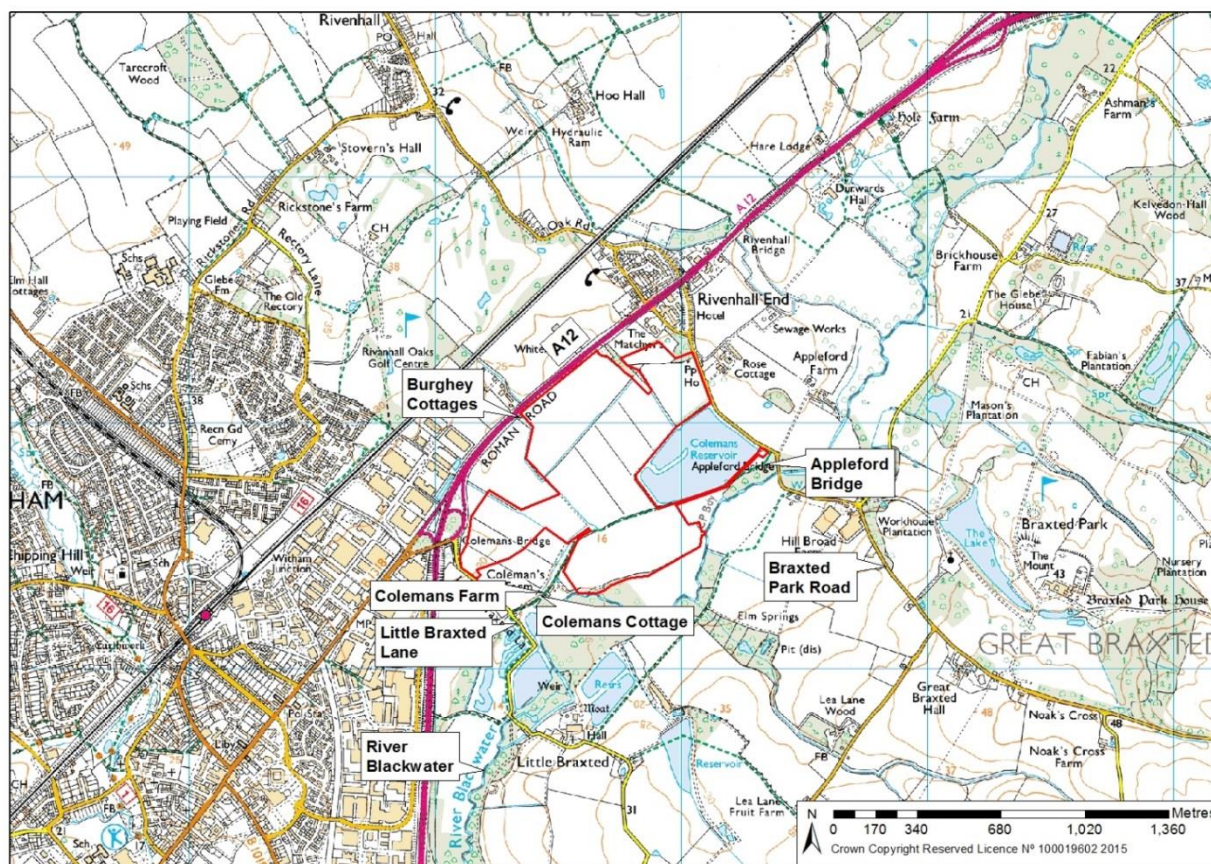
Ref: ESS/39/14/BTE.

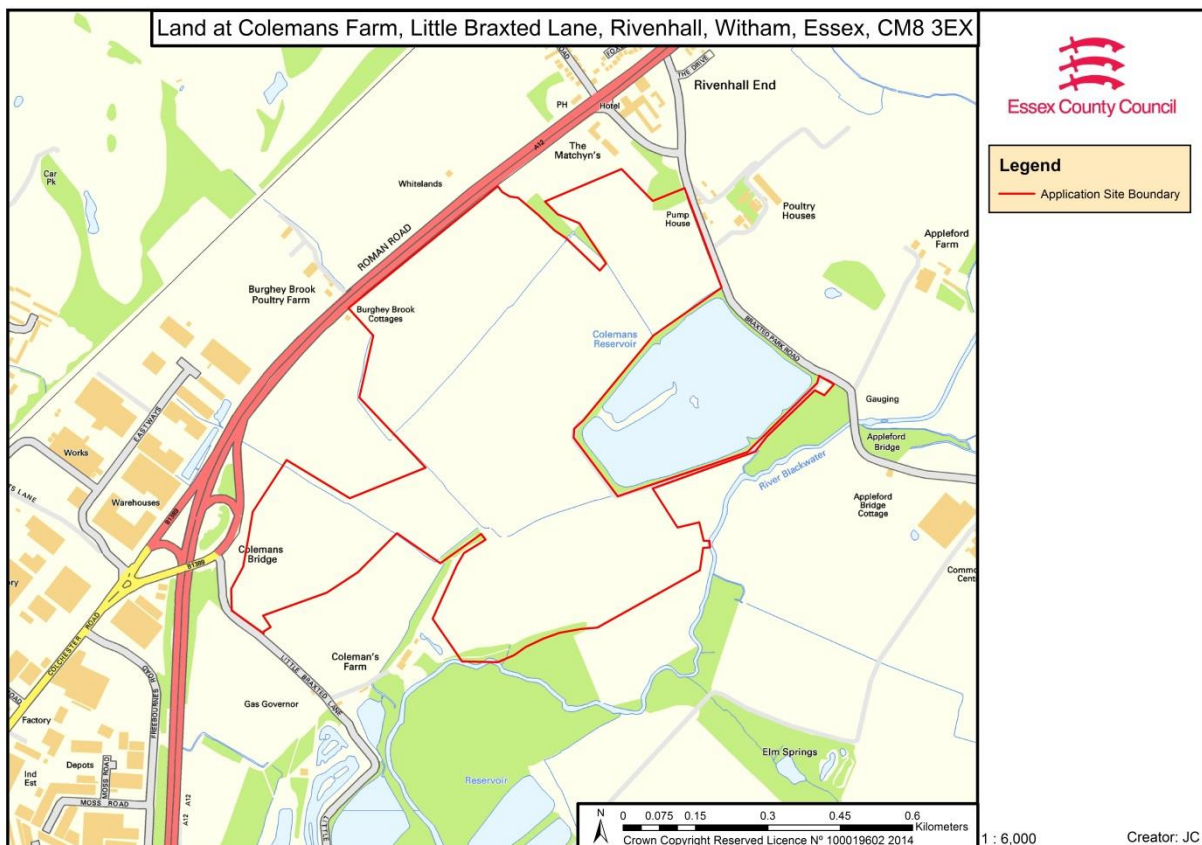
Applicant: Brice Aggregates.

Report by Director of Operations, Environment and Economy

Enquiries to: Gráinne O'Keeffe Tel: 033301 33055

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





1. BACKGROUND

On the 24 July 2015 the Committee considered the aforementioned application. The officer report is set out at Appendix A.

It was resolved at that meeting to defer determination of the application to allow members of the Committee to visit the site.

The Committee also requested officers to have further discussion with the applicant to address:

- a possible contribution being made by the applicant for damage to the roads and for junction improvements and improvements/protection works on Little Braxted Road
- whether a restoration bond may be acquired
- the protection of the River Blackwater and a buffer against the area of extraction.

The site visit was carried out on 28 August 2015.

Officers met with the applicant and his agent on 18 August 2015 to discuss the issues previously raised by the Committee.

This report provides updated information following the July meeting and consideration of the application should again take into account the original officer

report (at Appendix A) as well as the additional information set out in this report.

2. UPDATE

Ecological considerations and Habitats Regulations Assessment

The potential ecological impacts were originally reported in the Environment Statement however at that time the full set of ecological surveys were not complete. A fully consolidated ECIA was submitted on 12 January 2015. Tables 6 and 7 of the report provide a summary of the impacts.

In response to this the ECC ecological specialists requested clarification on six further points and an addendum to the ECIA in this regard was submitted on 9 June 2015.

In all instances the scope for impact during operations remains of minor impact of low significance. Long term the impacts are mainly beneficial to varying degrees of significance.

During the Committee meeting concerns were expressed about the River Blackwater not being appropriately safeguarded. The allocation boundary for the site A46 in the Minerals Local Plan is indicated to be 10m from the riverbank. As the planning application was worked up the applicant considered this to be too close and proposed a 30 metre minimum stand off as part of the original application. In view of the stated concerns and the acknowledged scope for otter activity in particular, (although survey work did not record any on site), the applicant is now proposing a revised stand-off distance of 50 metres. The relevant plans are C45/01/03B and C45/01/05A and these plans would specify the revised stand-off distance should permission be granted.

Noise & Dust

Questions were raised at the Committee about the potential for noise and dust impact on both Burghey Brook Cottages and residences around Rivendale such as the Matchyns.

The noise assessment submitted in support of the application confirmed that the noise climate at both receptors is heavily influenced by activity along the A12. At both residences the background noise levels are already at/or around 55dBa Laeq 1hr. This is the maximum limit of acceptable noise levels resultant at mineral workings, as defined in the NPPF and Planning Practice Guidance.

Table 11 of the Environment Statement confirms that in both instances for Burghey Brook and Far Rest (which is in proximity to the Matchyns residence) the assessed noise levels predicted as a result of the proposed development are less than background and there is therefore no scope for cumulative effects.

In respect of potential Dust/Air Quality impacts, it is confirmed that the residences of Rivenhall are the most sensitive receptors, however the report reproduced at Appendix 8 of the Environment Statement confirm that the effect of the perimeter bunds and intervening vegetation would minimise impacts to within acceptable levels. The applicant has agreed to implement and enforce a dust action plan

which would be in use throughout the development, should permission be granted.

Traffic & Highways

Commuted sum: The applicant has offered to pay a financial contribution for damages to the highway during the operational phase of the proposed development. The applicant would provide in advance a commuted sum (quantum to be agreed with the Highway Authority) on a general maintenance basis for the length of the highway between the proposed site access on Little Braxted Lane and the junction with the B1389 Colemans Bridge. This could be secured through a S.106 legal agreement.

Junction 22 improvements: Concerns were highlighted over changes in use patterns at the junction, in particular scope for impact on regular commuters. The Highway Authority has indicated that appropriate warning signage is considered to be an effective means of warning road users of the change in conditions. The applicant proposes to erect a number of warning signs at the locations indicated on drawing (15057-12), under licence from the Highway Authority or Highways England.

Drawing No. 15057-12 also indicates the extent of vegetation that the applicant proposes to remove under licence from Highways England to secure visibility splays down the A12 slip road for the junction at B1389/Little Braxted Road. The applicant has offered to maintain this shaded area for the duration of the development, under licence from Highways England.

Both Highways England and ECC Highways are satisfied that the proposed works to the junction have been designed in accordance with relevant highways standards and has been independently verified via a stage 1 Road Safety Audit.

Little Braxted Lane access: The applicant has explored the possibility for the proposed site access to be modified to allow for a turning circle rather than a 3 point turn for HGV's entering Little Braxted Lane in error. The applicant has submitted further information (drawing ref. 15057-11) which demonstrates that the design of the access is such that a u-turn is possible, and removes the need for HGV's to reverse onto Little Braxted Lane.

The Highway Authority has further commented that:

"The applicant proposes an access arrangement that proposes visibility splays that accord with the speed of traffic using Little Braxted Lane. Whilst the oak tree is proposed to remain vegetation will have to be removed from around the tree to form the visibility splay. The girth of the tree is small and it will only form a momentary obstruction of approaching traffic and the standards allow for this to occur on occasion. Furthermore the drivers of HGVs will have an advantageous view of traffic approaching along Little Braxted Lane due to their raised seating position. Clearly the specific details will need to be looked at as part of the detailed design of the access and if the oak tree requires crown lifting for example this can be carried out at that time in conjunction with specialists.

Traffic signals would be an unusual feature on the local rural road network and

the junction would be complicated by the fact that the road width tapers from 7.3 metres to approximately 3 metres in the vicinity of the junction. This would mean that additional road widening may be required that would introduce a very urban junction to a rural location

In summary based on the visibility splays that have been shown on the drawing and will be provided together with the volume of traffic using the lane and site access a signal controlled junction is not required to serve the development.”

Braxted Park Road Access (Secondary Access): The planning application includes a proposal to upgrade the existing access onto Braxted Park Road and to use it as a secondary access for local deliveries to the Tiptree market.

This entrance was not included in the site allocation in the Minerals Local Plan but it has been fully assessed through the current planning application. The Highway Authority Essex is satisfied with the proposed works to improve sightlines at this access.

The applicant has provided clarification regarding the proposed secondary access. In traffic routing terms the secondary access would enable the applicant to provide the materials to the Tiptree Market without going through Rivenhall, in particular Oak Road.

If the secondary access wasn't included in the scheme, and assuming the restriction on activity along Oak Road would remain in place, HGV's delivering materials to Tiptree would need to drive eastbound on the A12, make a turning at the Kelvedon Junction (J23), come back west bound on the A12 to access Braxted Road.

This means without the secondary access around 5.3 miles (6.7km) of extra road miles per delivery if materials are delivered to the Tiptree market area.

The proposals set out in the planning application estimate that around 10% of the sand and gravel from the site could be routed towards Tiptree. This equates to approximately 250,000 tonnes over the life of the scheme or the equivalent of 12,500 HGV deliveries.

This means that without the secondary access being in place some 66,250 extra road miles (83,750km) would be created over the life of the project. Estimates would therefore suggest a carbon saving of around 8 metric tonnes per year.

Whilst the figure is not significant in regional or national terms it is in a local context and supports transport (Policy S10 of the MLP 2014) and climate change policies (Policy S3 of the MLP 2014).

Cyclepath improvements along Little Braxted Lane: It is understood that Little Braxted Lane forms part of a National Cycle Route and that the original proposal did not provide for adequate mitigation in this regard.

The applicant has reviewed conditions on land within their control and proposes to construct a cycle path circa 2.5m – 3m wide on lands to the west of Little Braxted

Lane (drawing No. C45/01/02A and C45/01/08). This would link with the existing footway on little Braxted Lane and the bridleway way 105_29 and footpath 105_635 further east. The Cyclepath would be 2.5 - 3.0m wide and suitably surfaced (subject to a separate need for express planning permission if required).

It is proposed that the cycle path would be permissive at first but secured for the duration of the development via a s.106 agreement.

A12 widening: Highways England has since stated that:

“Unfortunately it is too early to say what impact the proposed widening scheme may or may not have on this particular site.

We have not as yet entered into the phase of the project where we would investigate in detail or consider route alignment options, this work will take place throughout 2016.

During the route options identification stage we will obviously gather more detailed information with regards to alignment constraints and opportunities and the wider impacts, once these route options have been evaluated, we would then proceed to wider consultation with all stakeholders, to select the preferred solution, at which time we would seek to place our route protection.

I appreciate this is a vague response and does not answer the questions which will be raised by the landowner, and planning committee, it is just unfortunate that the timing is such we are not able to offer anything more detailed at this time.”

As a preferred route has not yet been identified by Highways England and no route protection is yet in place, it is too premature to say that the proposed development would prejudice the future development of the A12 and as such it is considered that there are no grounds to refuse the application for these reasons.

Water and Flood Risk

Further representation has been made by a local resident requesting the inclusion of two planning conditions to require the storage of flood water (at all stages of the quarry's life), based on risk to properties downstream and a condition or permitting clause was requested on ceasing to pump at times when flood is expected; the trigger to be linked to levels in the River rather than in the voids.

Following further consultation with the Environment Agency the EA has confirmed:

“there is ample floodplain storage from day 1 to accommodate fluvial flood flows for all events up to and the 1 in 100 year (1%) fluvial event inclusive of future climate change.”

In relation to pumping the EA is satisfied that there would not be any pumping off site during a significant fluvial event as it would be too dangerous for contractors and would be contrary to its flood evacuation plan. It is likely to contravene the discharge licence and legislation for the site.

The two conditions proposed by the local resident are not considered to be necessary or reasonable and therefore have not been recommended to be imposed should permission be granted.

Heritage Impact

In response to questions regarding potential archaeological impacts associated with the scheme

A range of investigations have been undertaken by the applicant including aerial photography, geophysics and trial trenching.

These investigations have confirmed that the majority of the site doesn't include any scope for archaeological significance, but there are specific areas that need further investigation.

There are two planning conditions proposed that are linked to paleolithic investigations and conventional investigations.

ECC Place Services have assessed the potential impact on built heritage, including Appleford Bridge and they do not raise an objection to the proposed development.

Other Issues

Restoration Bond

Concerns have been expressed about the need for a bond to secure restoration of the site. It is the applicant's contention that a bond is not warranted in this instance as the developer and landholder are one and the same with a longstanding presence as landowner and developer in the area.

As per paragraph 144 of the NPPF:

"In determining planning applications to provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances."

The NPPF and guidance is clear that bonds should only be sought in exceptional circumstances, and as the extraction and restoration is to take place in a phased basis, the risk is low and it is considered that there are no special circumstances to justify requiring a bond from the developer – especially given that the proposed restoration scheme is to a lower level and the importation of fill material would not be required.

Notwithstanding this, the applicant has confirmed the intention to become a member of the Minerals Product Association (MPA) and in doing so the site would be covered under the MPA Restoration Guarantee Fund – although it would not be reasonable for any planning condition or legal agreement to require this.

Policy S11 of Minerals Local Plan

Policy S11 states *“Proposals for minerals development shall be permitted where it is demonstrated that the development would not have unacceptable impacts on the efficiency and effective operation of the road network, including safety and capacity, local amenity and the environment.”* and *“Where transportation by road is proposed, this will be permitted where the road network is suitable for use by Heavy Goods Vehicles or can be improved to accommodate such vehicles.”*

The proposal to improve the existing access at Little Braxted Lane to provide access to the main road network at Junction 22 of the A12 is considered to be in accordance with Policy S11.

3. CONCLUSION

Taking into account the aforementioned information and further consideration of the application in the report at Appendix A, the site is identified as a preferred site in the Minerals Local Plan and the principal of extraction has been accepted and the need for the release of mineral proven. The variance in site boundary between the application site and preferred site in the MLP has been justified and is considered to be in accordance with Policy S6.

The impact of the proposed development on the environment has been assessed and is considered to be acceptable in terms of ecology, landscape and visual amenity, noise and dust, traffic and highways, water and flood risk, impact on heritage and subject to appropriate mitigation measures and conditions outlined in the report, the proposed development is considered to be in accordance with the National Planning Policy Framework (March 2012) and the development taken as a whole, namely, Essex Minerals Local Plan (MLP), Adopted July 2014; the Braintree Core Strategy (BCS), Adopted September 2011; the Braintree Site Allocations and Development Management Plan, as amended by further changes (ADMP), September 2014; and the Braintree District Local Plan Review (BDLP), Adopted July 2005 (saved policies only).

RECOMMENDED

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

A Legal Agreement covering the following matters:

- a. Ecological management plan and 25 year aftercare;
- b. Lorry routeing plan including the use of the Braxted Road access for local deliveries only;
- c. Scheme for improvements to signage on Coleman's Bridge and between the B1029 and proposed Little Braxted Lane access;
- d. Local liaison group;
- e. Habitat Management Group.
- f. Commuted sum for maintenance of highway between site entrance on Little Braxted Lane and junction with Colemans Bridge.
- g. Permissive cycle path on applicants as indicated on drawing No. C45/01/02A and C45/01/08 for duration of development (subject to any need for express

planning permission).

- h. The prior completion of a S278 agreement requiring the clearance of vegetation and then subsequent maintenance to ensure visibility splays of at least 160m forward visibility splay in accordance with the details in Appendix B of the Road Safety Audit Stage 1, April 2015

And

Conditions covering the following matters:

1. COM1 - Commencement within 5 years.
2. COM3 - Compliance with submitted details.
3. CESS2 – Cessation of development.
4. CESS7 – Revised restoration in event of suspension of operations.
5. CESS3 - Removal of ancillary development (including haul route and car park).
6. GEN1 – Advance submission of details of plant site (workshop, messroom, bagging plant building, weighbridge) prior to construction of plant site.
7. HOUR2 – Hours of working (mineral specific):
0700– 1800 hours Monday to Friday
0700 – 1300 hours Saturdays
No working on Sundays or Bank/Public Holidays.
8. MIN6 – Records of output (150,000 tpa).
9. PROD3 – Vehicle records of output.
10. BESPOKE – Noise monitoring scheme prior to commencement.
11. NSE2 - Temporary operations.
12. NSE5 – White noise alarms.
13. NSE6 – Silencing of plant and machinery.
14. MIN1 – No importation.
15. MIN4 - Restriction on exports and no aggregates shall be sold directly from the application site.
16. BESPOKE - No importation of waste.
17. LS8 – Soil handled in a dry and friable condition.
18. HIGH10 – Advisory vehicle routeing (no left turn out of site along Little Braxted Lane).
19. LGHT1 – Fixed lighting restriction.
20. AFT1 – Aftercare scheme to be provided.
21. HIGH11 – Visibility splays and junction radius on Little Braxted Lane as shown in principle on David Tucker Associates drawing nos. 15057-02, and 15057-06.
22. HIGH15 – Gates.
23. BESPOKE – Highway works as shown in principle on drawing no. 15057-06.
24. HIGH11 – Visibility splays and junction radius on Braxted Road as shown in principle on David Tucker Associates drawing no. 15057-05.
25. HIGH4 – Prevention of mud and debris on the highway.
26. HIGH6 – Lorry sheeting.
27. HIGH14 – Surface material.
28. BESPOKE- Mitigation strategy for geoarchaeological investigation.
29. BESPOKE – Post-excavation assessment of the geoarchaeological fieldwork.
30. BESPOKE – Mitigation strategy for archaeological investigation.
31. BESPOKE – Post-excavation assessment of the archaeological fieldwork.
32. POLL6 – Groundwater monitoring.
33. LAND1 – Landscape and restoration scheme.

34. LAND2 - Replacement landscaping.
 35. TREE4 – Tree protection scheme.
 36. VIS1 – Limiting impact of skips/containers, etc.
 37. VIS2 – Stockpile heights.
 38. DUST1 – Dust suppression scheme.
 39. DUST3 – Spraying of haul road.
 40. BESPOKE – Submission of further ecological surveys prior to the commencement of each phase.
 41. ECO7 – Construction Environmental Management Plan.
 42. LS2 – Soil Movement Scheme.
 43. LS3 – Machine Movement Scheme.
 44. LS4 – Stripping of Top and Subsoil.
 45. LS5 – Maintenance of Bunds.
 46. LS6 – Retention of soils.
 47. LS7 – Location and volume of bunds.
 48. LS9 – Soil stripping depths and replacement
 49. LS10 – Notification of commencement of soil stripping
 50. LS11 – Notification of soil placement
 51. LS12 – Topsoil and subsoil storage
 52. LS13 – Topsoil and subsoil placement
 53. LS14 – Final soil coverage
 54. POLL4 – Fuel/chemical storage.
 55. RES1 – Stones to be picked.
 56. RES4 – Final landform.
 57. MIN7 – Extraction depth limit.
 58. MIN8 – Limits of permitted site.
 59. GPDO2 – Removal of PD rights – specific.
 60. HIGH 5 - HGV movements to be limited to 58 movements (no more than 29 in and 29 out of the combined access/egress points onto/from Little Braxted Lane and Braxted Road) per working day
-

committee DEVELOPMENT & REGULATION

date 24 July 2015

MINERALS AND WASTE DEVELOPMENT

Proposal: **Extraction of an estimated 2.5 million tonnes of sand and gravel together with the provision of an new access from Little Braxted Lane; and the installation/construction and operation of primary processing and ancillary facilities comprising washing and bagging plant, silt lagoons, weighbridge, site management office, mess room and maintenance workshop; with restoration to agriculture and water based nature conservation habitats.**

Location: **Land at Colemans Farm, Little Braxted Lane, Rivenhall, Witham, Essex, CM8 3EX.**

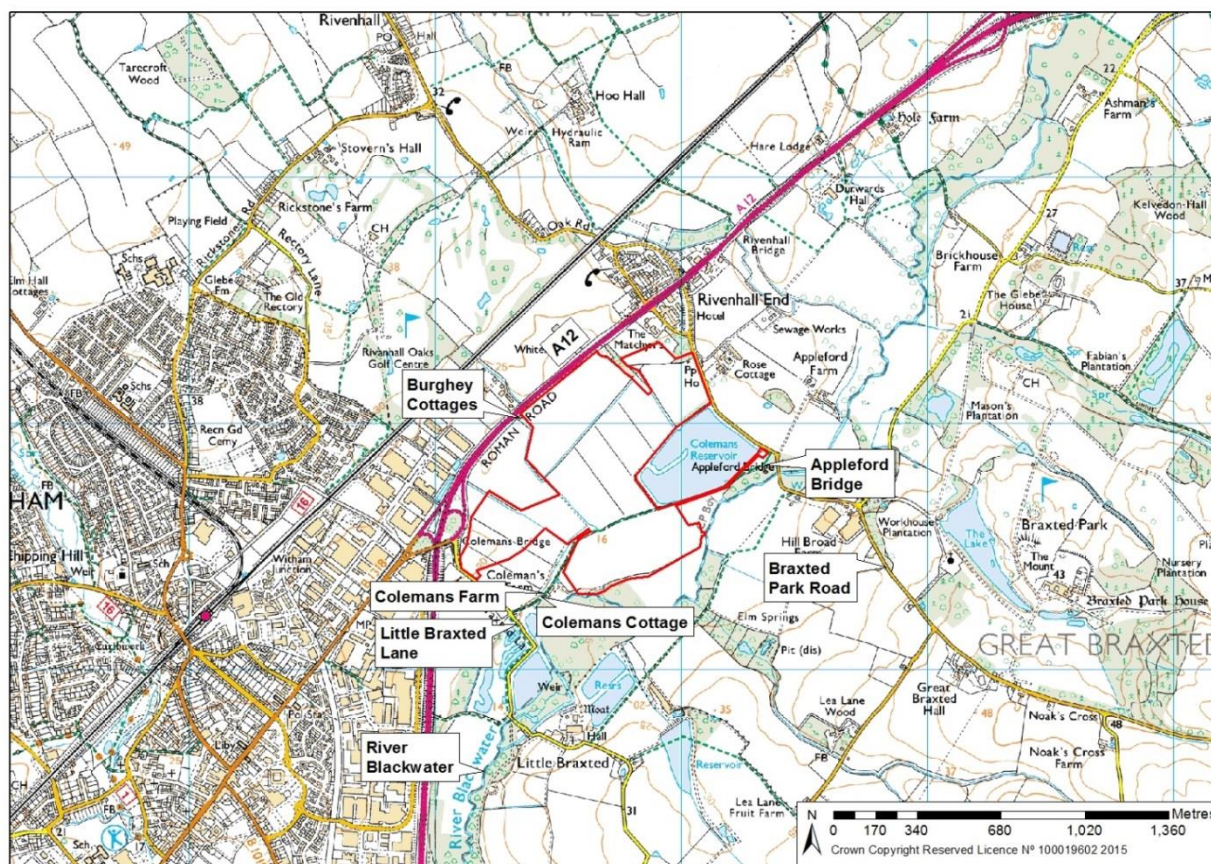
Ref: **ESS/39/14/BTE.**

Applicant: **Brice Aggregates.**

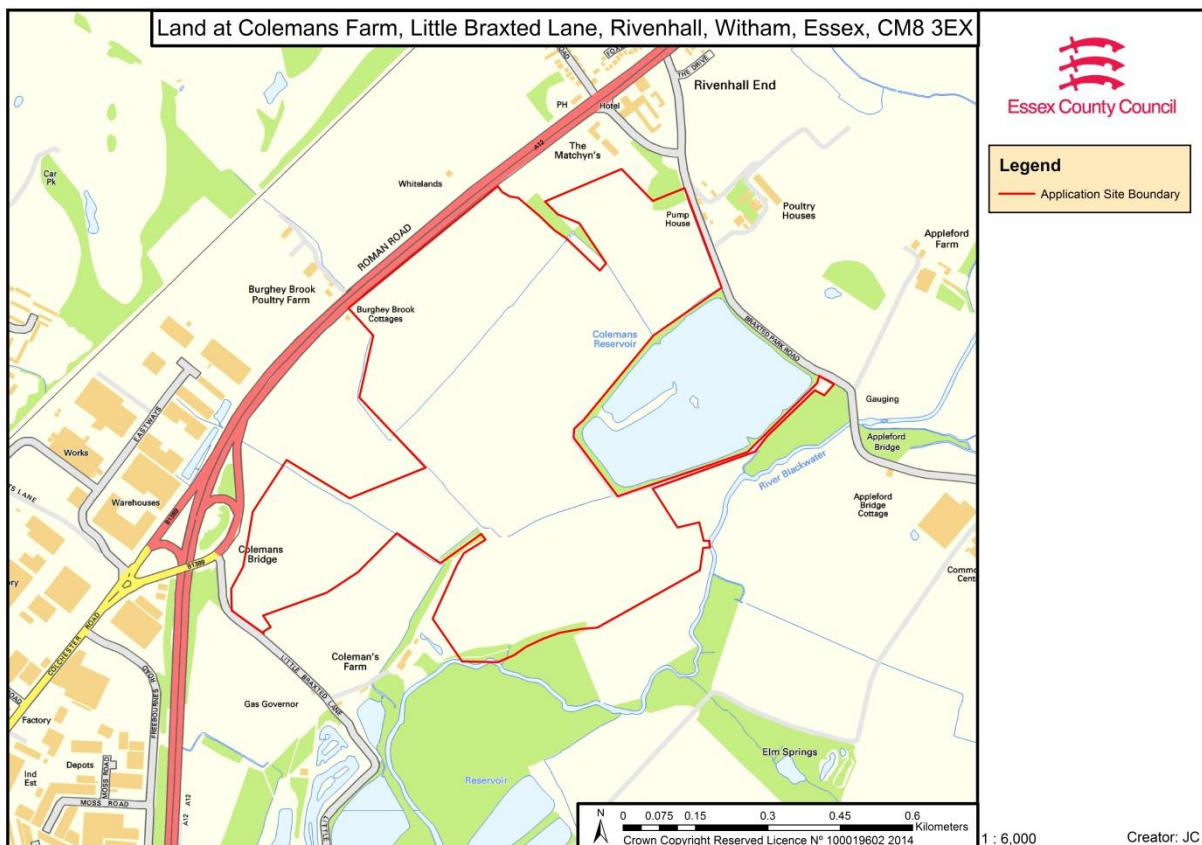
Report by Director of Operations, Environment and Economy

Enquiries to: Ms. Gráinne O'Keeffe Tel: 03330133055

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



Site Location Map



Site Plan

4. SITE

The application site is broadly identified as a preferred site for primary mineral extraction in the Adopted Essex Minerals Local Plan 2014. There are differences between the application site and preferred site boundaries, which will be explained further in the report.

The 55.3ha application site is located south-east of the town of Witham. The site is bounded to the north-west by the A12 trunk road, to the east by Braxted Park Road and to the south west by Little Braxted Lane.

The land is currently mainly in arable agricultural use. Around half of the site has been analysed as Agricultural Land Classification Grade 3a, which is 'best and most versatile' land.

The River Blackwater is located to the south. The application site is within 10 km of the Blackwater Estuary SPA, SAC, Ramsar and SSSI.

Bridleway 29 (Rivenhall) cuts through the application site from Little Braxted Lane to Braxted Park Road and would require either temporary or permanent diversion.

Little Braxted Lane is identified as a footpath/cycleway in the Local Plan.

The nearest residential properties to the site are Coleman's Farmhouse, located approximately 250m east of the proposed extraction area and Coleman's Cottage beyond that; Burghay Brook Cottages, located approximately 100m north of the

proposed extraction area; and properties at Rivenhall End, located over 100m from the proposed extraction area and mainly north of the A12.

Gas mains cross the proposed site access, run alongside the western boundary and approximately the route of Bridleway 29.

The proposal has been advertised as potentially affecting the setting of the following heritage assets:

- Little Braxted Mill and Mill House including attached Mill Bridge (Grade II);
- Summer House south west angle of wall at Little Braxted Hall (Grade II);
- Garden Wall attached to the west of Little Braxted Hall (Grade II);
- Little Braxted Hall and railings enclosing front garden (Grade II);
- Church of St Nicholas (Grade I);
- Monument 8m west of the porch of Church of St Nicholas (Grade II);
- Kitchen/Dovecote approximately 100m north of Little Braxted Hall (Grade II*);
- Appleford Bridge (Grade II);
- Appleford Bridge Cottage (Grade II);
- Witham Lodge and Entrance Gates (Grade II); and
- The Grade II* Registered Park and associated listed buildings/structures at Braxted Park.

5. PROPOSAL

The application is for the extraction of 2.5 million tonnes of sand and gravel from a 34.6ha extraction area. Extraction would take 17 years at a rate of 150,000 tonnes per annum, followed by a further year for restoration. A 25 year aftercare period is proposed.

Extraction would take place in 12 phases, with the new access onto Little Braxted Lane, haul road, main plant site area and lagoon complex to be constructed first.

It is proposed that the site would be restored to arable agriculture and water-based nature conservation habitats utilising indigenous materials.

Vehicular access/egress is proposed via either a new purpose built access off Little Braxted Lane, or via the infrequent use of an alternative access off Braxted Road.

A primary processing plant, bagging plant and ancillary facilities including a weighbridge, site office and access are proposed in the south west section of the site.

Proposed hours of operation are as follows:

- 0700 – 1800 hours Monday to Friday
- 0700 – 1300 hours Saturdays
- No working on Sundays or Bank/Public Holidays.

The application is subject to mandatory EIA since it qualifies as a Schedule 1 project under the Environmental Impact Assessment Regulations. An

Environmental Statement has been submitted with the application.

6. POLICIES

The following policies of the

- Essex Minerals Local Plan (MLP), Adopted July 2014;
- Braintree Core Strategy (BCS), Adopted September 2011;
- Braintree Site Allocations and Development Management Plan, as amended by further changes (ADMP), September 2014; and
- Braintree District Local Plan Review (BDLP), Adopted July 2005 (saved policies only),

provide the development plan framework for this application. The following policies are of relevance to this application:

	<u>MLP</u>	<u>BCS</u> <u>ADMP</u>	<u>BDLP</u>
Presumption in favour of sustainable development	S1	ADM1	
Strategic priorities for minerals development	S2		
Climate change	S3		
Provision for sand and gravel extraction	S6		
Protecting and enhancing the environment and local amenity	S10		
Access and transportation/ Sustainable access for all	S11	ADM45	
Minerals site restoration and after-use	S12		
Preferred and reserve sites for sand and gravel extraction	P1		
Development management criteria	DM1		
Planning conditions and legal agreements	DM2		
Primary processing plant	DM3		
Secondary processing plant	DM4		
The countryside		CS5	
Retailing and Town Centre		CS6	

Regeneration			
Natural environment and biodiversity		CS8	
Built and historic environment		CS9	
Health and wellbeing impact assessment		ADM43a	
Landscape character		ADM50	
Protection of biodiversity and geodiversity and protected species		ADM51	
Development likely to give rise to pollution, or the risk of pollution		ADM58	RLP62
External lighting		ADM59	RLP65
Layout and design of development		ADM60	RLP90
Industrial and environmental standards			RLP36
Transport assessments			RLP54
Air quality			RLP63
Water quality			RLP72
Landscape features and habitats			RLP80
Trees, woodlands, grasslands and hedgerows			RLP81
Protected species			RLP84
River corridors			RLP86
Alterations and extensions and changes of use to listed buildings, and their settings		ADM 66	RLP100
Ancient monuments and sites of archaeological importance			RLP104
Archaeological evaluation		ADM69	RLP105
Archaeological excavation and monitoring		ADM69	RLP106

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

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

The Essex Minerals Local Plan, Adopted July 2014, and the Braintree Core Strategy, Adopted September 2011, are considered to fall into paragraph 214.

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.

Accordingly, the level of consistency of the policies contained within the Braintree District Local Plan Review, Adopted July 2005, is considered throughout the report, as appropriate.

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

In this respect, on 15 September 2014, Braintree District Council issued an Interim Planning Policy Statement relating to the status of their Site Allocations and Development Management Plan (ADMP), which can be viewed here:

http://www.braintree.gov.uk/info/200230/planning_policy .

In summary, the Council does not intend to submit the ADMP to the SoS for examination due to changes in national government policy.

However, the Braintree District Council must maintain a housing land supply and protect sites identified for community use or open space in the interim period while work continues on a new Local Plan.

Braintree District Council believes that the site allocations and policies contained within the Pre-Submission ADMP are based on robust and credible evidence and, accordingly, has adopted the land allocations and development management policies detailed within the ADMP for use within development management decision-making. The Council is of the view that these robust and clear statements should be given appropriate weight in all matters under consideration and that these are material considerations.

Additionally, Braintree District Council recently consulted (until 6th March 2015) on the Issues and Scoping stage of a new Local Plan. It is therefore at a very early stage of preparation and should benefit from proportionate weight according to paragraph 216 of the NPPF.

7. CONSULTATIONS

BRAINTREE DISTRICT COUNCIL – Objects on the following grounds:

- The site is partly ‘non-preferred’ but has not been justified against MLP Policy S6.
- The processing plant is partly outside of the preferred site boundary, contrary to MLP Policy DM3.
- The character of Little Braxted Lane would be impacted due to widening.
- The use of A12 slip roads and impact on local roads should be considered.
- The restoration plan is insufficiently detailed.
- Loss of agricultural land outside of preferred site boundaries.
- Proposed time period for extraction is inconsistent and should be conditioned.
- Mitigation and management plans should be required for noise, dust, air quality, biodiversity and groundwater impacts.
- Screening of properties in Rivenhall End should be required prior to commencement of development and operations should be restricted to no closer than 150m from those properties.
- The MPA should be satisfied that archaeology, public rights of way, landscape and listed buildings have been adequately considered.

The Environmental Health Officer comments as follows:

- As Braintree District Council is responsible for local air quality management it is required that the air quality is modelled in detail and reference is made to PM 2.5 impact as well as PM10 and detailed dispersion modelling submitted to assess the contribution of the proposed development. The AQ assessment needs to confirm that the increase in traffic particularly HGV traffic movement at the access junction of the site is not significant against existing AQ levels.
- Consideration of noise should take account of the higher level of background noise ‘masking’ provided by the A12 that would not be experienced at more distant properties.
- Noise from water pumps at night should be carefully assessed and mitigated.

MALDON DISTRICT COUNCIL – No objection, subject to conditions relating to:

- Vehicles to leave the site in the direction of the A12;
- Retention of existing vegetation where possible;
- Restoration;
- Access directly from the A12 since the listed bridge would not be suitable for use by heavy vehicles;

The Environmental Health Officer comments as follows:

- Conditions should be imposed relating to monitoring of noise levels and addressing complaints.
- Conditions should be imposed relating to a dust management plan,

monitoring and a process for dealing with complaints.

ENVIRONMENT AGENCY – No objection, subject to conditions relating to:

- Groundwater level monitoring.

HIGHWAYS ENGLAND (Formerly Highways Agency) – No objections based on the transport statement submitted consider the impacts on the strategic road network not to be severely adverse.

HISTORIC ENGLAND – Advises that, in the event that permission is granted, a condition should be imposed requiring the implementation of a detailed mitigation strategy relating to archaeological and palaeoenvironmental remains, in accordance with the recommendations of the County's historic environment advisers.

NATURAL ENGLAND – No objection. In relation to Habitats Regulations Assessment, comments that:

- The proposal is not necessary for the management of the European Site; and,
- The proposal is unlikely to have a significant effect on any European Site, and can therefore be screened out from any requirement for further assessment.

Suggests that the MPA should consider securing measures to enhance the biodiversity of the site from the applicant, welcomes the proposed net gain for biodiversity and welcomes the proposal for the best and most versatile soil resource to be safeguarded with reversion to arable where possible.

ESSEX WILDLIFE TRUST – No comments received.

RSPB – No objection, subject to a condition requiring the implementation of the submitted Ecological Management Plan.

CPRE – Raises the following concerns:

- The river valley is a special landscape area and otters have recolonized the River Blackwater;
- The scale of the development would change the landscape from rural to industrial;
- The tranquillity of the river corridor would be impacted by noise, light and water pollution.
- Flora and fauna would be disturbed;
- Residential amenity would suffer;
- The junction from Little Braxted Lane onto the A12 would be dangerous;
- The A12 is already beyond peak capacity;
- Lorries should be prevented from exiting left towards Little Braxted.
- The use of roads through Witham should be prohibited;
- Retail selling from the site would increase traffic;
- Proposed water bodies have potential to be used for watersports, with

- associated impacts on the area;
- Buildings should be excluded to avoid landscape impact.

Suggests conditions as follows:

- New road layout at the junction with Little Braxted Lane and Braxted Road with the A12, funded by the developer;
- Enhanced Braxted Park Road exit from the site for use by lorried travelling on the A12 towards Chelmsford;
- No quarry traffic through Witham;
- Narrow Little Braxted Lane below the access to ensure lorries don't use it;
- No recreational uses without further planning permission;
- Increase the distance between the quarry and the river in phases 3 and 6;
- Retain a void throughout the life of the quarry to accommodate flood water;
- Ensure levels in the R. Blackwater don't fall due to dewatering;
- Life of quarry to be limited to 10 years;
- No landfill;
- No retail trade;
- No vehicle movements on Saturday afternoons or Sundays;
- Move the bridlepath further from the quarry;
- Provide immediate screening on the A12.

NATIONAL GRID – No objection, subject to an informative requiring the operator to contact National Grid prior to commencing any works in order to agree the necessary safe working practices and stand-offs from the gas pipeline.

BRITISH HORSE SOCIETY – No comments received.

ESSEX BRIDLEWAY ASSOCIATION – Objects to the application due to concerns over the impact on users of the proposed diverted bridleway during the excavation of phases 3-6. Requests that a condition is imposed to require the diverted bridleway to be located further from the excavation area. Disappointed to see that enhancements to rights of way are not proposed. Substantially enhance bridleway provision within the site.

RAMBLERS ASSOCIATION – No comments received.

HIGHWAY AUTHORITY – No objection subject to conditions as follows:

Prior to commencement of development:

1. Site access arrangements for the proposed development off Little Braxted Lane, as shown in principle on David Tucker Associates drawing nos. 15057-02, and 15057-06, to include but not limited to:
 - Visibility splays measuring 4.5m by 70m from the site access in either direction along Little Braxted Lane.
 - A minimum junction radius of 15m on the North West side of the access returned to a minimum carriageway width of 7.3m and appropriate taper to

facilitate the simultaneous entry and exit of HGVs.

- Absolute minimum junction radius on the south east side of the site access to prevent HGVs turning left out of the site access into Little Braxted Lane and to discourage other vehicles from turning left out of the site.
 - Any gates to be set back from the carriageway edge to allow an HGV inadvertently entering Little Braxted Lane to utilise the site access for turning as shown on drawing 15057-07.
2. Highway works shown in principle on David Tucker Associates drawing no. 15057-06 to include but not limited to:
 - The easing of the junction radius on the west side of the junction to ensure that an HGV can turn left onto the B1389 without over-sailing the centre of the B1389.
 - A road width of 7.2 metres between the junction of the B1389 with Little Braxted Road and the site access with Little Braxted Lane.
 3. Prior to commencement of development, highway works off Braxted Road as shown in principle on David Tucker Associates drawing no. 15057-05 to include but not limited to:
 - Visibility splays measuring 4.5m by 215m to the North West and 4.5m by 70m to the south east.
 - Improvements to the junction radii and access width to facilitate the simultaneous entry and exit of HGVs.
 - The removal of vegetation adjacent to Braxted Road to achieve the forward sight stopping distances (SSDs) shown on the drawing.
 4. Prior to commencement of development, a scheme for any necessary amendments to the existing signage and any accompanying traffic orders on Coleman's Bridge (B1029) and between the B1029 and the site access shall be submitted and the approved scheme implemented. The scheme shall include any necessary additional warning/advisory signs, cycleway signs (for Sustrans route 16) and relocation of/or provision of new signs relating to the width and weight restriction on Little Braxted Lane.
 5. Submission and implementation of approved wheel cleaning facilities prior to commencement of development.
 6. Submission and implementation of approved advisory signage for vehicles exiting the site prior to commencement of development.
 7. Submission and implementation of approved lorry routing plan, particularly ensuring that vehicles turn right out of the site onto Little Braxted Lane and only use the Braxted Road access for local deliveries.
 8. No loaded vehicles shall leave the site unsheeted.

9. No unbound material shall be used in the surface treatment of the vehicular access within a minimum of 30m of the highway boundary.

HIGHWAY AUTHORITY (Public Rights of Way) – Comments that the proposed temporarily diverted route of Bridleway 29 (Rivenhall) could be affected by boggy conditions to the south and that a site visit would be required to ascertain this. The proposed permanent route appears acceptable but site inspections would be required towards the expiry of the temporary diversion route. The applicant has been advised that the definitive route is incorrectly shown on the submitted drawings.

COUNTY COUNCIL'S NOISE CONSULTANT – Recommends the submission and approval of a noise monitoring scheme prior to commencement of development to demonstrate compliance and establish existing background noise levels.

COUNTY COUNCIL'S AIR QUALITY CONSULTANT – Recommends that a dust management plan is implemented and regularly reviewed.

PLACE SERVICES (Ecology) – No objection subject to:

- Arable land has some intrinsic value as part of a mosaic of farmland habitats and this is reflected in Defra's Biodiversity Offsetting Matrix, which should be conditioned.
- An Ecological Management Plan should include measures to enhance the value of arable farmland for farmland birds.
- A condition requiring a Biodiversity Management Plan, including demonstration that commercial fishing can operate alongside nature conservation.
- A condition requiring the submission of further surveys.
- A condition requiring a Construction Environment Management Plan.
- Notes that otters and water voles have been identified within the area of search of the River Blackwater, although there has been no sign of them. The application proposed further surveys and mitigation in the event that it is necessary to construct a discharge into the River Blackwater.
- Notes that 4 hedgerows would be lost and that gaps are proposed to be minimised as much as possible. The possibility for bat roosts should be monitored over time.
- Notes that 20ha of priority habitat would be achievable and that other habitats are proposed, including an orchard and open water.
- Recommends informatives.

PLACE SERVICES (Trees) – No objection, subject to conditions relating to:

- Tree protection prior to commencement of works or development.

PLACE SERVICES (Landscape) – No objection, subject to conditions relating to:

- The corners of the northern lake to be more gently curving;
- Submission of a detailed restoration plan;
- Specified depths for topsoil and subsoil planting;
- Submission of detailed sections;

- Surfacing of footpaths, tracks and detail of fencing to be specified;
- Submission of a management plan covering 25 years.

PLACE SERVICES (Historic Buildings)

- The original application did not offered a proportionate level of assessment in relation to the impact of the proposed development on built heritage, as required by paragraphs 128 and 135 of the NPPF and therefore a revised assessment was submitted by the applicant on 10/06/2015 and

The Historic Building's Adviser is comfortable now that this meets the criteria required, and offers a clear, reasoned, justified assessment, which complies with the relevant guidance and legislation. Concern remains in relation to the potential impact on Appleford Bridge, which the assessment has assessed will be caused negligible harm by the proposal. However the officer considers this to be a matter of subjective opinion and does not see this as a reason to not accept this assessment and therefore recommend approval subject to the conditions.

Also comments that:

- A condition should be required to ensure no HGV's turn left out of the site along Braxted Lane or to pass through Little Braxted.
- A structural survey of the Grade II Listed Appleford Bridge would be preferred to ensure that the bridge could cope with additional heavy traffic. A figure for the amount of traffic proposed to use this route should be provided.

PLACE SERVICES (Archaeology) – No objection, subject to conditions relating to:

Geoarchaeological:

- A mitigation strategy following the geoarchaeological investigation;
- Completion of geoarchaeological fieldwork prior to commencement of development;
- Submission of a post-excavation assessment.

Archaeological:

- A mitigation strategy following completion of the archaeological strategy;
- Completion of archaeological fieldwork prior to commencement of development;
- Submission of a post-excavation assessment.

ECC PUBLIC HEALTH TEAM – No comments received.

ECC as Lead Local Flood Authority – No objection.

GREAT BRAXTED PARISH COUNCIL – Objects on the following grounds:

- Not sustainable due to lack of demand/market and loss of productive farmland.
- Otters are present in the river.
- No flood risk analysis has been submitted.
- Dust, fumes and noise would affect a wide area.

- Submitted transport plans are deliberately false. Slow moving HGVs and high volume of traffic would be dangerous.
- Contrary to: Policy S11 due to unsuitable access to the main road network; Policy S12 due to proposed restoration time period; and Policy DM1 due to impact on amenity, appearance and landscape.
- Concern over the use of Braxted Lane and Braxted Park Road. The access to the A12 is already hazardous and the situation would be worsened. Concerned over the urbanisation of the rural area and the effect on properties overlooking the site.
- The Scoping Opinion carried out by ECC has failed.
- Conditions should be imposed relating to a time limit of 10 years; a restoration bond; funding of new junctions to the A12; no working between 5pm – 8am and none at weekends; height of buildings/structures to be 5m or less; no retail sales of bagged or loose materials; an agreed transport route; and an annual payment to the local community.

Comment: National Planning guidance dictates that there is no provision for an annual payment to be made to the local community. Planning obligations must be necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development.

LITTLE BRAXTED PARISH COUNCIL – Objects on the following grounds:

- The EMP timescales are inconsistent with the application as a whole;
- It is disputed that proposed plants would be local native species;
- Insufficient overburden to create a viable area of agricultural land or the proposed restoration scheme;
- Inconsistencies in the description of agricultural land as ‘high quality’ or ‘sterile’;
- It is believed that ECC has not identified the application site as one of 5 flagship sites for priority habitat;
- There is evidence of otters.
- High importance hedgerows would be destroyed;
- The ecological condition of the river has been incorrectly described as ‘poor’;
- Discharge rates from the site should be limited;
- Concern over access at the inadequate Rivenhall End junction of A12 or the Listed Appleford Bridge;
- A dedicated right hand turn lane should be created due to speed of vehicles at Appleford Bridge;
- An extended sight splay is required at Coleman’s Bridge due to speed of traffic approaching from the A12;
- The proposed turning area at the quarry access is inadequate, no width restriction is shown in Little Braxted Lane and it is not known if it will form part of the public highway;
- Little Braxted Lane is part of the national cycle network so lorry manoeuvres should not be encouraged;
- No HGV route has been proposed;
- There is no proposal for the alleviation of emissions from haulage;

- The views of the Highways Agency must be taken into account due to the proposed widening of the A12 to 3 lanes;
- Concern over dewatering impacts;
- All buildings/structures should be removed on cessation of extraction;
- Excavation should not take place in the identified areas of archaeology;
- Highlights discrepancies within the application documents.

Suggests the following conditions:

- Provision of a restoration bond, as per NPPF exceptional circumstances;
- Time limit of 8-10 years for extraction and restoration;
- Improvements to the A12 southbound entry sliproad at Coleman's Bridge and Rivenhall;
- Improvements to the A12 southbound exit sliproad at Coleman's Bridge;
- No retail sales of loose or bagged aggregate;
- Lorry routeing plan via legal agreement;
- No working between 5pm-8am Monday - Saturday and no working between 12pm Saturday – 8am Monday;
- Financial contribution towards locations on lorry route;
- Agreed planning application for afteruse of lakes;
- Sweeping of Little Braxted Lane and clearing of ditches;
- Presence of ECC Archaeologist when overburden is removed;
- Scheme to ensure additional flood capacity at each stage of development;
- Move the nearest excavations away from the river;
- No dewatering during the summer or during drier months;
- Provision of permissive paths and information signage in perpetuity;
- No lighting above 5m in height within 100m of any residential property;
- No lighting outside of approved working hours;
- Annual financial contribution to a fund administered by Rivenhall and Little Braxted Parish Councils.

RIVENHALL PARISH COUNCIL – Objects to the application on the following grounds:

- Coleman's Farm should not be an allocated site;
- The Little Braxted Lane access would be dangerous and there is a weight restriction over the bridge;
- The width of Little Braxted Lane has been overstated;
- The applicant did not consult with the Highways Agency (Highways England);
- The Braxted Road access would require lorries to either travel over the listed Appleford Bridge or to use the dangerous A12 junction at Rivenhall End;
- The turning area would be dangerous for pedestrians/cyclists on Little Braxted Lane;
- Little Braxted Lane/A12 sight lines would require extensive vegetation removal, which may not be maintained by the Highways Agency;
- An access from the A12 slip road to Little Braxted Lane would be dangerous;
- Birds of prey have not been recorded in the bird survey;

- The proposed widening of the A12 to 6 lanes should be taken into account in the Ecological Management Plan;
- Potential loss of hedgerows along Little Braxted Lane;
- The applicant has confirmed that he has not consulted the Parish Council.

Suggests conditions/legal agreement covering the following matters:

- Oak Road, Rivenhall End, should not be used by HGVs;
- Direct access to the A12 southbound should be funded by the developer;
- A separate crossing of the River Blackwater at Appleford Bridge should be considered for quarry traffic;
- The River Blackwater contains otters. The standoff distance from the river should be increased;
- Harm to the character of the Blackwater Valley landscape – planting should be required from the outset;
- Noise and dust impacts on local residents, particularly Burghey Brook Cottages. Bunding, planting and air quality monitoring should take place;
- Water skiing has been publicly proposed as an afteruse. This should be restricted to quiet recreational activities;
- A restoration bond should be required;
- Flooding, the effect of dewatering and polluted quarry water should be controlled;
- The life of the quarry should be restricted to 10 years;
- All buildings/structures should be removed upon completion;
- There should be no retail sales;
- No importation of waste or soils;
- No vehicle movements outside the hours of 9am-5pm, or on Saturday afternoons, Sundays or Bank Holidays and no on-site working outside the hours of 7am-5pm.
- The bridleway should be moved further from the quarry and additional public access provided;
- Lighting should be minimised and well designed;
- Archaeology should be fully investigated and recorded.

WITHAM TOWN COUNCIL – Objects on the following grounds:

- The Little Braxted Lane/Coleman's Bridge junction would be dangerous. How could it be made safe in all weather conditions? What safety measures are required?
- The Braxted Road access at Appleford Bridge would be dangerous;
- There is a risk of flooding;
- Otters are present in the River Blackwater and a larger standoff distance is required between the quarry and the river;
- Safety of cyclists on the National Cycle Network at Coleman's Bridge;
- Provides accident data for the A12 southbound slip road at J22.

Suggests conditions covering the following matters:

- No vehicle movements during am and pm rush hours;
- A contribution towards the construction of a feeder lane between the A12

J23 and J22;

- Reservation of sufficient land to enable a 3rd lane expansion of the A12 between J23 and J22;
- Hedging to be planted at the outset;
- No retail trade;
- Any future recreational use to be subject to further planning permission;
- The developer to maintain the visibility splay on Highways Agency land, since the Highways Agency has not maintained it to date;
- An annual contribution towards the maintenance of adjacent highways.

TIPTREE PARISH COUNCIL – Objects to the application. Considers that the proposed daily vehicle numbers are too high. Requests a speed survey for vehicles exiting the A12 as well as consideration of the road incline and the weight of vehicles turning into/out of the site.

LOCAL MEMBER – BRAINTREE – Witham Northern – Comments as follows:

- The site is within the Adopted MLP although it was rejected previously;
- The application site includes land outside of the preferred site boundary;
- The proposed secondary access onto Braxted Road is a departure from the MLP;
- The Little Braxted Lane access would be dangerous, has a 3t weight restriction and does not have footway for its entire length;
- Little Braxted Lane is an ancient lane;
- The turning area for HGVs on Little Braxted Lane would be dangerous for other road users;
- No guarantee that HGVs won't travel beyond the weight restriction as they currently due to Sat Nav direction;
- Retail sales would result in traffic travelling from/to the Little Braxted end;
- The accuracy of the submitted width of Little Braxted Lane is questioned;
- The applicant states that there has been no consultation with the Highways Agency;
- Long, slow-moving vehicles would have to cross fast-moving traffic to access/egress the site;
- The A12 slip roads are already sub-standard;
- Appleford Bridge is listed and one-way working. It has been struck several times in the past;
- There is nothing to stop HGVs going north on Braxted Road to access the A12;
- Braxted Road contains no footway;
- A legal agreement should ensure no quarry traffic enters Rivenhall End via Oak Road or Henry Dixon Road;
- The proposal is not compliant with MLP Policy S11;
- Approach speeds at the Little Braxted Lane junction are incorrect;
- Where does Highways Agency control over the land by Little Braxted Lane end and Highway Authority control begin?
- The character of the Blackwater Valley would be affected;
- Noise and dust impacts on local residents, including cumulative impacts of air pollution from the A12 and the quarry;
- Is the MPA satisfied that a 17 year life of the quarry is required?

- The bridleway should be protected;
- All buildings/structures should be removed upon cessation and the land restored to countryside with no importation of waste;
- Loss of hedgerow habitats, the River Blackwater is home to otters, distance from the river should be assessed in terms of habitats and flooding;
- There should be control over water levels in the River Blackwater and local fishing lakes, as well as pollution from the quarry;
- Lighting should be kept to a minimum and properly designed;
- Hours of operation and timing of vehicle movements should be restricted to minimise amenity impact and avoid peak times on the A12;
- Requests specific assessments of several structures/landscape features within the defined dewatering radius;
- The FRA includes a plan showing the permanent retention of the haul road and car park, which would require separate planning permission;
- The Geoarchaeological Investigation confirms that no attempt was made to systematically sample the deposits being investigated;
- Impact on the Romano-British Little Braxted Lane;
- The identified Bronze Age feature should be protected from quarrying or at least fully excavated;
- There is uncertainty over the dewatering impacts;
- Locally observed bird species have not been identified in the bird surveys;
- The proposed widening of the A12 to 6 lanes should be taken account of;
- An assessment of the net length of hedgerow creation should be undertaken;
- Why is so little woodland proposed?
- Impact on bats through removal of hedgerows.

LOCAL MEMBER – MALDON – Heybridge and Tollesbury – Objects to the application based on the impact on the highway network and concerns around the safety of existing road users of the A12 off slip at Witham.

8. REPRESENTATIONS

123 properties were directly notified of the application. 113 letters of representation have been received. These relate to planning issues covering the matters presented at **Appendix 2**.

9. APPRAISAL

The key issues for consideration are:

- A. Need and Principle of Development
- B. Ecological considerations and Habitats Regulations Assessment
- C. Landscape and Visual Impact
- D. Noise & Dust
- E. Traffic & Highways
- F. Pipelines
- G. Water and Flood Risk
- H. Heritage Impact

A NEED AND PRINCIPLE OF DEVELOPMENT

The site is broadly allocated as a preferred site (A46) for mineral extraction within the Essex Minerals Local Plan. The proposal site is approximately 9 hectares (20%) larger than the area allocated within the MLP. The difference between the extent of the preferred site boundary and the proposed development site boundary is illustrated in Map1 below.

Paragraph 144 of the NPPF states that: 'When determining planning applications, local planning authorities should give great weight to the benefits of the mineral extraction, including to the economy.'

Policy ADM1 of the Braintree Site Allocations and Development Management Plan support the presumption of sustainable development set outlined in NPPF.

Regardless of boundary, the application proposes the same amount of mineral (2.5mt) as set out within the MLP allocation.

Policy S1 of the MLP states *"Planning applications that accord with the site allocations and policies in this Local Plan will be approved without delay unless material considerations indicate otherwise"*

Policy P1 states *"In the case of Preferred Sites for sand and gravel extraction, the principle of extraction has been accepted and the need for the release of mineral proven."* And further states *"The Minerals Planning Authority will grant planning permission for sand and gravel workings within the Preferred and Reserved Sites.....subject to the proposal meeting the detailed development requirements set out in Appendix 1, other relevant policies of the Development Plan for Essex and any other material considerations"*

The proposed development site outlined in red in the planning application is substantially the same as that delineated in the Preferred site profile map on page 171 of the MLP, but it is larger in area by approximately 9 hectares.

As per Policy P1 and S1 of the MLP, the principle of extraction has been accepted and the need for the release of mineral proven within the preferred site, however as the development site boundary differs from that indicated in the MLP, the difference in the site boundary and extent of additional site area must be assessed in accordance with Policy S6, which resists mineral extraction outside preferred or reserve sites unless the applicant can demonstrate an overriding justification.

The applicant has set out the justification for the proposed site area. The site allocated in the MLP was 46 hectares and the extraction area proposed in the application is 35 hectares within an overall site area of 56 hectares. Of the 9.3 hectare difference, the majority is associated with the proposed ancillary facilities. The applicant's justification is that it would not be possible to maintain a mobile plant in the base of the deposit due to water management constraints and therefore a static plant is required which is best situated outside the geographical extent of mineral deposit.

In respect of the extraction area, although there are some areas where extraction

is proposed outside the preferred area, there are other areas, such as to the east of phases 6 and 7 where extraction is not proposed due to a current understanding of the ecological constraints. The difference in the extraction area is approximately 1.3ha and the difference is because of the understanding of the deposit and context of the site that has developed as part of the applicant's detailed work in support of the planning application.

The applicant states that only extracting mineral from the allocated area would permanently sterilise mineral resource on the periphery that can be worked in an environmentally acceptable and sustainable manner.

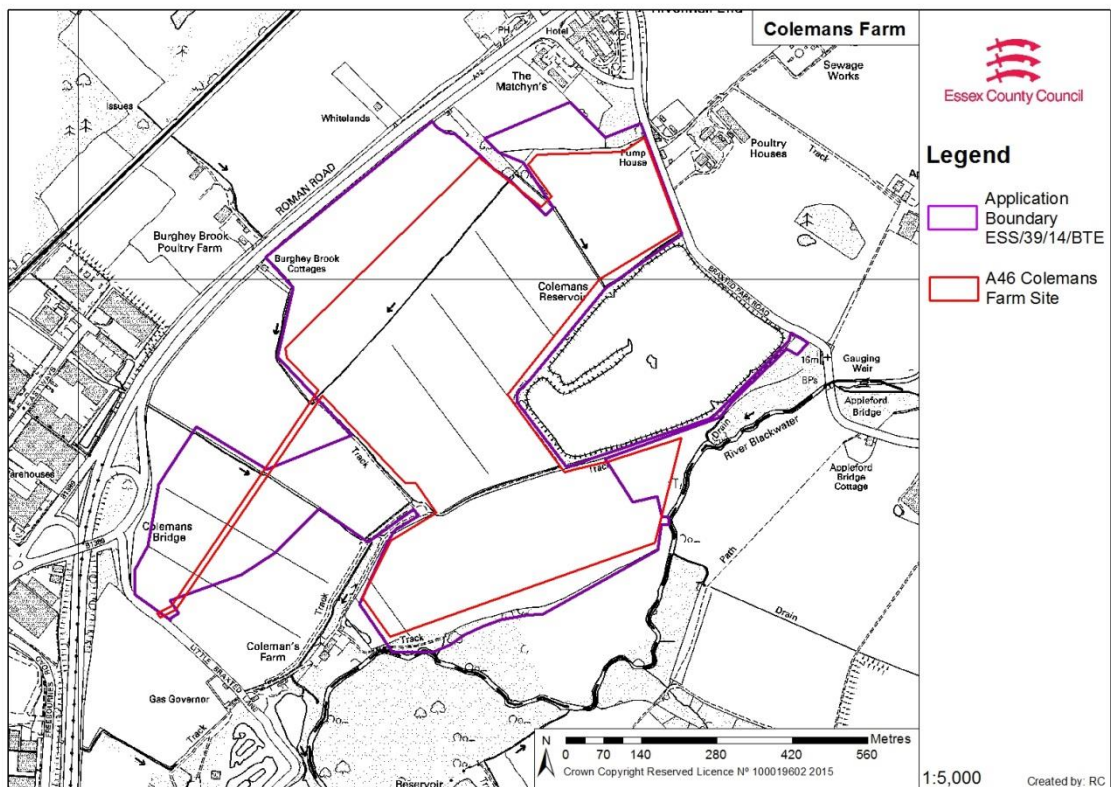
The principle of extraction has been accepted and the need for the release of mineral proven, as set out within MLP Policy P1 (Preferred and Reserve Sites for Sand and Gravel Extraction) and having regard to the extent of mineral extraction proposed outside the preferred area and the fact that the proposed volume of mineral extraction remains the same at 2.5mt, it is considered that the extent of work outside the defined site area is acceptable in accordance with Policy S6.

The primary processing plant is proposed within the site boundary, as advocated by MLP Policy DM3 (Primary Processing Plant). The potential impacts on amenity and the surrounding environment will be considered further in the report.

The site is located outside of the defined boundary of Witham town. Policy CS 5 of the Braintree Core Strategy states *"Development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside."* As minerals extraction can only take place where it arises and the site is a preferred site in the MLP, the development is considered to be in accordance with this policy.

The site includes a bagging plant, due to the location of the site outside the defined Witham town boundary, having regard to the retail hierarchy in the NPPF and Policy CS6 of the Braintree Core Strategy, retail sales to the general public would not be in accordance with policy and should therefore be restricted by a condition should permission be granted.

The proposed bagging plant would only be permitted where there would be no unacceptable impact upon amenity, local environment and the road network, as set out in MLP Policy DM4 (Secondary Processing Plant). Such impacts will be considered further in the report.



B ECOLOGICAL CONSIDERATIONS

MLP Site Allocation A46 states that the Blackwater Valley is an important wildlife corridor and that Appropriate Assessment under the Habitats Regulations would be required. It also notes that there is opportunity for significant biodiversity enhancement and habitat creation on site.

Additionally, Essex County Council has identified 5 flagship schemes which will secure the objective of 200ha of Priority Habitat through the Habitat Creation Topic Paper associated with the Essex Minerals Local Plan. Coleman's Farm is one of the sites and would secure 20 ha of Priority Habitat. The information included with the application demonstrates that the 20ha would be achievable. Offsite habitat improvement schemes are proposed as part of the application.

MLP Policy S12 (Mineral site restoration and after-use), in summary, requires that land proposed for development is capable of being restored at the earliest opportunity to beneficial after-uses which positively benefit the environment, biodiversity and/or local communities. It requires that mineral extraction sites provide biodiversity gain following restoration.

In response to the representations received regarding otters, the application acknowledges that otters may well pass through the River Blackwater for foraging; however no otters, otter holts or other otter field signs were identified within the survey area.

The application proposes further surveys and mitigation for water voles and otters in the event that it is necessary to construct a discharge into the River Blackwater. The ECC Ecologist has also recommended further surveys prior to the commencement of each phase, since the development is proposed to take place

over a relatively long time period, during which time ecological presence could alter.

It is noted that the water vole and otter are fully protected under Schedule 5 of the Wildlife and Countryside Act 1981, however, in accordance with the ECC Ecologist's recommendation, it is nonetheless considered appropriate to add a condition relating to a requirement for further surveys, in the event that permission is granted.

The application site is located approximately 8km from the Blackwater Estuary SPA, SAC, Ramsar and SSSI. However, the known pathway of the River Blackwater lies adjacent to the site. Therefore, the potential impact of the development on the European site has been assessed.

Natural England has confirmed that there is no requirement for further assessment under Habitats Regulations Assessment. The ECC Ecologist has also confirmed that the submitted 'shadow' HRA is adequate.

Several conditions have been recommended by ECC's Ecologist, together with a 25 year management plan which is proposed to be incorporated into a legal agreement in the event that approval is granted. The applicant is also willing to enter into an obligation for a Habitat Management Group, which would allow ongoing input from relevant wildlife bodies throughout the life of the development.

It is therefore considered that ecology has been appropriately considered and that the proposed development would contribute to biodiversity as required by the Adopted Essex Minerals Local Plan and Policy ADM51 of the Braintree Site Allocations and Development Management Plan.

C LANDSCAPE AND VISUAL IMPACT

The site is located within the Blackwater River Valley Landscape Character Area.

A mineral washing plant is proposed to have a normal capacity of 120,000 tpa and maximum theoretical capacity of 440,000 tpa and a bagging plant would have a normal capacity of 30,000 tpa and maximum theoretical capacity of 44,000 tpa. In reality, the overall output of material exiting the site is proposed to be restricted to 150,000tpa by condition, as per the extraction rate, in the event that permission is granted.

The proposed maximum height of the plant would be 8.2m AOD.

A 40,000-50,000 tonne stockpile is envisaged as being necessary in the vicinity of the feed hopper, which would move around. Stockpile heights are proposed to be restricted to 5m in height by condition in the event that permission is granted.

Topsoils and subsoils originating from the main plant site and lagoon areas would be used to form the initial screening bunds.

It is suggested that there would be a requirement for lighting around the processing area during the winter months for health and safety reasons. No

details have been provided and, as such, it is considered that a condition should be imposed to require details prior to the erection of lighting, in the event that permission is granted.

As per Policy ADM 50 (Landscape Character) Braintree Council will maintain and seek to enhance the locally distinctive characters within the District. The strategic landscape impact of extraction was considered when identifying the site as a 'preferred site' for mineral extraction in the Minerals Local Plan.

It is considered that the proposal would not be detrimental to the distinctive landscape features and habitats of the area or harm the open character, nature conservation importance or recreational importance of the floodplains of the River Blackwater and would therefore be in accordance with policies ADM50, RLP80, RLP81 and RLP84

D NOISE AND DUST

NPPF paragraph 123 states planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

Policy ADM58 of the Braintree Site Allocations and Development Management Plan states

"Planning permission will only be granted for development including changes of use which will, or could potentially, give rise to polluting emissions to land, air and water, or harm to nearby residents including noise, smells, fumes, vibration or other similar consequences, when:

Adequate preventative measures have been taken to ensure that any discharged emissions, including those which require the consent of statutory agencies, will not cause harm to land use, including the effects on health and the natural environment;

Adequate preventative measures have been taken to ensure that there is not an unacceptable risk of uncontrolled discharges or emissions occurring, which could cause harm to land use, including the effects on health and the natural environment."

Braintree District Council has commented on air quality and noise controls.

The applicant has clarified the assumptions made in relation to the submitted assessments. It is further noted that the County Council's air quality and noise consultants have raised no objection but recommend conditions. Therefore, it is considered that noise and dust have been adequately addressed and is in accordance with Policy ADM 58, RPL36, RPL 62, RPL 63 and RPL 72; subject to the imposition of conditions requiring noise and dust schemes in the event that approval is granted.

E TRAFFIC AND HIGHWAYS

The NPPF 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.

MLP Policy S10 (Protecting and enhancing the environment and local amenity), in summary, requires that applications for minerals development appropriately consider the health, safety, amenity and quality of life of nearby communities. Applications should demonstrate that no unacceptable impacts would arise. The supporting text states that this includes traffic impacts.

MLP Policy S11 (Access and transportation), in summary, permits minerals development where there would be no unacceptable impacts on the efficiency and effective operation of the road network. The road network should be suitable for Heavy Goods Vehicles and the first preference is for access to be onto a suitable existing junction with the main road network via a short section of existing road.

Little Braxted Lane is a local road which is relatively close to the junction with the A12 trunk road (part of the main road network). Braxted Road is a secondary distributor (also known as Priority Route 2) but is proposed to be used very little for local traffic only. Therefore the proposed access is considered to comply with the route hierarchy.

BDLP Policy RLP54 (Transport assessments) requires all proposals for major development to be accompanied by a Transport Assessment. The more recent ADMP Policy ADM45 (Sustainable access for all), among other requirements, requires Transport Assessments/Statements to assess the impact of the development in terms of highway safety and capacity.

A Transport Statement has been submitted with the application, in compliance with BDLP Policy RLP54 and ADMP Policy ADM45 and as per the Highway Authority's requirements.

A daily average of 42 movements for vehicles above 3.5t gvw is proposed, with a maximum of 58 movements. The capacity of loaded vehicles is estimated to be an average of 20t and maximum of 32t.

Additionally, it is expected that the site would generate a maximum of 12 movements associated with employees and a maximum of 4 movements associated with visitors on a daily basis.

The application proposes that at least 95% of the traffic generated would use the Little Braxted Lane access. Traffic would not be permitted to turn left out of the site. It is considered that a condition could be imposed to require the erection of directional signage in the event that permission is granted. It is also considered that a lorry routing scheme could be required via legal agreement to ensure that

the Braxted Road access would be used for local deliveries only. The lorry routing scheme could also ensure that no Heavy Good Vehicles would use Oak Road through Rivenhall End.

Appleford Bridge is Grade II Listed but it is noted that there is no weight restriction on the bridge and that the Braxted Road access is proposed to be used minimally.

Neither the Highway Authority nor Highways England has objected to the application. The Highway Authority has several requirements relating to visibility and accommodation of larger vehicles within the highway, as well as wheel washing and vehicle sheeting. The Highway Authority also requires provision for turning space should Heavy Goods Vehicles inadvertently turn into Little Braxted Lane. It is considered that all of these requirements could be reasonably required through the imposition of suitable conditions in the event that permission is granted.

It is noted that the forward visibility splay and junction visibility splay at the junction of Little Braxted Lane with the B1389 (Junction 22 A12) would need to be maintained and that this would require maintenance of vegetation within the splay. This is on land belonging to Highways England and, as such, is outside of the applicant's control. It is therefore considered that a condition relating to this would not meet the relevant tests for imposing planning conditions. However, Highways England has confirmed that it has a duty to maintain the visibility splay.

It is considered that subject to the imposition of conditions and legal obligations summarised the proposals are acceptable in terms of impact on highway safety, capacity and amenity, in compliance with MLP Policies S10 and S11.

Public Rights of Way

ADMP Policy ADM45 (Sustainable access for all) includes the aim of providing for pedestrians through safeguarding and enhancing the existing Public Rights of Way network.

Bridleway 29 would need to be temporarily diverted to accommodate the development during operations and then permanently diverted around the proposed water feature.

It is noted that the Public Rights of Way team has raised no objection to the proposals. An informative could be attached to the planning decision to advise the applicant of the procedure to follow for the proposed temporary and permanent diversions.

The applicant has suggested that additional permissive paths could be accommodated into the restoration scheme. It is considered that such paths could be incorporated into a condition, in the event that permission is granted. Such permissive paths would be considered to 'enhance' the existing public right of way network, in compliance with ADMP Policy ADM45.

Little Braxted Lane is a designated cycleway according to the Local Plan Proposals Map. As outlined previously in the report, the Highway Authority has

requested a condition relating to signage of the cycle route, which it is considered could be reasonably required in the event of approval.

F PIPELINES

As noted previously in the report, a high pressure gas pipeline is located within the application site.

National Grid has recommend that and informative is attached to any planning permission granted requiring the operator to contact National Grid prior to commencing any works in order to agree the necessary safe working practices and stand-offs from the gas pipeline.

It is considered that such an informative could be attached in the event the approval is granted. There is therefore considered to be no reason to withhold permission on the basis of the presence of the gas pipeline.

G WATER AND FLOOD RISK

The southern end of the site is located within Flood Risk Zones 2 and 3. A site specific Flood Risk Assessment, as required by the NPPF, was therefore submitted in support of the planning application.

MLP Site Allocation A46 states that the site promoter should liaise with the Environment Agency to discuss possible arrangements for water abstraction; that a Flood Risk Assessment should accompany any application; that prior consent would be required from the Environment Agency for the diversion or modification of any ditches or watercourses; and that a full hydrological and hydro-geological assessment would be required with any application.

One of the water bodies (the northern one) is proposed as a fishing lake. The applicant suggests that the detail could be required through a suitably worded planning condition. However, it is considered that this type of afteruse would not be something which the MPA could control. This therefore would need to be the subject to further planning application should a recreation use be desired.

The site lies within the catchment of the River Blackwater. Two 'ordinary watercourses' (Burghey Brook and unnamed) cross the site from the northwest to the southeast where they join the River Blackwater.

Coleman's Reservoir is located to the immediate east, a smaller waterbody is located to the northwest of the reservoir and an ornamental pond is located to the east of Coleman's Farm.

The River Blackwater floodplain impinges onto the southern boundary of the site.

The groundwater flow is generally in a southerly direction towards the River Blackwater. The Environment Agency has recommended that a scheme of groundwater level monitoring is submitted and implemented prior to dewatering. It is considered that such a condition could be reasonably imposed in the event that permission is granted.

The application proposes to mitigate the potential for increased flood risk downstream (from dewatering and surface water run-off) by controlling the volume of water discharged to the River Blackwater at the pre-development greenfield rate. Since the original submission of the application, the applicant has clarified that the 1 in 2 year greenfield run-off rate is 127 l/s and the 1 in 100 year rate is 513.7 l/s.

Following a significant event, discharge would only take place with the Environment Agency's agreement 'based on observed stage and flow within the River Blackwater at the time'. The discharge rate would be controlled via a hydrobrake or similar mechanism (yet to be confirmed) in accordance with the discharge consent issued by the Environment Agency. The Environment Agency has confirmed that this approach would be fully controlled via the discharge consent, and therefore it is not considered appropriate for any planning permission to seek to duplicate the controls imposed by this separate regime.

A flood evacuation plan is proposed to mitigate any risk posed by rising flood water within the void. This would include monitoring of water levels within the quarry floor and planning of safe evacuation routes for all phases of development. The applicant has confirmed that there would not be any pumping off site during a significant fluvial event.

The NPPF requires all new developments to provide attenuation for flood volumes generated in a 1 in 100-year event with allowance for increase in climate change of 30%.

A representation has been received suggesting that a compensatory fluvial flood storage scheme, ensuring no detriment to the river floodplain storage, should be required by condition for every phase of the proposed development.

In response, the applicant has further clarified that there would be ample storage to accommodate a 1 in 100 year flood event at all stages of development including prior to commencement of mineral extraction.

The Environment Agency has not requested this condition and has commented that there would be ample floodplain storage from day one. Therefore, such a condition is not considered to be necessary or reasonable.

A representation has also been received relating to increased potential for siltation and establishment of vegetation in the River Blackwater as a result of an anticipated reduction in baseflows.

The Environment Agency has commented that fine sediment deposition and increased reed growth as a consequence of this scheme are considered unlikely. Further, if fine sediment deposition were to occur it would not be a significant concern.

Therefore, this point is considered to have been adequately addressed, in accordance with the requirements of the NPPF.

H HERITAGE IMPACT

The NPPF requires that:

'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.'

Archaeology

MLP Site Allocation A46 states that early consultation with Historic England would be necessary and that intrusive evaluation by test pitting and trial trenching would be required.

A desk-based assessment, Palaeolithic report and archaeological evaluation have been submitted in support of the application. Trial trenching has identified Pleistocene sediments in certain areas of the site. A number of significant archaeological features have been identified. Therefore, conditions have been requested by the ECC Archaeologist and it is considered that they could be reasonably imposed in the event that permission is granted.

The development therefore is considered to be in accordance with Policy ADM69 and RLP104 and RLP 105 & 106

Listed Buildings

No registered Historic Parks or Gardens, Historic Battlefields or Scheduled Monuments are located within or adjacent to the application site. The nearest Registered Park and Garden is the Grade II* Braxted Park, located approximately 0.5km to the east. Two Scheduled Monuments have been noted at Rivenhall Long Mortuary Enclosure (located at Rivenhall End) and Roman Villa and Saxon Hall (across the A12 at Rivenhall).

A total of 13 listed buildings have been identified within the 'search area' (a 650m radius) of the application site. Most are Grade II; however the Church of St Nicholas is Grade I Listed, a dovecote 100m north of Little Braxted Hall is Grade II* and other Grade II* Listed buildings lie within the grounds of Braxted Park.

The ECC Historic Buildings advisor requested a full heritage assessment as set out within the NPPF. The adviser is satisfied the Heritage Statement submitted, and offers a clear, reasoned, justified assessment, which complies with the relevant guidance and legislation. Concern remains in relation to the potential

impact on Appleford Bridge, which the assessment has assessed will be caused negligible harm by the proposal. However the officer considers this to be a matter of subjective opinion and does not see this as a reason to not accept this assessment and therefore recommend approval subject to the conditions.

Historic England has raised no objection to the proposed development.

Policy CS9 of the Braintree Core Strategy promotes and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

The proposed development is considered to be in accordance with Policy ADM66, RPL 100 which seeks to preserve and enhance the settings of heritage assets.

10. CONCLUSION

The site is identified as a preferred site in the Minerals Local Plan and the principal of extraction has been accepted and the need for the release of mineral proven. The variance in site boundary between the application site and preferred site in the MLP has been justified and is considered to be in accordance with Policy S6.

The impact of the proposed development on the environment has been assessed and is considered to be acceptable in terms of ecology, landscape and visual amenity, noise and dust, traffic and highways , water and flood risk, impact on heritage and subject to appropriate mitigation measures and conditions outlined in the report, the proposed development is considered to be in accordance with the National Planning Policy Framework (March 2012) and the development plan as a whole, namely, Essex Minerals Local Plan (MLP), Adopted July 2014; the Braintree Core Strategy (BCS), Adopted September 2011; the Braintree Site Allocations and Development Management Plan, as amended by further changes (ADMP), September 2014; and the Braintree District Local Plan Review (BDLP), Adopted July 2005 (saved policies only).

11. RECOMMENDED

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

- A Legal Agreement covering the following matters:
 1. Ecological management plan and 25 year aftercare;
 2. Lorry routeing plan including the use of the Braxted Road access for local deliveries only;
 3. Scheme for improvements to signage on Coleman's Bridge and between the B1029 and proposed Little Braxted Lane access;
 4. Local liaison group;
 5. Habitat Management Group.

And

- Conditions covering the following matters:

- 61.COM1 - Commencement within 5 years.
- 62.COM3 - Compliance with submitted details.
- 63.CESS2 – Cessation of development.
- 64.CESS7 – Revised restoration in event of suspension of operations.
- 65.CESS3 - Removal of ancillary development (including haul route and car park).
- 66.GEN1 – Advance submission of details of plant site (workshop, messroom, bagging plant building, weighbridge) prior to construction of plant site.
- 67.HOUR2 – Hours of working (mineral specific):
 0700– 1800 hours Monday to Friday
 0700 – 1300 hours Saturdays
 No working on Sundays or Bank/Public Holidays.
- 68.MIN6 – Records of output (150,000 tpa).
- 69.PROD3 – Vehicle records of output.
- 70.BESPOKE – Noise monitoring scheme prior to commencement.
- 71.NSE2 - Temporary operations.
- 72.NSE5 – White noise alarms.
- 73.NSE6 – Silencing of plant and machinery.
- 74.MIN1 – No importation.
- 75.MIN4 - Restriction on exports and no aggregates shall be sold directly from the application site.
- 76.BESPOKE - No importation of waste.
- 77.LS8 – Soil handled in a dry and friable condition.
- 78.HIGH10 – Advisory vehicle routeing (no left turn out of site along Little Braxted Lane).
- 79.LGHT1 – Fixed lighting restriction.
- 80.AFT1 – Aftercare scheme to be provided.
- 81.HIGH11 – Visibility splays and junction radius on Little Braxted Lane as shown in principle on David Tucker Associates drawing nos. 15057-02, and 15057-06.
- 82.HIGH15 – Gates.
- 83.BESPOKE – Highway works as shown in principle on drawing no. 15057-06.
- 84.HIGH11 – Visibility splays and junction radius on Braxted Road as shown in principle on David Tucker Associates drawing no. 15057-05.
- 85.HIGH4 – Prevention of mud and debris on the highway.
- 86.HIGH6 – Lorry sheeting.
- 87.HIGH14 – Surface material.
- 88.BESPOKE- Mitigation strategy for geoarchaeological investigation.
- 89.BESPOKE – Post-excavation assessment of the geoarchaeological fieldwork.
- 90.BESPOKE – Mitigation strategy for archaeological investigation.
- 91.BESPOKE – Post-excavation assessment of the archaeological fieldwork.
- 92.POLL6 – Groundwater monitoring.
- 93.LAND1 – Landscape and restoration scheme.
- 94.LAND2 - Replacement landscaping.
- 95.TREE4 – Tree protection scheme.
- 96.VIS1 – Limiting impact of skips/containers, etc.
- 97.VIS2 – Stockpile heights.
- 98.DUST1 – Dust suppression scheme.
- 99.DUST3 – Spraying of haul road.
100. BESPOKE – Submission of further ecological surveys prior to the commencement of each phase.

101. ECO7 – Construction Environmental Management Plan.
102. LS2 – Soil Movement Scheme.
103. LS3 – Machine Movement Scheme.
104. LS4 – Stripping of Top and Subsoil.
105. LS5 – Maintenance of Bunds.
106. LS6 – Retention of soils.
107. LS7 – Location and volume of bunds.
108. LS9 – Soil stripping depths and replacement
109. LS10 – Notification of commencement of soil stripping
110. LS11 – Notification of soil placement
111. LS12 – Topsoil and subsoil storage
112. LS13 – Topsoil and subsoil placement
113. LS14 – Final soil coverage
114. POLL4 – Fuel/chemical storage.
115. RES1 – Stones to be picked.
116. RES4 – Final landform.
117. MIN7 – Extraction depth limit.
118. MIN8 – Limits of permitted site.
119. GPDO2 – Removal of PD rights – specific.

BACKGROUND PAPERS

Consultation replies
Representations

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

The proposed development would be located adjacent to a European site (Blackwater Estuary SPA and SAC) and would not be directly connected with or necessary for the management of that site for nature conservation.

Following consultation with Natural England and the County Council's Ecologist no issues have been raised to indicate that this development would adversely affect the integrity of the European site, either individually or in combination with other plans or projects.

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

EQUALITIES IMPACT ASSESSMENT

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

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

The agent for the applicant has been continually kept up to date with consultation responses arising throughout consideration of the application.

The timely appraisal of these responses has allowed the agent to submit a considerable amount of additional and amended information in support of the application, resulting in a timely decision.

LOCAL MEMBER NOTIFICATION

BRAINTREE – Witham Northern

MALDON – Heybridge and Tollesbury

ESS/39/14/BTE**ENVIRONMENTAL IMPACT ASSESSMENT (EIA) FOR:**

Land at Colemans Farm, Little Braxted Lane, Little Braxted, Witham , Essex, CM8 3EX

An Environmental Statement (ES) has been submitted with the application and examines the potential impact of the proposal on the natural and built environment and considers, where necessary, ameliorative measures to reduce and minimise that potential impact. The assessment has been undertaken according to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011

The key subject areas identified are as follows:-

- Landscape and Visual
- Ecology
- Hydrology and Hydrogeology
- Soils
- Archaeology and Cultural Heritage
- Noise
- Air Quality
- Highways Impact
- Right of Way

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

Landscape and Visual

The Landscape and Visual Impact Assessment (LVIA) considers the effects on Landscape Character, Landscape Value and Visual Amenity.

Sensitive landscape receptors identified include the Special Landscape Area, cultural heritage interest recognised by designation, access to and quality of the countryside as well as recreation activities where scenic interest form part of the activity. The capacity of the landscape to accommodate development of the nature proposed is assessed as being between medium to high.

Visual assessment indicates that the Zone of Significant Visibility of the proposed development would be localised and restricted to an area of aprox. 1.93 square kilometres as a result of the combined effect of topography, intervening structures and vegetation.

Visual receptors have been identified and assessed.

It has been assed that there would be no unacceptable levels of adverse effect during the operation stage, where the existing arable fields are effectively replaced by views of restored landform in conjunction with a stronger landscape component, the net effect in the long term will likely fall within a slightly beneficial range.

Ecology

Desk based assessment and field surveys have been undertaken at the site.

All hedgerow within the survey area will have potential to be impacted by the proposals for the site. A total of 15 hedgerows were assessed using the Hedgerow Evaluation and Grading System. Nine of these hedgerows were considered to be of 'Moderately high to high' conservation value and considered to be of conservation priority and considered to be 'Of importance' in accordance with the Hedgerow Regulations 2007. Of these, four of the hedgerows are to be impacted as a result of the proposed works, low impact on two of the hedgerows, moderate impact on one hedgerow and a high impact on one hedgerow.

No other species were identified in the surveys and it has been assessed that the proposed works will have no impact on badger population, water voles, otters, bats.

Hydrology and Hydrogeology

A proportion of the mineral to be extracted is situated beneath the water table.

The site lies within the catchment of the River Blackwater. Two ordinary water courses cross the site, both rise from springs on the north-western site boundary and flow southeast to their confluence with the Blackwater. An irrigation reservoir known as Colemans lake is located immediately to the east of the site.

A site specific flood risk assessment in accordance with NPPF has been submitted. The majority of the site is in Flood Zone 1 and the River Black water flood plain (Flood zone 2 and 3) impinges on the southern edge of the site.

The site owner currently has one licence for surface water abstraction which relates to two separate abstractions (for filling Coleman's lake and spray irrigation)

An assessment of regional and local geology and hydrogeology was also carried out. Groundwater levels and flows have also been monitored.

The water management scheme has been developed on a phased scheme, whereby successive completed phases of mineral extraction will be used as silt settlement areas. It is proposed to work the mineral dry, therefore water table lowering will be required.

Catchment sensitivity is assessed as 'medium' due to the proximity and potential influence of the River Black water, upstream of the Blackwater estuary which is an SPA, RAMSAR, SSSI and Marine Conservation Zone.

Potential impacts upon water environment will differ during extraction and post- restoration phase.

Potential impact on structures and the A12 trunk road has been assessed, four structures are located within the potential radius of influence of dewatering, the impact has been assessed as 'negligible' with a significant effect of 'low' for three properties with Burghery Cottages assessed as 'low' impact with a significant effect of 'minor'.

Impact on surface water features has also been assessed. Colemans farm water body will remain during operation and post restoration and a slight reduction in water level may occur during dewatering of phase 3-6 however it is of local ecological value and reversible.

Mitigation measures:-

- All water derived from quarry void to be discharged to river blackwater upstream of any potential derogated reach.
- Groundwater level monitoring scheme to be designed and installed.
- Best practice for handling and storage of fuels.
- Volumes of water discharged to river blackwater to be controlled at pre-development greenfield rates.

Soils

A Soils and ALC Survey has been undertaken in respect of the application site, this confirmed that 53% of total soil resource comprises soils classified as best and most versatile.

The restoration scheme ensures that 'best and most versatile' agricultural land will be reinstated to arable land and where not possible, hay meadow to safeguard the agricultural links with biodiversity habitat.

The restoration scheme will create a change in the way land is farmed however this is assessed to have a negligible impact on the structure and viability of the existing agricultural operation and the existing best and most versatile soils can be safeguarded.

Archaeology and Cultural Heritage

A desk based archaeological assessment was carried out in support of the application to identify areas of archaeological potential within the site and to consider the site within its wider context.

Aerial photography survey was carried out and 8 potential features were identified.

The key outcome of the surveys is that there is little evidence to suggest any concentrations of the areas of potential archaeological significance. Some areas have been tentatively suggested for further investigation; however it appears clear that the importance of the site is relatively limited in an archaeological context.

A Built Heritage Assessment was submitted in support of the application. An assessment on the impact on 16 listed buildings in the vicinity of the site was considered.

The proposed quarry development is not located within the primary or secondary setting of any surrounding built heritage asset. There will be minor changes to long distance and obscured views in some circumstances, but none of these changes are relevant to planned views or vistas, and those changes are not assessed as compromising the understanding or historic importance of any particular building, structure or other heritage asset.

Noise

Predicted noise levels throughout the proposed operations have been calculated for noise sensitive properties and the predicted levels have been compared with criteria in government guidance on acceptable noise levels.

The assessment shows that the proposal can be operated in accordance with Government guidance.

It has been assessed that there will be minimal impact on the surrounding acoustic environment as a result of operations detailed in the application.

Air Quality

The existing air quality at the application site is already affected by emissions from the A12 truck road corridor. Review of climatic conditions and dust deposition rates indicates that dust occurrences events from the proposal would be limited and short term. In respect of PM 10's, the data and analysis indicates that air quality objectives would not be exceeded and air quality would not be significantly affected by the proposal.

Highways Impact

A Transport Assessment has been carried out and Statement submitted.

The proposals are expected to generate approximately 58 HGV movements per day. Based on a typical 10 hour working day this would result in around 6 additional movements (3 in and 3 out) per hour, on Little Braxted Road, Junction 22 slip road and the A12. In terms of absolute flows the level of traffic generated is assessed as modest.

Overall change in flows would remain below the threshold for requiring any further assessment under Rule 2 of the "Guidance for the Environment Assessment of Road Traffic", on the B1389. The change in flow on Little Braxted Lane is slightly higher than the threshold at 14% but it is considered the development would have no demonstrable impact on severance, driver delay, pedestrian delay, amenity, fear and intimidation as the road is relatively lightly trafficked and is not situated near heavily populated residential areas.

The assessment concludes the proposal will have no material impact on highway safety.

Right of Way

There are a number of footpaths on and in the vicinity of the application site including Bridleway 105-29 which runs through the site. There will be a need to create a diversion of the bridleway as part of the working scheme around the southern boundary of the extraction area.

The route would be slightly longer but finished to appropriate specification to allow use by all user groups.

The permanent diversion route will be south for the bridleway around the northern margin of the southern lake envisaged in the restoration scheme. This will create a long term benefit in terms of access and viewing experience across the restored landform.

REPRESENTATIONS

<u>Observation</u>	<u>Comment</u>
Concerns regarding safety and risks associated with heavy traffic	See appraisal
Speed of vehicles on slipway off A12 not reduced to 30mph until first set of traffic lights and vehicles continue at speeds of 50-60mph through the intersection to catch green lights. Such speeds cause hazards for vehicles accessing and egressing business car parking.	See appraisal
Proposal will generate loose stones and gravel on road surface, which will pose risk to parked vehicle and pedestrians and will need to be swept away weekly.	See traffic appraisal
Speed limit on slipway should be reduced to 20-30mph prior to entrance Little Braxted Lane.	See traffic appraisal
Traffic related near misses and peril are observed regularly, proposal will exacerbate this.	Noted
Road access is unsafe. Lorries leaving the quarry from Little Braxted Lane and going towards Chelmsford would have to cross fast-moving traffic coming up the curved slip road from the A12. Lorries entering from Colemans Bridge would also have to cross this line of traffic. Unsafe for vehicles on the slip road.	See appraisal
Proposal would bring industrial development south of the A12 into agricultural fields of the River Blackwater Valley, ruining the landscape and changing the character of the local countryside and villages.	See appraisal
Whilst not identified by the applicants, otters have been observed in the area. Proposal would endanger the otters, which are a protected species. The proposal makes no provision for otters.	See appraisal
Whilst proposed restoration would create Biodiversity Framework Habitats, large areas of open water for fishing and other recreational uses are also proposed, which may not be compatible with biodiversity.	Further planning permission required for any future recreational uses.
New road layout condition required. Enhanced Braxted Park Road exit from the site and an extra lane on the A12 (funded by the developer) required for road safety.	See traffic appraisal, no requirement for extra lane on A12.
Condition required protecting Little Braxted Lane from lorries by way of a turning circle outside the Little Braxted Lane access point. The lane, which is Roman or older, should also be narrowed below the access point and at the other end of the lane.	Entrance improvement including turning circle proposed.
Condition required that HGVs not go through Witham nor use Oak Road.	Lorry routeing plan to be agreed with applicant
Buffer condition required for otters. Quarry boundary from the River Blackwater should be taken back in phases 3 and 6.	See appraisal

Condition required to prevent the impact of dewatering. The dewatering centres should be moved back from the River Blackwater. Levels in river and local fishing lakes should not change as a result of dewatering.	See appraisal
Flood prevention condition required. Last winter site flooded and fields absorbed flood water preventing drainage downstream. Storage capacity for flood water required at every stage of the quarry's life.	See appraisal
Archaeology condition required. In Phase 2A the quarry should be taken back from the reservoir to prevent damage to the possible Neolithic barrow.	See appraisal
Condition required limiting the life of quarry to 10 years.	Such a condition may affect the viability of the scheme and therefore be unreasonable should permission be granted
Condition required stipulating that recreational uses should be subject to planning permission, including leisure uses and car parking.	Further planning permission required for any future recreational uses.
Condition required for quarry buildings to be removed at the end of quarry life.	Condition to be included
Condition required that the developer provides a bond or join the industry scheme.	The NPPF clarifies that bonds should only be sought in exceptional circumstances
No landfill or retail trade conditions required.	Further planning permission would be required. Condition to restrict retail sales to be included should permission be granted.
Condition requires that there is to be no vehicle movements on Saturday afternoons or on Sundays.	Condition to control hours of operation to be included
Condition required that bridlepath be moved further from the quarry so that horses can use it.	See appraisal
Condition required that A12 should be screened.	See appraisal
Objections due to traffic related issues that have not been considered and may be impossible to resolve or implement.	See appraisal

Estimated 58 HGVs per day is highly unlikely and ignores all operative, admin, servicing welfare and prepack collection movements.	See appraisal
No account given to slow moving HGVs accessing the A12 trunk road in either direction from Little Braxted Lane.	See appraisal
A12 is over-used, sub-standard, incident prone and subject to regular delays. Proposal will cause further traffic safety issues on the A12 between Kelvedon and South Witham, which has not been considered or discussed with the Highway Agency. These issues need to be resolved or the application refused.	See appraisal
100% of the site is within Braxted, not Rivenhall Parish. Deliberately misleading – application is incorrect and deliberately misleading.	Noted
Applicant has ignored protected otters that are present in River Blackwater and has chosen to destroy important habitat.	No otters found during surveys – see appraisal
Conditions required addressing air quality/dust, noise limits (including that bagging and loading operations are lowered and banded), vibration, building and hard surface be removed and restored to green field, hours of operation limited (08:00-17:00 weekdays summer, 08:00-16:00 weekdays winter, 08:00-12:00 Saturdays), air quality monitoring (particularly vehicle fumes), new access points on and off A12, lighting (particularly limiting site lighting to hours of daylight), a lasting free legacy to villagers of Rivenhall End, and restoration/after-use (noise inducing activities not permitted).	See appraisal
Concern of possible impact of proposal may have on adjacent commercial fishery business – Colemans Cottage Fishery. The fishery is well established, major business and supports local economy. Concerns proposal may reduce or change local water table (as proposal would affect groundwater drainage), which would affect levels of Burghy Brook (adjacent to proposal site and drains to the lake at Colemans Cottage and then on to lake owned by Chelmsford Angling Society). The fishing lakes are shallow and any change to water table may result in fish loss, necessitate re-stocking, cause closure of the fishery, loss of income, loss of customers, loss of related trade, loss of jobs and impacts on local economy. Water levels are critical to effective operation. Fishing lakes home fish up to 22 pounds and represent considerable investment.	See appraisal regarding water issues
Advised that water pump will be running constantly to keep quarry dry. Concerns as to where excess water will be pumped to and whether it will have an adverse impact on the fishing lakes.	See appraisal
Proposal will result in customers going elsewhere, which would result in a loss of income for fishery (primary source of income) and also impact on trade in tackle/bait shop and restaurant. Potential for loss of jobs and impact on local economy.	See appraisal – the principal of extraction has been accepted in the Mineral Local Plan.
Proposal will increase noise, dust and pollution, affecting	See appraisal

environment and lakes/fishery. Customers will go elsewhere as fishing is meant to be a peaceful and relaxing pastime.	
Proposed condition requiring works to cease if water levels of the fishery fall or change, thereby allowing the applicant to rectify the situation, is pertinent. However, applicant would need to respond immediately to prevent the loss of valuable stock and damage to the business.	See appraisal and requirements of the Env Agency
Proposed access is via Little Braxted Lane and B1389, which are subject to 60mph speed limits. Little Braxted Lane at the access point is effectively a single carriageway and visibility splays are poor due to vegetation. Notwithstanding removal of vegetation (which is inappropriate within the countryside location), the level of vehicular conflict will still increase as a result of the proposal.	See appraisal
Visibility splays along Little Braxted Lane will be increased to 70m in each direction following them removal of vegetation. However, these plays do not extend to the junction of Little Braxted Lane and the B1389. Vehicles exiting site will not be able to see vehicles entering Little Braxted Lane from B1389. As Little Braxted Lane is single carriageway, vehicle conflict will occur and vehicles will have to reverse against traffic. Proposed 58 HGV movements per day will increase the potential for vehicle conflict. Proposed movements do not include employees/sub-contractors, which will further increase vehicular movements. Little Braxted Lane is substandard to accommodate the proposed vehicular movements.	See appraisal
Additional 6 HGV movements per hour will conflict with exiting 46 vehicle movement per hour on Little Braxted Lane. If an accident does occur and Little Braxted Lane is closed, fishery business will be negatively affected and cause loss of income.	See appraisal
Requests that necessary action be taken to protect the well-established fishery business and local leisure facility. Requests to be advised if matter referred to Committee.	See appraisal – the principal of extraction has been accepted in the Mineral Local Plan.
Object as proposal fails to demonstrate that it has considered essential traffic issues and it is difficult to see how the applicant could viably address these issues.	See appraisal
Key highway issues not addressed or considered and Highway Agency and Rivenhall Parish not consulted.	See appraisal. Rivenhall Parish Council was consulted and submitted reps
Estimated vehicle movements incorrect and misleading.	See appraisal
Proposed traffic movement management are inadequate and unenforceable.	See appraisal
58 HGV movements per day proposed. This is an arbitrary guess as no experience in relevant area. 20-44 tonne HGVs not the best to cross 70mph road from a standing start.	See appraisal
Application makes no reference to significant trade traffic and traffic associated with site safety, site management, admin,	See appraisal

catering, security, maintenance etc. Omission shows failure to grasp seriousness of traffic implications.	
Highways Agency not consulted, yet application states that exported material will travel either northbound or southbound via the A12 trunk road.	Highways Agency consulted and no objection
Colemans Bridge interchange with A12 is of a very low standard and an inadequate junction onto an over-congested dual carriageway.	See appraisal
Southbound HGV movements first cross a 2-way 70mph slip road from standing start, turn a sharp left and join the A12 from the inside of a blind corner. Highways Agency would require improvements, which may not be practicable or achievable.	See appraisal
Northbound HGV movements join 70mph slip road, turn right at traffic lights intersection (sharp turn) and then join A12. Inappropriate proposal.	See appraisal
A12 HGV movements would prefer to use junction onto Braxted Rd near Appleford Bridge rather than the Colemans Bridge junction. The applicant has failed to demonstrate how Braxted Road plan will be signed, controlled and policed. Unlikely to be achievable and will result in traffic impacts for Rivenhall End.	See appraisal
Proposed vehicle movement will exacerbate existing problems with A12 between Kelvedon and South Witham.	See appraisal
Submission errors include: unaware of any locals being employed by the applicant, the site is located in Rivenhall End in the Parish of Rivenhall and there are otters in the relevant area of the River Blackwater.	Noted and see appraisal
Conditions requested in relation to dust, noise (operations and highways), temporary minerals processing areas, restoration, hours of operation, planting on A12 boundary, traffic, air quality	See appraisal
Condition requested in relation to dust from exposed areas and haulage routes.	See appraisal
Condition requested in relation to noise from processing plant. Bunds and lowering required. Impending quiet asphalt re surfacing of A12 and reduction in ambient noise needs to be taken into consideration.	See appraisal
Condition requested requiring that temporary minerals processing areas and buildings etc be restored to green field upon completion of extraction.	See appraisal
Condition requested limiting hours of operation (08.00-17.00 summer, 09.00-16.00 winter, 08.00-12.00 Saturday and nil on Sundays).	Hours of operation to be conditioned
Condition requested requiring immediate restorative planting along A12 eastern boundary.	See appraisal
Condition requested requiring air quality monitoring.	Condition to be included
Condition requested requiring improvements to North Witham interchange and traffic lights to enable HGVs to turn.	See traffic appraisal
Condition requested in relation to Appleford Bridge safeguarding, repairs and repair funding.	Part of public highway network, no condition proposed.

Condition requested in relation to Braxted Road. Traffic calming measures and enforcement required. Condition required that no HGVs enter/exit Braxted Road access point from/to Rivenhall End.	Lorry routeing Plan proposed to be agreed through s.106
Condition requested providing that no quarry vehicles will use Oak Road, Rivenhall End.	Lorry Routeing Plan proposed to be agreed through s.106
Condition requested requiring that minimal signage is erected and on site lighting not used during hours of darkness.	Lighting condition to be include
Condition requested requiring that applicant pays for clearer northbound signage/markings to prevent vehicles (including quarry vehicles) from pulling into residential driveways and slip roads.	See appraisal
Condition requested requiring legacy for Rivenhall End. For example, free public wood or play area.	NPPG - no provision for an annual payment to be made to the local community.
Originally objected to Replacement Minerals Local Plan Pre-Submission Draft - Response Form on the 26th February 2013.	Noted
Concerns regarding the negative impact on local residents and wildlife and any further impact and damage due to heavy goods vehicles using Oak Road, which is not fit for this purpose due to its restricted width.	See appraisal
Endorse local and parish council objections, which include unsafe planned road access, industrial development to the Blackwater valley, no provision for otters (a protected species), and the incompatibility with biodiversity arising from recreational use following restoration of open water for fishing etc.	See appraisal
Endorse local and parish council proposed conditions regarding highways, flood prevention, no landfill or retail trade or weekend working and the life of the quarry to be limited to ten years.	See appraisal
Concerns with regard to the impact on the surrounding area of Rivenhall End as a result of increased traffic accessing the site.	See appraisal
Object to secondary access point as it will mean that HGVs travel along Oak Road.	See appraisal
Concerns about road safety and proposal will prevent children from walking to school. Oak Road and the road into Rivenhall village are busy enough, without the addition of more large trucks travelling to and from the proposed secondary access point.	See appraisal
Feed from Burghey Brook directly into our lake known as Colemans Cottage Lake not shown in 2nd Map following page 26 in water frame directive (Hafren Water)	Noted
Concerns that Burghy Brook that feeds to us will run dry especially in dry months as that water will be being pumped further upstream into the River Blackwater, therefore leaving Cottage Lakes water levels very low.	Noted and see appraisal
Hydrogeology papers do not remove my concerns about flood and other risks. Conditions to prevent flood should require storage capacity for flood water available during every phase and	See water and flood risk appraisal

restricting pumping into the River Blackwater when there is a risk of flood.	
To prevent dewatering from reducing the level of water in the River Blackwater (and in local fishing lakes) the quarry should be taken back from the river in phases 3 and 6 (would also provide a buffer for otters and other wildlife). Condition required restricting dewatering in summer when the water level is likely to be reduced.	See water and flood risk appraisal
The discharge rate is still wrongly stated. The run off rate should be restricted to the 1 in 2 year rate of 127 l/s (as stated in the Flood Risk Assessment) and not 513.71 l/s. New paper still doesn't reflect the very wet winter of 2013/14 (when the quarry site was partly covered by flood water). Including this data could materially change the calculations.	See flood appraisal
The junction with Lt Braxted Lane is not visible from the slip road until within 100 yards. Traffic leaving A2 would encounter low loader vehicles, which would cause fatal accidents.	See traffic appraisal.
Exit onto Braxted Park Rd is no safer as it is narrow and not strong enough to take heavy vehicles.	Noted
Direct access onto A12 required.	Direct access to A12 is not proposed. Proposed access points assessed in traffic appraisal.
Still felt that having large commercial trucks exiting the site onto Little Braxted Lane then immediately to the A12 junction is exceedingly dangerous, even with the opening enlarged and sight lines improved. Traffic does exit the A12 on the slip road at 60 mph (sometimes faster) on the bend where the lane joins. The proposal is likely to cause fatal accidents.	See traffic appraisal.
Exit onto Braxted Road not a good idea - access to the A12 is substandard with both north and south routes having virtually 90 degree slip roads. Highways Agency has allocated a junction number, presumably as it is not considered safe or long-term. There may be plans in the very long-term future for this section of the A12 to be widened and access improved but no date is known and is not likely in the foreseeable future.	See traffic appraisal.
Any local traffic leaving and going in the easterly direction would have to go over Appleford Bridge which although ancient and Grade 2 listed is single track and the only local bridge over the Blackwater in the area which can take 40 tonne trucks. It is frequently struck by them, causing long term closure of the road (3 weeks in 2014 with a 21 mile detour).	Noted.
The issue is the relative speed (or lack thereof) of the gravel lorries exiting and entering the site and accessing the road system via the slip road. The sight lines for vehicles coming up the exit ramp from the A12 are so poor that they will not see any lorries exiting turning at Little Braxted Lane until very late and, especially in winter, there is insufficient stopping distance for a	See traffic appraisal. Junction improvement work proposed.

column of vehicles.	
Near unanimous objections of the local residents of Rivenhall, Braxted, Wickham Bishops and Witham	Noted
Site scored worst in the Braintree Plan, so question why it has been included so near the top of the priority list in the ECC plan?	Identified as preferred site in MLP.
Highways Agency has not been directly consulted. Whilst technically the site entrance is not directly on to the A12, as it is a few feet down the Little Braxted Lane the Highways Agency must be consulted in the interests of public safety.	Highways Agency consulted – no objection
At the A12 Witham North Slip Road 44 ton fully laden lorries are expected to turn right out of the site onto Little Braxted Lane. These 55 ft long articulated vehicles would in effect block the lane as they turned right into it then stopped immediately at its junction with the A12 slip road. From this stationary position, vehicles would move uphill into the traffic stream on the A12 slip where cars may be travelling at 50-60 mph.	See traffic appraisal.
What is there to prevent lorries turning left into Little Braxted Lane into the small roads to the south which are unsuited to HGV traffic? How will it be policed?	Lorry routeing plan proposed to be agreed under s.106
Appleford Bridge is routinely damaged by HGV traffic, necessitating costly repairs. HGVs exiting the site onto Braxted Lane and using Appleford Bridge will exacerbate that situation. Who will pay for that additional damage?	See appraisal and highway comments
Nothing preventing HGVs turning left onto Braxted Lane to join the A12 at Rivenhall End, which is a dangerous and substandard junction in both directions (for that reason buses have ceased stopping there).	Noted
The A12 is already at capacity and regularly comes to a halt through sheer weight of traffic. Proposed traffic movements will worsen an already bad situation. What mitigation measures are being considered to improve traffic flow?	Assessed by Highways Agency – no objection.
If an accident blocks the A12, HGVs will divert through Witham town centre.	Noted
HGVs can go through either Witham or Rivenhall End/Silver End to cut through to the A120 for the M11.	Noted
How will vehicle movement numbers be policed?	Planning conditions can be monitored and enforced when expedient to do so.
What guarantees are there that the current proposals for a wildlife area (not water park for jet skiers) will be honoured?	Any proposal for water park for jet skiers would require a planning application.
Brice Aggregates is a new venture created specifically for this project. It has no experience, nor is it a member of the trade	The NPPF clarifies that

association. What bond or financial guarantee has been requested to ensure the restoration pledges can be enforced?	bonds should only be sought in exceptional circumstances
No guarantee that the applicant will not seek to further extend the life and size of the quarry and thus its impact on the local community.	Such proposals would require a planning application.
Rivenhall End is downwind of the site, so will be subject to dust, smell and noise – damaging quality of life, worsening air pollution and impacting on property values – in addition to light pollution in the winter months and the traffic problems. Therefore it would be reasonable to see some local benefits flow to the inhabitants, including: a new sturdy bridge by Appleford bridge to save on repairs to that listed structure and an additional lane on A12 between Rivenhall End and Witham North to reduce congestion.	See appraisal
Perimeter bunds and tree screening should be required to be in place at the earliest possible moment	See appraisal
Proposal is extremely impractical, but also detrimental to the local community.	Noted
Traffic and pollution on Oak Road has increased as it is used as a cut through to local areas.	Noted
The exit to Rivenhall is already dangerous and should be closed and no application for further large vehicles should even be considered. The slip road approaching the A12 on both carriage ways are extremely dangerous.	See traffic appraisal
Residents suffer the fumes/pollution at peak times, particularly asthma suffers, and pollution prevents children from going outside.	See appraisal.
Turning from Oak Road towards Great Braxted not suitable for lorries - cars have to reverse to allow lorries to enter or leave Oak Road.	See appraisal.
The small road to the application site is not suitable for proposed vehicles. The industrial park near Braxted Park is frequently snarled up due to lorries and proposed site just in front of an already hazardous bridge. If lorries were to use this site accidents would happen.	See appraisal.
Road access to the A12 towards both Colchester and Chelmsford by the proposed HGVs will be dangerous. Joining A12 difficult in car with good acceleration.	See traffic appraisal.
Access to the slip road from Braxted Lane will involve joining or crossing traffic from the A12.	See appraisal.
Alternative route towards Chelmsford through Witham has obvious disadvantages.	Noted.
A12 is boundary between industry and countryside/villages. Proposal will have negative noise and dust impacts on Little Braxted. Other industry will follow if approved, e.g. Solar panel installation recently proposed Little Braxted.	See appraisal on noise and dust. Solar panels require planning application.
Proposal hazardous to wildlife of Blackwater Valley, including protected species such as otters.	See appraisal.

Strict planning conditions required.	Noted
New papers on hydrogeology and archaeology have not addressed concerns about a plan for a quarry at Colemans Farm.	See appraisal.
Continue to object on grounds previously submitted.	Noted
<p>Following conditions should be imposed:</p> <p>Flood prevention:</p> <ul style="list-style-type: none"> Storage capacity for flood water available throughout every phase of development. Pumping into the River Blackwater should be stopped when there is a risk of flood. <p>River levels:</p> <ul style="list-style-type: none"> In phases 3 and 6 the quarry should be taken back from the river to protect the river from the impact of dewatering (also provide a buffer for otters). Dewatering should be restricted in summer. <p>Hydrogeological data:</p> <ul style="list-style-type: none"> Discharge should be limited to the one in two year rate of 127 litres per second (as stated in the Flood Risk Assessment, 4.2.2) Rate wrongly stated in the Hydrogeology Impact Assessment (5.4) of 513.71 l/s. Calculations should incorporate data from last winter. In 2013/14 some of the site was covered in flood water, therefore excluding this data represents a major omission. <p>Little Braxted Lane:</p> <ul style="list-style-type: none"> Little Braxted Lane (Roman or older and connected to the Roman road from London to Colchester), should be protected with signage and road narrowing. <p>Archaeological remains:</p> <ul style="list-style-type: none"> In phase 2A the quarry should be taken back from the reservoir in order to prevent further damage to the possible Neolithic barrow, "of medium significance of regional interest". Area should be excluded from the quarry. Further investigations should be undertaken. 	See appraisal.
New papers on ecology, dewatering and lorry rerouteing have not addressed our concerns about a plan for a quarry at Colemans Farm	See appraisal.
Essex County Council should make changes to the A12 that would allow lorries to use the Braxted Park Road gateway (instead of Little Braxted Lane) a condition as the safety of thousands of drivers on the slip road to Colemans Bridge is at stake.	No proposal for ECC to alter A12
A turning circle outside the Little Braxted Lane access to the quarry is required. A gateway allowing lorries to make three point turns is insufficient to stop lorries from mistakenly entering the narrow part of Little Braxted Lane.	Proposed alterations to entrance gate will enable lorries to turn

River Blackwater will be affected by dewatering. Both the quarry and dewatering centres must be taken back from the River in phases 3 and 6.	See appraisal
Queries the cumulative effect of the two dewatering centres.	See appraisal
All buildings should be removed at the end of the quarry's working life.	Condition is proposed
Continue to object to the application for reasons outlined previously, which include road safety, industrial development in an agricultural river valley, potential danger to otters and increased flood risk.	Noted.
New papers reveal that the site is used by a number of protected bat species and a kilometre of ecologically-valuable hedgerows would be destroyed. No provision has been made for these bats or otters. Failure to provide for protected species brings into question the biodiversity case for the proposal, upon which ECC has put much weight.	See appraisal.
Queries whether the biodiversity gains at restoration would outweigh the loss of agricultural landscape and damage to protected and other species of wildlife.	See appraisal.
Queries whether the junction between Little Braxted Lane and the slip road to the A12 would be safe for all road users.	See traffic appraisal.
Queries whether conditions would be imposed that would ensure no increase in flooding downstream from the site.	See appraisal and Flood Risk Assessment
New papers on access points have not addressed concerns regarding road safety. HGVs accessing and egressing the site would still have to cross fast moving traffic on the slip road, presenting danger to all users of the slip road.	See traffic appraisal.
Quarry traffic should be rerouted via Braxted Park Road and an enhanced access to the A12. If not rerouted, lives would be put at risk	See traffic appraisal.
Planned turning point would require lorry drivers to undertake three point turns, which they are unlikely to carry out. A full turning circle required, allowing lorries which mistakenly enter the bellmouth of Little Braxted Lane to return to the slip road. A turning circle would help to protect Little Braxted Lane from damage.	Proposed alterations to entrance gate will enable lorries to turn
Little Braxted Lane narrowing at both ends below the turning circle and additional signage. Condition required.	See appraisal
Support of Little Braxted Parish Council's submission regarding this scheme	Noted
Planned road access in and out of Witham Road, Little Braxted to access A12 is unsuitable – major works required. A12 is subject to heavy congestion during peak times and chaos when incidents occur, also speeding traffic leaving the A12.	See traffic appraisal.
Proposal will bring industrial scale development south of the A12 into protected countryside.	Preferred minerals site identified in MLP
Proposed quarry and restoration scheme should be treated as separate applications – land use priorities at the point of restoration not currently known.	Restoration scheme needs to be secured at this

	stage.
Conditions should be imposed requiring roads to be upgraded (HGV capability, improvements to Appleford Bridge and new secondary bridge), separate planning application required for restoration, bond or industry scheme and compensation/community scheme (payments to neighbours/businesses).	See appraisal. The NPPF clarifies that bonds should only be sought in exceptional circumstances NPPG - no provision for payments to be made.
Concern that a proposal circumvents certain requirements at the planning application stage regarding Highways because HGV traffic exits the site onto a minor road and not a major one just a few hundred yards from a major junction.	See traffic appraisal
Requests applicant re-looks at the situation – applicant knows the proposal is not what is required for the area.	Noted.
Requests applicant has a strong positive outlook for the Witham area so that it can help mirror the expected commercial shopping "renaissance" for Chelmsford.	Noted.
Benefactor mode would be a most welcome way forward.	Noted
Can be win-win-win.	Noted
If applicant is more in tune with local people both village and town dwellers, a benefit will be the real protection of the countryside and a far greater beneficial gain for the applicant.	Noted
Concerned regarding access in Little Braxted Lane, size (length) of HGVs (ie their drivers' ability to turn safely) and other traffic flows/speeds in the immediate area. Reassessment of the access is needed.	See traffic appraisal
Cutting down trees to deal with this visibility problem is not the way forward.	See traffic appraisal
Detailed info is needed re bird surveys and hedgerow creation and why only the creation of 0.28 H of woodland (p.10)?	See appraisal
Is the applicant thinking of future plans if he wishes the carpark and access road to be retained?	Future plans would require further planning application
New papers on hydrogeology and archaeology have not addressed concerns. Continue to object on grounds previously outlined.	See appraisal
Conditions required dealing with flood prevention (storage capacity for flood water available throughout every phase of development and pumping into the River Blackwater should be stopped when there is a risk of flood) and river levels (phases 3 and 6 the quarry should be taken back from the river and dewatering restricted in summer), hydrological data (limit discharge to the one in two year rate of 127 litres per second and calculations should incorporate data from last winter), Little Braxted Lane (protected with signage and road narrowing below	See appraisal

the access point and at the far end) and archaeological remains: (In phase 2A the quarry should be taken back from the reservoir in order to prevent further damage to the possible Neolithic barrow and further investigations should be undertaken).	
Traffic leaving site via Braxted Park Rd will turn right over Appleford Bridge, which will be a disaster for the bridge, road and wall surrounding Braxted Park Estate (Grade II).	See appraisal
Revised access onto Colemans bridge will cause accidents and hold-ups.	See appraisal
Concerns regarding water level in River Blackwater during summer, which will devastate wildlife.	See appraisal
Creating an extension of industrial development beyond the A12, creating potential for further development.	Any further development would require planning permission.
Little Braxted Lane is totally unsuitable for proposed traffic.	See appraisal
Concerns regarding effect on River Blackwater and habitats.	See appraisal
Whole area would be adversely affected.	See appraisal
Planned road access is unsafe. Little Braxted lane access not compliant with MLP policy S11. HGVs leaving the site towards Chelmsford and entering site from Colemans Bridge would have to cross fast-moving traffic on the A12 slip road.	See traffic appraisal
A12 regularly at a stand still.	Noted.
Traffic problems on A12 generate traffic on the local roads of The Braxteds, Wickham Bishops, Maldon, Danbury and Witham. HGVs on these roads will create safety issues.	See traffic appraisal
Appleford Bridge is a pinch point and is often damaged. Proposal will exacerbate this.	Noted
Brice Aggregates not affiliated with the MPA – makes company unlikely to manage the traffic to the site and react properly to traffic issues.	Noted
No consultation with Highways Agency – irresponsible attitude.	Highways Agency consulted and no objection
Brings industrial development to the Blackwater Valley.	See appraisal
Otters in the area, not identified by the applicant.	Surveys did not identify otters.
Proposed vehicles will create major problems at the proposed A12 junctions.	See appraisal
Objects due to traffic/road safety grounds. Size of the proposed vehicles would create major problems on the two A12 junctions, both of which are substandard. Highway Agency should have been consulted.	See appraisal
Effects on community from traffic, noise, dust and light pollution.	See appraisal
Little attention has been given to the affect upon the river, water table, flood risk and biodiversity.	See appraisal
Industrialisation of farmland.	See appraisal
No guarantee of the site being restored, bond required.	The NPPF clarifies that bonds should

	only be sought in exceptional circumstances
The Little Braxted Lane road access to the site is not safe and is not compliant with MLP S11 of the Minerals Plan.	See appraisal
Site access is only yards from the A12 slip road. Large HGVs leaving the site to join the A12 heading towards Chelmsford would mean slow moving HGVs having to cross fast moving traffic coming off the A12 via a curved limited vision slip road. Lorries entering the site from Coleman's Bridge (Chelmsford direction) would also have to cross this line of fast-moving traffic. No mitigation options.	See appraisal
Slip road regularly subject to queuing traffic. Proposal will exacerbate this traffic hazard. The only way to mitigate would be to raise Section 106 money to build a feeder lane between junctions 23 to 22. Northbound slip road from Witham onto the A12 subject to similar queuing. Longer slip road required.	Highways assessment does not indicate a requirement for feeder lane/longer slip lane
May be safer to build a junction direct from the site with access and egress slips roads on the A12 between junctions 23 and 22.	Direct access not proposed
'Considerate contractor' planning conditions should be applied including wheel washing and road cleaning.	Condition proposed
Due to narrowness, HGV traffic either entering or exiting the site should be barred from a left turn in Little Braxted Lane towards Little Braxted.	Lorry routeing plan proposed to be agreed via s.106
HGVs should not enter or exit via Braxted Park Road, as this lane is already used by heavy commercial traffic and the historic Appleford Bridge is regularly damaged by such vehicles.	See appraisal
A12 Junction at Rivenhall End should not be used by site traffic due to its very short slip roads.	See appraisal
No consideration of direct retail sales and associated light traffic. Direct retail sales should be excluded by permission.	Condition to exclude retail sales proposed
HGV traffic movement should not be permitted through Witham. The B1018 might be classified for HGV use, but to get to that road HGV traffic must pass through Witham residential streets. The issue of existing HGV traffic through Witham is already a very contentious one. The only practical route must be via the trunk roads of A12/A120 via Marks Tey.	Lorry routeing plan proposed to be agreed via s.106
Otters are present. No works should be allowed which could endanger these otters. An extended buffer zone between the quarry works and the river would provide additional protection.	Survey did not identify otters.
Close proximity of the Witham Whetmead Nature Reserve to the proposed site. Proper flood relief works should be established with the Environment Agency before the application can be determined.	See flood appraisal.
All existing hedgerows should be retained and adequately protected.	Hedgerow removal

	assessed in Environment Statement
Afteruses such as paddocks would attract stabling, possibly other forms of accommodation and equestrian uses, which would detract from the rural aspect and be inappropriate.	Planning permission would be required.
Remaining land should be restored to arable or grazing after use	See appraisal
Future landfill use should be prevented.	None proposed
Floodlighting during working hours and security lighting at night would result in light pollution for Witham.	Lighting to be conditioned.
Campaign to Protect Rural England has a tranquillity policy. Proposal would affect the tranquillity of this site further into the rural countryside. Surrounding countryside should be protected from noise with appropriate acoustic screening.	See noise appraisal
To ensure the plan is delivered and completed with restoration, the developer should provide a bond or join the industry scheme.	The NPPF clarifies that bonds should only be sought in exceptional circumstances
Application should be refused unless legally binding guarantees can be obtained.	Appropriate condition included
Conditions required dealing with flood prevention (storage capacity for flood water available throughout every phase of development and pumping into the River Blackwater should be stopped when there is a risk of flood) and river levels (phases 3 and 6 the quarry should be taken back from the river and dewatering restricted in summer), hydrological data (limit discharge to the one in two year rate of 127 litres per second and calculations should incorporate data from last winter), Little Braxted Lane (protected with signage and road narrowing below the access point and at the far end) and archaeological remains: (In phase 2A the quarry should be taken back from the reservoir in order to prevent further damage to the possible Neolithic barrow and further investigations should be undertaken).	See appraisal
Site and HGVs would pollute the area of outstanding natural beauty and change the character and charm of villages.	See appraisal
Otters up and down stream would be at risk.	No otters identified in surveys
Roads would be damaged by HGVs and become dangerous on entry and exit from the A12. Existing road are totally inadequate.	See traffic appraisal
River Blackwater valley should be protected from industrialisation.	See appraisal
Concerned that proposal will result in serious road safety issues, affect otters and agricultural land, damage archaeology and generate noise and dust.	See appraisal
Bring industrial development south of A12 into Blackwater Valley. Damage Little Braxted Lane	See appraisal
Threaten road safety. Increase congestion.	See appraisal
Cause noise, dust and mud locally.	See appraisal

Put otters at risk.	No otters identified in survey
Increase flood hazards down steam.	See appraisal
Impact local businesses.	noted
Colemans Farm is the wrong place for a quarry. Allocated in development of the Minerals Plan. However, promise by the developer of a flagship biodiversity site at restoration.	See appraisal
Given the failure to identify otters, queries whether other species have been correctly documented.	No otters identified in survey
Bat survey not been completed.	See appraisal
Queries whether the baseline for wildlife been correctly presented.	See appraisal and Environment Statement
Queries whether restoration would result in a significant enhancement to biodiversity.	See appraisal
Plans would create Biodiversity Framework Habitats. However, larger areas of open water for fishing and other recreational uses are not priority habitats.	Recreational uses would require future planning application.
'Other recreation uses' could be incompatible with biodiversity.	Recreation uses would require further planning application
A leisure park is not a flagship biodiversity site.	Use as a leisure park would require future planning application
Given the fact that the A12 is already a dangerous route based on the accident data, it is not clear how this development would provide safe and suitable access to the site.	See traffic appraisal
February 2014 much of the site was covered in flood water. The soil acted as a sponge soaking up water until the River Blackwater had subsided, helping to reduce flooding downstream. Not reflected in the application papers.	See flood risk appraisal and no objection from Environment Agency & Flood Authority
Groundwater monitoring data omits significantly high groundwater conditions encountered across much of the UK in the winter of 2013 and spring of 2014. A key omission. The most current data could have a material bearing upon the on-site water management and dewatering strategy. Baseline data set for groundwater levels is potentially not fit for purpose and lacks a nationally significant hydrological / hydrogeological event.	See flood risk appraisal and no objection from Environment Agency & Flood Authority
Dewatering and pumping may change the levels of water in the River Blackwater and local fishing lakes, potentially affecting wildlife in the river, fish in the lakes and the setting and fabric of listed buildings downstream.	See appraisal

New road layouts required at the junctions with the A12 from Little Braxted Lane and Braxted Road. Extra lane on the A12 between the two junctions required (funded by the developer).	Assessed by Highways England and extra lane not required
HGVs going towards Chelmsford on the A12 should use an enhanced Braxted Park Road exit from the site.	See appraisal
Legal agreement required preventing any quarry traffic from using the main part of Little Braxted Lane, as well as new signage.	Lorry routeing plan proposed via s.106 agreement
There should be no increase in the risk of flood downstream.	See appraisal
Existing arrangements for reducing the level of water in the river when heavy rain is forecast should either continue or be replaced with other preventative measures.	See appraisal
Conditions required to restrict runoff to the correct 1 in 2 year rate as per the Flood Risk Assessment (FRA) (para 4.2.2 and 4.2.3) of 127 l/s rather than the less favourable Hydrogeological Impact Assessment (HIA) criteria.	See appraisal
Creating a greater buffer distance between Phases 3 and 6 and the River Blackwater would reduce the potential impacts of dewatering as it would tend to reduce the zone of influence of the pumping and, in turn, reduce the risk of the river baseflows being reduced by excess seepage into the quarry void.	See appraisal
Base flows in the River Blackwater fall to low levels during the summer months and at those times a loss of 6.2% - 12.5% (HIA page 15) could have a material detrimental effect upon the amenity value of the river.	See appraisal
Dewatering should be restricted in the summer.	See appraisal
Condition requiring a monitoring station immediately downstream of the site. Conditions should describe the frequency of monitoring, the actions required, timescales and an independent enforcement regime.	The EA has recommended a groundwater monitoring scheme to be agreed prior to dewatering – the detail to be agreed.
The NPPF says this should only be required in exceptional circumstances. This case is exceptional as Brice Aggregates is not a member of the industry scheme (which provides a bond).	The NPPF clarifies that bonds should only be sought in exceptional circumstances
Life of quarry to be limited to 10 years. Allowing the quarry to operate for 17 or even 18 years is not compatible with the requirement of NPPF para 143 which says reclamation should be “at the earliest opportunity.”	Reclamation will be phased
No landfill.	No landfill proposed
There should be no working and no lorry movements on Saturdays or Sundays.	Hours to be conditioned.

There should be a limit of 58 lorry movements on a full working day.	See appraisal – hours of operation and tonnage controlled by condition
Every vehicle leaving the site should use a wheel wash and the affected parts of Little Braxted Lane should be swept daily.	Condition to be included
Monitor required at the site every three months, with additional visits if complaints are made by local residents about breaches of conditions.	Standard quarry monitoring would be carried out
Errors and omissions including failure to see and report signs of otters, failure to complete the bat survey, no supporting plan for managing hedges, failure to take account of 2013/14 groundwater data, off-site discharge rates incorrect, little consideration of the potential impact of a reduction in off-site flows upon downstream areas (in particular the effect of a change in the pattern of surface water discharge and groundwater seepage to the River Blackwater during the operational stages of the scheme), failure to complete the archaeology survey, discrepancies over the life of the working quarry, no plan for enhancing the Braxted Park Road access point, no rationale for 58 lorry movements a working day, no supporting plan for lorry routing, and inconsistencies between noise data in Environmental Statement and Noise Assessment.	See appraisal
<p>Flood Risk</p> <ul style="list-style-type: none"> • Proposal would allow floodwater to overflow into and be stored within the quarry void and above ground across 'seasonally wet grassland'. During periods of high river flows a detrimental effect to downstream areas in flood risk terms as a result of the proposed quarry not anticipated. • Floodwater will instead be stored in the quarry void or across wet grassland areas and be released to the River Blackwater at controlled rates, with additional seepage via underground flow from the quarry pit sides. • Long term, the proposal will provide some flood risk benefit to downstream areas as the scheme is due to provide a net increase in floodable void above the permanent water level in the lakes. • FRA para 2.2.4 indicates that there would be a short term loss of fluvial flood storage attributed to creation of bunds. No technical reason why this potential detrimental impact has not been mitigated. • Should be a tangible net uplift in available fluvial (river) flood storage capacity across the site during every individual phase. • Provision of long term flood storage should be safeguarded by planning conditions. • Planning conditions should be clearly worded to capture the requirement to restrict runoff to the correct 1 in 2 year rate as per the FRA (para 4.2.2 and 4.2.3) of 127 l/s rather than the less favourable HIA criteria. 	See appraisal

<p>Dewatering</p> <ul style="list-style-type: none"> • The impact of dewatering does not appear to pose a particularly significant threat to water levels in the River Blackwater at most times of the year. • However, during the summer months proposal could have a material detrimental effect upon amenity value of the river. • Visual appearance not considered. • Creating a greater buffer distance between Phases 3 and 6 and the River Blackwater would indeed help to reduce the potential impacts of dewatering • A planning condition (or requirement of the Environmental Permit) could impose a restriction on dewatering during the summer months when low baseflows would be most likely. 	<p>See appraisal</p>
<p>Monitoring</p> <ul style="list-style-type: none"> • The Environment Agency will ensure that water levels and quality are monitored as part of the requirements of the Environmental Permit. • To secure a specific monitoring location it would be necessary to lobby the EA and seek to ensure that a suitable monitoring location was requested as part of the Environmental Permit. • The most likely impact or changes would be a reduction in water level or an increase in silt content within the River Blackwater. It is unlikely that either would cause significant damage per se. 	<p>See appraisal</p>
<p>Data</p> <ul style="list-style-type: none"> • Generally, the assessments and assumptions are reasonable. • The one exception is that there appears to be little consideration of the potential impact of a reduction in off-site flows upon downstream areas and in particular the effect of a change in the pattern of surface water discharge and groundwater seepage to the River Blackwater during the operational stages of the scheme. • Would have expected to see additional consideration of a change from a steadier, consistent discharge to the River Blackwater to a more variable. • Data is arguably robust but not as current as it could be. Rainfall data (HIA page 3) is dated 2010 but the additional 3 years of data is unlikely to have any meaningful effect. • Groundwater monitoring data has been presented for 2012 / 2013 (HIA page 7) which is reasonably up to date but is missing the significantly high groundwater conditions encountered across much of the UK over the Winter 2013 / Spring 2014. • Generally, best practice has been followed. However, the 	<p>See appraisal</p>

FRA does not appear to make any reference to or take into account latest best practice guidance on assessing flood risk (BS8533 Assessing Flood Risk : 2011).	
The proposed quarry at Colemans Farm would be so unsafe and damaging to indigenous wildlife and the local environment as to render the site fundamentally inappropriate.	See ecology appraisal
That 95% of HGS would use an access point on Little Braxted Lane close to the A12 slip road is an 'expectation' not a maximum. The slip road is already extremely active particularly at peak times. Additional HGVs would slow movement further (tailbacks of stationary vehicles are already a frequent occurrence) and present an additional hazards for traffic leaving the A12 at 50-60mph in off-peak hours.	See traffic appraisal
No calculation of the amount of time inward/outward HGVs would take to negotiate passage on to the slip road. Even with improvements and coordination, six vehicles per hour using the proposed site entrance would block access to Little Braxted Lane for much of the working day.	See traffic appraisal
Assurance given that HGVs will always turn right out of the site and not left down Little Braxted Lane. Does not cover ancillary vehicles. Secondly, HGV driver with a quota to meet will improvise at times of gridlock. No requirement monitoring. Self-policing is unacceptable. Expecting local residents to monitor and enforce the requirement is unfair. The police and Trading Standards will be unwilling to become involved.	Lorry routeing plan proposed via s.106
The arable land has acted as a flood control, the soil absorbing water and reducing the amount of flooding of land and properties downstream.	See appraisal
Dewatering and pumping related to the quarry will change the level of the water in the River Blackwater. Efficient flood-risk management, monitoring and policing by an independent outside agency is essential.	See appraisal
Proposals for a biodiversity flagship on the site after restoration are not compelling as the proposed Biodiversity Framework Habitats would neighbour large areas of open water for fishing and other recreational use. Commercial exploitation of these areas would hardly be compatible with wildlife habitats and would further alter the social fabric of the area.	See appraisal
Plans to narrow the Little Braxted Lane/slip road junction to discourage HGV drivers from ignoring restriction signs and using the Lane as a through route. Any redesign of that access point must not constitute an open invitation to HGV drivers not bound by the controls placed on the developer/operator to use the Lane as a through route when it is free of quarry vehicles.	See appraisal
An independently policed condition required that no HGV will turn left out of the site down Little Braxted Lane. Inward/outward movement of HGVs must be managed so that they do not constitute a permanent/semi-permanent obstruction of the public road.	Lorry routeing plan proposed via s.106
Highway alterations to be funded by the developer/operator.	Alterations proposed within

	applicants ownership would be at applicants expense
Condition requiring that adequate flood water storage is available throughout the development and operating period and that pumping water from the site into the River Blackwater should cease immediately when flooding is possible.	See flood appraisal
A buffer zone to be created between phases 3 and 6 of the quarry and the River Blackwater to help reduce the flood risk, impact of dewatering and to mitigate the impacts on otters and other wildlife. This would also enable the nearby bridleway actually to be usable by riders.	See appraisal
Monday to Friday operation only	Hours to be condition include Saturday
Requirement for wheel washing and road cleaning.	Condition to be included
An inflexible limit of 58 lorry movements per full working day.	Hours and tonnage to be controlled
No landfill or retail trade to be permitted.	Would require planning application.
Screening to be in place on the A12 from the onset of development through the operational period	See appraisal
Developer to provide a bond. To ensure compliance development to be monitored and policed by an appropriate outside agency.	The NPPF clarifies that bonds should only be sought in exceptional circumstances
Flood during the life of the quarry remains a major concern.	See flood appraisal
There should be an increase in available storage capacity for flood water – using a large (clay-lined) void – during every individual phase of the quarry (not just when the phasing makes it convenient to provide a void).	See flood appraisal
Pumping into the river should cease when flood is likely; this should be a condition of planning approval and/or of discharge consent.	A discharge consent would be required to be issued by the Env Agency
Existing arrangements for reducing the level of water in the river when heavy rain is forecast – which have the effect of avoiding floods - should either continue or be replaced with other preventative measures.	See flood appraisal
Developer has acknowledged the mistake in the HIA; discharge should be limited to the one in two year rate of 127 litres per second (as stated in the Flood Risk Assessment, 4.2.2) rather the rate that is wrongly stated in the Hydrogeology Impact	Noted

Assessment (5.4) of 513.71 l/s.	
Concerns regarding the leeway the applicant has been given to continue to refine the application.	Noted
There are no new measures to accommodate lorries bound for Chelmsford on the A12 and having to cross the slip road. Proposed removal of vegetation as an aid to visibility does not get around the fundamental problem of the inadequacy of this access point for this venture.	See traffic appraisal
Quarry traffic entering Little Braxted Lane from the slip road will inevitably mislead other heavy traffic into believing it to be a through route.	Noted. Signage proposed
The applicant should be required to provide a turning circle on his land to extricate non-quarry traffic from an already congested situation.	Improved entrance proposed would facilitate vehicle turning
The number of quarry lorries entering and leaving the site would effectively block Little Braxted Lane to all other traffic seeking access to Little Braxted village and beyond from the A12.	See appraisal
In the face of the congestion at the slip road, quarry traffic with schedules to keep to will turn left from the proposed site into the wholly inappropriate stretch of lane, incorporating a river bridge with a 3 tonne limit, towards Little Braxted village. A marked narrowing of the Lane below the proposed access point would be essential to prevent this.	Signage proposed
Drastically improved, unequivocal signage and road narrowing would be required to make the proposed more complicated access arrangement come close to functioning adequately.	Signage proposed
New papers reveal that bat species are present on the site. 1 kilometre of hedgerows, used by bats, would be destroyed. No provision has been made for these bats or any other protected species, including otters. This failure brings into question the biodiversity case for proposal – which ECC has put much weight when selecting the site.	See appraisal
Would biodiversity gains at restoration outweigh the loss of landscape and damage to protected and other species of wildlife?	See appraisal
Would junction between Little Braxted Lane and the slip road to the A12 be safe for all road users?	See appraisal
Would there be no increase in flooding downstream from the site?	See appraisal
Traffic generated will have a huge and significant effect upon the A12.	See appraisal
Concerns regarding the effect of the proposal on the circulation of traffic on the A12 at Junction 22 – Colemans Bridge.	See appraisal
Highways Agency has previously stated that Junction 22 of the A12 is unsatisfactory and that a large number of HGV movements via Junction 22 would generate safety concerns.	Highways Agency do not raise any objection
Junction 22 is currently a busy and complex junction. It controls the movement of 5 roads, assisted by traffic lights. 2 of these roads already subject to heavy commercial traffic from industrial areas/	See appraisal
Traffic backs up along the B1389 onto the A12. Stationary	See appraisal

vehicles queuing to leave A12 causes traffic hazard. Alternate route via Hatfield Peverel adds 6 miles journey.	
Nearby housing developments will increase traffic on the A12. A12 will need to be improved.	See appraisal
Proposal would be tipping point, creating a very dangerous Junction 22.	See appraisal
Industrial development in a rural area. The industrial areas of Witham are north of the A12, which provides a natural barrier for the essentially rural villages to the south. Proposal will be within the River Blackwater valley, an area that should not be subject to large scale development such as that proposed. The development would be visible from miles away, which would detract from the essentially rural nature of the landscape.	See appraisal
The proposed development would be sited between narrow country lanes, particularly Little Braxted Lane to the west. These roads cannot support heavy goods traffic and would need to be substantially upgraded, which be detrimental to the local environment. Access to the site from the A12 slip roads at Witham North would also need to be upgraded.	See appraisal
Blackwater River is home to otters, a protected species. Proposal would endanger otters and all other wildlife in the area.	See appraisal
Proposal would cause more damage than has ever been experienced in the history of Little Braxted. Village should be left to its normal peaceful existence for future generations to enjoy.	See appraisal
Concerns regarding ongoing amendments to the proposal. Amendments an attempt to wear down opposition to the proposal.	See appraisal
Continued objection on grounds of unsafe local roads and HGVs crossing fast moving traffic on slip road when leaving the site for Chelmsford.	See appraisal
Objection to the proposal on the grounds that such an industrial development would destroy an attractive area of the river Blackwater.	See appraisal
Second exit proposed from the site giving access to Tiptree would result in even more traffic of a heavy nature going over Appleford Bridge, which is already a pinch point and is frequently damaged with the existing levels of use.	See appraisal
Would like to see a restriction on lorries leaving the site from the access turning right towards Tiptree.	See appraisal
The proposed site access points in Little Braxted Lane and via Colemans Bridge would involve heavy vehicles crossing or joining fast moving traffic on the A12, significantly increasing the likelihood of accidents at these junctions. New road layout conditions which are compliant with MLP policy S11 required.	See appraisal
To provide a buffer for otters and other wildlife, and to reduce the potential impact of dewatering of the river and local fishing lakes, quarry should be taken back from the river.	See appraisal
Provision should be made for a void to take flood water throughout the life of the quarry.	See appraisal
Local residents who currently enjoy a tranquil and picturesque setting. Steps should be taken to limit noise and pollution effects. Suggest excluding lorry movements on the weekends and a	See appraisal

wheel-wash for all vehicles leaving the site.	
Site is to be accessed from Little Braxted Lane. The transport statement which supports the application has been prepared on this basis and detailed designs have been provided for this point of access only. Request condition be imposed on any approval that prevents access to and from the site by any means other than the Little Braxted Lane access arrangements.	Lorry routeing plan proposed
The alternative access would make use of Braxted Road. While Braxted Road provides access to the A12 the on- and off-slip roads at this junction are short and, given the nature of the vehicle traffic likely to be generated by the proposed mineral extraction activities, may well give rise to a highway safety issue. It should be noted that the safety of accessing the site via the alternative access and Braxted Road has not been assessed in the transport statement.	See appraisal
Requests that should the proposal be approved, the air quality control measures required are both comprehensive and rigorous and are demonstrably sufficient to make the air quality impact of the proposed mineral extraction operation acceptable in all respects. Also request s that a system of monitoring be put in place to ensure that the air quality control measures are being properly implemented and are effective.	See appraisal
Until now detailed designs had only been submitted for the Little Braxted Lane access to the site. The application proposals therefore appeared to be predicated upon the site being accessed from Little Braxted Lane only. Detailed designs have now been submitted for a Braxted Road (Braxted Park Road) access. This suggests that the mineral extraction operation may use both accesses.	See appraisal.
The transport statement submitted with the application, which does not appear to have been updated as part of the additional information recently submitted, suggests that the Braxted Road (Braxted Park Road) access is an “alternative access”.	See appraisal
It is unclear what is meant by “alternative access” and the additional information submitted makes the position even less clear.	See appraisal
Requested that applicant be asked to clarify how the site, once operational, is proposed to be accessed, e.g. using just one of the proposed accesses or a combination of the two. If a combination, it would be useful to know what factors will determine which access is to be used when.	See appraisal
The Little Braxted Lane access remains the better of the two options. While Braxted Road provides access to the A12, the on and off slip roads are short and, given the nature of the vehicle traffic likely to be generated by the proposed mineral extraction activities, may well give rise to a highway safety issue.	See appraisal
The local infrastructure does not want, need or is able to support the scale of this and other proposed projects.	See appraisal
Roads and services are already at crisis point with daily traffic jams, accidents and general weight of traffic affecting business	See appraisal

and quality of life.	
Current damage to property, kerbs, bollards, road signs, road surface, drains will only increase further. Lorries are mounting and illegally running along pavements.	Noted
The slip roads, access and local infrastructure are completely inadequate only leading to a further increase in accidents, damage and the potential for loss of life.	See appraisal
The planned road access is unsafe. Brings a huge increase in traffic. Will profoundly affect local wildlife and residents.	See appraisal
Likely reduce local property values.	Noted
Potentially affect archaeology and ground water/flood prevention.	See appraisal
Create many years of significant disruption of visual and air quality of the local area.	See appraisal
Open the likely-hood of usage changes.	Would require planning application
The two Braxted bridges to Witham are a disgrace in planning terms both with considerable damage. The problem compounded by industrial encroachment over the Blackwater into the Braxteds.	Noted
Proposal all about money and the destruction of what was good farming land.	Noted
Any planning gains should be granted on the basis that the local council and local population benefit as much as the land owner from such permissions whereby ongoing income is split 30/70 in the grantees favour and huge upfront cash and cast iron warranties taken to cover any future restoration.	The NPPF clarifies that bonds should only be sought in exceptional circumstances
There is enough lake water in this area due to gravel excavations at Heybridge, Witham and Braxted. No more fishing lakes or conservation areas (or solar farms) are required.	See appraisal
Wildlife (including badgers, cormorants and otters) are nothing but pests to the fisheries and are covertly disposed of all the time	Noted
Already insuffiecnt land.	Noted
Objections on the grounds of Noise, mud, dust and disruption, congestion, damage to the local roads, flooding issues, endangering wildlife, possible damage to historical remains and areas and danger of lives on the A12 sliproad.	See appraisal
Concerns regarding the proposal, in particular traffic and highway issues.	See appraisal
Proposals for HGV movements to and from the site will have a significant impact on the Colemans Bridge A12 junction area, where traffic regularly builds up along both the slip roads and the approach lanes of the A12. Worse during rush hours. HGV movements would need careful management, as well as conditions limiting movements during certain parts of the day.	See appraisal
Conditions limiting movements during certain parts of the day would increase movement per hour during other times.	See appraisal
Proposal does not address Government plans to widen A12 to 3 lanes.	Highways England has assessed the proposal and no

	objection raised.
Queries the impact upon the local roads, particularly on Braxted Park Road and the current Appleford Bridge, which is a listed site and has limited capacity. Queuing to cross Appleford Bridge creates long tailbacks during busy periods. Proposal would have an adverse effect upon minor local roads, particularly as the crossroads between Tiptree Road and Braxted Park road which has been identified as a black spot for traffic accidents. In particular the cycling route from Maldon-Tiptree cuts across this junction and increased traffic would create safety fears.	See appraisal
Unsafe access on Little Braxted Lane/A12 slip road given volume of traffic. No safeguard against exit onto Braxted Rd leading to traffic problems on both Appleford Bridge and Rivenhall Hotel junction	See appraisal
Concerns regarding road safety and congestion. Despite weight limit, width and height restriction signs on the road past Colemans farm many lorries already end up in the lane in the wrong place causing congestion and damaging the road, hedges and trees. Proposal will exacerbate this.	See appraisal
HGVs will cause pollution and will damage the local wild life environment, as well as potentially causing air quality problems for the residents of the surrounding areas.	See appraisal
Concerns regarding noise and dust pollution, particularly when weather conditions are 'wrong'.	See appraisal
Quarry would add to the countryside already lost to solar farms.	Noted

DR/25/15

committee DEVELOPMENT & REGULATION

date 25 September 2015

MINERALS AND WASTE DEVELOPMENT

Proposal: **Continuation of installation of waste pre-treatment facilities and recontouring of the landfill to facilitate restoration permitted by ESS/35/06/BAS without compliance with condition 4 (completion timescales), to allow waste to be deposited on site until 31 December 2025 and the site restored to nature conservation by 31 December 2027 and without compliance with condition 3 (waste geographical sources) to allow importation of waste from outside Essex and Southend and also without the development of the previously permitted waste pre-treatment facility**

Location: **Pitsea Landfill, Pitsea Hall Lane, Pitsea, Basildon, SS16 4UH**

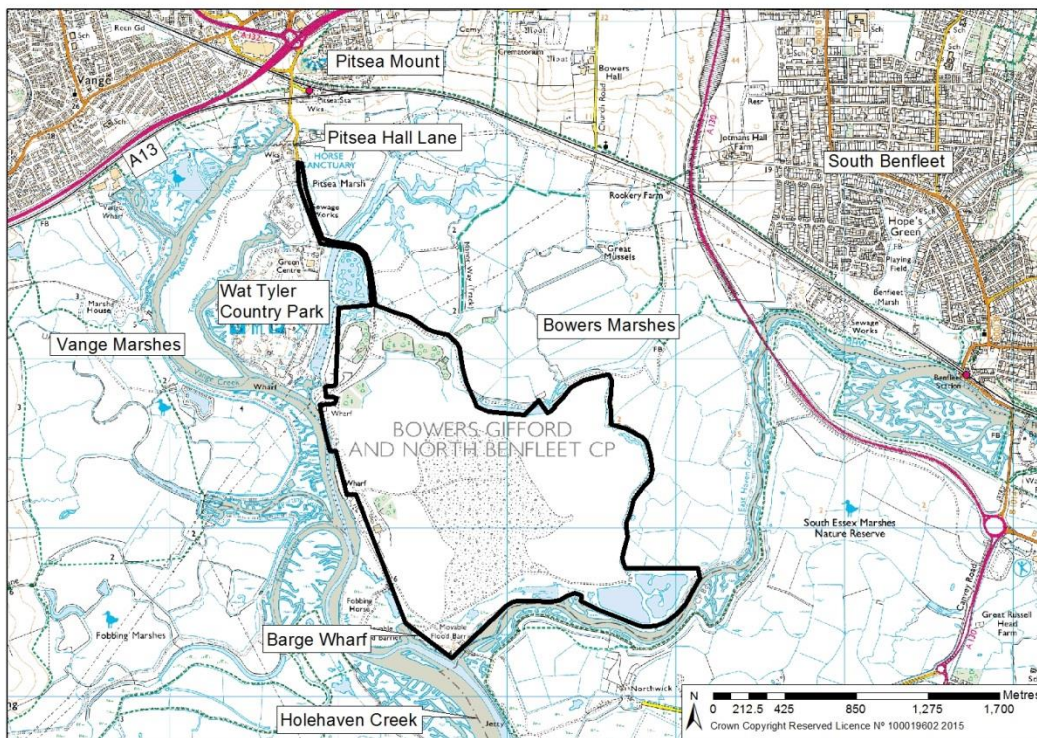
Ref: **ESS/49/14/BAS**

Applicant: **Veolia ES Landfill Ltd**

Report by Director of Operations, Environment and Economy

Enquiries to: Claire Tomalin Tel: 03330 136821

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



1. BACKGROUND

Waste has been disposed of at this existing landraising site since the early 1900s. The site is known as Pitsea Landfill although technically the operation is one of landraising as there was no prior creation of a void e.g. through mineral extraction. The site first came under planning control in 1934, and in 1986 planning permission was granted reducing the permitted disposal area from 426 hectares to 201 hectares, as part of a consolidating landraising proposal. A legal agreement was also entered into requiring a public open space afteruse.

In 1996 planning permission (ESS/51/96/BAS) was granted for the re-contouring of the site, the remodelling of the final landform to take into account a leachate recirculation, collection and storage system. Temporary planning permission was granted, waste imports were conditioned to cease by 31 December 2015, with final restoration to an amenity and nature conservation based afteruse by 31 December 2017.

In 2006 a further planning application (ESS/35/06/BAS) was made to revise the pre-settlement contours, but retained the original completion dates for infilling with completion by 2015 and restoration by 2017. The need for the revised levels arose from their being a greater rate of settlement than previously anticipated in the 1996 application; this was due to the mix of waste changing such that there was a higher proportion of biodegradable waste as more non-biodegradable material was being removed for recycling. The greater rate of settlement was leading to gentler slopes than required to ensure shedding of surface water as well as differential settlement causing uneven surface with potential for ponding of surface water. The consequence of these effects would have been difficulties in managing both leachate and landfill gas management. The maximum approved pre-settlement levels permitted were a maximum of 43m AOD, settling over time to 30m AOD.

The proposal in 2006 also included an on-site Mechanical Biological Treatment facility, but this was not developed. The planning permission for the revised profile was granted in 2007 subject to conditions and a legal agreement. The approved restoration was to a combination of nature conservation afteruses namely species rich grassland and chalk grassland, with also an area of short rotation coppice to provide bio-fuel for a generator at Wat Tyler Country Park. The existing legal agreement required Veolia to secure long-term management from a nature conservation body and this has subsequently been confirmed as the RSPB. The RSPB would take on management of the site, as soon as public access was possible; this is likely to be after the completion of restoration and the aftercare period. The RSPB would manage the site for nature conservation and as public open space for a period of nearly 130 years. Management would include the provision of visitor facilities, utilising the existing landfill site offices.

Also as part of the proposals in 2006 Veolia committed to provide a separate pedestrian bridge across the railway line at Pitsea. This was not required by the authority but offered by Veolia as a community benefit. The delivery of this bridge has been extremely problematic, particularly with respect to authorisations from Network Rail, but progress is being made and it is hoped that delivery of the bridge will be forthcoming in 2016/17.

Temporary planning permission (ESS/17/10/BAS) was sought in 2010 to allow early opening of the site in the mornings, while planning permission was granted the permission was not implemented and the landfill continues to operate under planning permission ESS/35/06/BAS.

The current planning application seeks to extend the life of the site, with landraising to be completed by 2025 and restoration completed by 2027 and aftercare completed in 2032. The pre and post settlement levels are not proposed to be amended and the nature of restoration is to remain the same as that permitted in 2007, one of bio-diversity with public access with the site managed by the RSPB.

In addition to the above permissions, there have been a number of other permissions associated with leachate management lagoons, a compound for the generation of electricity from landfill gas, an in-vessel composting facility treating green and food waste, a windrow composting facility for green waste and an inert waste recycling facility generating materials for capping and restoration of the site. Some of the inert waste material is imported by barge. Many of these permissions are tied to the life of the landraising operation and separate planning applications would need to be made to extend the life of these facilities, if they are to continue on site, subject to the current application being granted.

2. SITE

Pitsea Landfill is located southeast of Pitsea in Basildon District. The landfill site comprises the south-western quadrant of Bowers Marshes, a former salt marsh within a tract of marshland extending from Stanford-le-Hope to Hadleigh on the northern reaches of the Thames estuary. The landscape is predominantly low lying at approximately 2 metres Above Ordnance Datum (AOD) and is dissected by a network of watercourses. Holehaven Creek is to the south with Vange Creek to the west.

Nearby settlements include Pitsea (2km) and Basildon to the north, Canvey Island (1.5km) to the south east, Fobbing/Corringham (2.5km in Thurrock) to the west and South Benfleet (1.5m) to the north east. Coryton refinery and DP World are located to the south (1.5km in Thurrock). The nearest residential properties are a single property on Pitsea Hall Lane adjacent to the site access to the landfill, however, this property is over 1km from the landfill itself. The next nearest property is on Canvey Island at Northwick which is 500m from the site, but approximately 800m from the landfill.

Most of the reclaimed marshland is retained in permanent pasture and has a high ecological value. Bowers Marsh to the north-east of the site has in the last 3 years been transformed from pasture into an RSPB reserve with creeks and water bodies created to attract birdlife. The landfill site is surrounded by ecologically nationally and locally designated areas including Pitsea Marsh SSSI, Vange & Fobbing Marshes SSSI, Holehaven Creek SSSI, Bowers Marsh Local Wildlife Site (LWS), Pitsea Landfill LWS and Vange Creek LWS. Also within 2km are Canvey Wick SSSI and internationally designated sites Benfleet & Southend Marshes SPA/Ramsar (encompassing Benfleet & Southend Marshes SSSI and Benfleet &

Marshes European Marine site) and Thames Estuary & Marshes SSSI/SPA/Ramsar. Wat Tyler Country Park lies north-west of the site.

Access to the site is via Pitsea Hall Lane is a no through road, which runs south from the A132 junction with the A13. Pitsea Hall Lane also provides access to Wat Tyler Country Park. The dedicated concrete site access road, approximately 1 km in length, runs from the end of Pitsea Hall Lane and enters the site at its north-west boundary, running primarily along the western edge of the facility. The access road is also designated as an escape route in the event of an emergency on Canvey Island.

The majority of existing buildings within the site are located alongside this road. These include the gatehouse, the site offices, an in-vessel composting facility and windrow composting facility, storage buildings, generator compound producing electricity from landfill gas, workshops and associated fixed plant.

3. PROPOSAL

The proposal is to extend the life of the site for 10 years such that landfilling would be required to be completed by 31 December 2025, instead of 2015, and restoration completed by 31 December 2027, instead of 2017.

The need for the additional time has been justified by the applicant because the data used to calculate the completion in 2015 was based on data collected up to 2006 and since there have been a number of significant changes resulting in less waste going to landfill.

The landform permitted in 2007 ensured a profile that would shed water, even after settlement. To minimise the visual impact of the landfill, the landfill phasing was designed such that the outer phases were to be infilled and restored first, leaving the centre phases to be completed last. In this way the outer edges would screen landfilling operations in the centre. Landfilling in the outer phases has now been completed with only the south-west flank awaiting final restoration materials, but the centre phases remain incomplete.

The operator is now committed to completing the site as originally planned. To not fill the centre would result in surface water causing a large water body in the centre of site, which would cause continual problems with respect to management of surface water, landfill gas and leachate management. It would also lessen the effective after-use of the site for nature conservation and public access.

At the time of the application in 2006 a Mechanical Biological Treatment plant was also proposed as part of a bid by Cleanaway (then operator of the site) for Essex's local authority collected waste contract, which was unsuccessful. The application therefore seeks to confirm that the MBT element of the previously approved scheme would not be developed.

As at the time of preparation of the application (November 2014) the remaining available void space was approximately 3.5 million m³ with approximately an additional 2 million m³ of restoration materials required. The length of time needed

to infill the void has been based on landfill inputs dropping by 5% each year from 500,000m³ in 2014 to 100,000m³ in 2025.

The application also proposes that the site be allowed to continue to receive waste from outside of Essex, including Kent and London. Under the previous permission waste from Kent was due to cease to be imported in 2010 and waste arising in London reducing over the life of the site in accordance with the former Regional Spatial Strategy. The justification put forward by the applicant for waste to be sourced from outside Essex & Southend is to ensure satisfactory restoration as soon as possible enabling delivery of the nature conservation afteruses and public access to the site as soon as possible.

The pre-settlement and post settlement levels would be as previously permitted; the applicant has considered the change in nature of waste (less bio-degradable waste) over the years since the previous permission and settlement that has taken place to date and is of the view that the pre-settlement levels are still appropriate i.e. they do not need to be lowered. However, the applicant has proposed to review the nature of waste and settlement levels every two years, such that should circumstances change lower pre-settlement levels to achieve the post-settlement levels could be agreed on incomplete areas of the site.

No other elements of the proposal are proposed to be changed, namely the hours of operation would remain as follows:

07:00-18:30 hours Monday to Saturday
08:00-16:00 hours Sundays and Public Holidays

The permitted number of HGV (greater than 3.5 tonnes) movements would remain as currently permitted:

1100 movements (550 in, 550 out) Monday to Saturday
100 movements (50 in, 50 out) Sundays and Public Holidays

Upon completion the site would be managed by the RSPB for nature conservation and public open space for a period in excess of 130 years.

The application has been submitted supported by the original Environmental Statement submitted in 2006 update as appropriately, mainly with respect to highways and also ecological impacts, due to its proximity to both nationally and internationally designated sites. A review of the Environmental Statement is provided at Appendix 1.

4. POLICIES

The following policies of the Waste Local Plan adopted 2001 and Basildon District Local Plan Saved Policies 2007 provide the development plan framework for this application. The following policies are of relevance to this application:

	WLP	BDLP
Waste Strategy	W3A	

Non-inert void capacity to be reserved for non-inert waste	W3D	
Flood risk and surface water management	W4A	
Protecting ground and surface water	W4B	
Transport network/access	W4C	
Landfill on preferred sites to achieve restoration	W9A	
Site restoration	W10C	
Measures to control gas	W10D	
Development control criteria	W10E	
Hours of operation	W10F	
Green Belt		BAS GB1
Nature Conservation protected areas		BAS C1
Country Parks		BAS C2
The Marshes Areas		BAS C7

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

In respect of the above, paragraph 215 of the NPPF, 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 NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given). The level of consistency of the policies contained within WLP is considered further in the report. Basildon Borough Council has produced its own conformity/compliance checklist with the NPPF and this is provided at Appendix 2.

With regard to updates/replacements or additions to the above, the NPPF (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 NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The Replacement Waste Local Plan: Revised Preferred Approach (RWLP) was subject of consultation in July 2015. However, it is considered in context of paragraph 216 of the NPPF the RWLP is too early in its development to hold any significant weight in decision making as objections may be outstanding from consultation.

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

5. CONSULTATIONS

BASILDON BOROUGH COUNCIL – No objection. Disappointed at the delay in completion of the landfill but accepts the justification for the additional time is warranted to achieve the proposed restoration. It is hoped that the calculations as to the likely timescale are accurate and that a further extension would not be required.

In view of the impact of the proposals on the community particularly HGV movements and the resulting noise and disturbance, the authority would wish to see as part of the application this off-set by a contribution to improving the public realm along Pitsea Hall Lane and adjoining Wat Tyler Country Park

Comment: The applicant has already committed to provide a pedestrian bridge at Pitsea improving pedestrian access along Pitsea Hall Lane. The applicant has stated that projects can seek funding from The Environmental Fund which utilises landfill tax to provide community benefits.

CASTLE POINT DISTRICT COUNCIL (adjacent authority): No objection.

THURROCK COUNCIL (adjacent authority): No comments received.

ENVIRONMENT AGENCY – No objection. The original application to amend the profiles of the landfill was supported in order to ensure a profile that would shed water and improve the landfill gas and leachate management. A landform that does not shed water would lead to difficulties managing landfill gas and leachate. The planning application provides very little information as to how leachate and landfill gas would be managed over the extended period, these are matters addressed by the Environmental Permit and a variation to the EP would be required and would need to address these issues.

The application states the nature of the waste is likely to change in the future with a lower proportion of degradable waste. A review of the model previously used to predict settlement would currently appear to show pre-settlement levels remain acceptable. The applicant proposes to review each 2 years to check the model is still appropriate and this approach would seem appropriate and acceptable.

HIGHWAYS AGENCY: No objection

PORT OF LONDON AUTHORITY: No objection

NATIONAL PLANNING CASEWORK UNIT: No comments to make

CPRE: No comments received

NATURAL ENGLAND: No objection. Raise the following comments:

- Concern as to the continued use of the wharf and the impact of barges on the Holehaven Creek SSSI and Thames Estuary and Marshes SPA, particularly the nationally and internationally important populations of black-tailed godwit. The existing number of barge movements should be seen as a maximum and the existing monitoring and operational management plan co-ordinated by the Barge Impact Study Group should continue for the life of the development.
- Disappointment at the 10 year delay in the delivery of the wildlife habitats which would complement and contribute to the nature conservation quality of the wider area
- The creation of the Bowers Marsh RSPB and concern as to the impacts of the landfill by attracting gulls and foxes which predate and displace bird species, reducing expected breeding rates on the marshes, which might have been expected if the landfill had been completed. Therefore additional measures are considered necessary to reduce the impact of predation through gull management and fox exclusion fencing with an on-going monitoring programme to monitor its effectiveness and if necessary provision for additional measures.
- Disappointment at the delay in public access to the site and that phased release of access to the site is not considered possible and would wish there to be planning controls to ensure the restoration as permitted is delivered in total in a timely manner to ensure delivery of the legacy.
- Natural England will continue to be a partner in the Pitsea Liaison Group.

RSPB: No objection: Subject to compliance and implementation of the “Predator monitoring and management plan for Pitsea Landfill and Bowers Marsh” dated 16 September 2015. This management considered necessary to minimise impact upon breeding rates on adjacent nature conservation areas, including the recently created Bowers Marsh RSPB Reserve.

ESSEX WILDLIFE TRUST – No comments received

ENGLISH HERITAGE: Should be determined in accordance with national and local planning policy and on the basis of your specialist conservation advice.

HIGHWAY AUTHORITY – No objection subject to existing conditions and legal obligations with respect to highway matters being carried forward.

FIRE AUTHORITY: No objection, access for fire service is considered satisfactory

NETWORK RAIL: No objection

PITSEA MOUNT RESIDENTS ASSOCIATION: Object on the following grounds:

- Timescale –Very disappointing one year before the site was due to finish that more time than originally granted in 2007 is now

- proposed.
- Transport – There must be justification to now reduce the number of HGV movements per day as there is less to complete and a longer time to complete over. It is the HGV movements on Pitsea Hall Lane that that cause the most concern to local community. Bringing forward of the awaited pedestrian bridge would be beneficial.
- Environment – With the regeneration of Pitsea Hall Lane provides the link between Pitsea and the Country Park and every effort should be made to improve this link including reduction in HGV movements.

COUNTY COUNCIL'S NOISE CONSULTANT: No objection, subject to imposition of exiting noise conditions, setting maximum noise levels and requiring monitoring to show compliance.

COUNTY COUNCIL'S AIR QUALITY CONSULTANT: No objection. A summary of Landfill Gas (LFG) control measures has been detailed within the ES chapter and a Gas Management Plan (GMP) has been completed for the site in accordance with the Landfill Gas - Industry Code of Practice (March 2012). The continued adherence to the GMP and the mitigation measures specified within the ES chapter will ensure that residual emissions are minimised. Further to this, the Environment Agency licenses and regulates Pitsea landfill site to ensure that the impacts on the environment are minimised. As such, it is considered that air quality impacts will be suitably controlled and it is anticipated that the proposed application would result in no additional impacts.

ESSEX COUNTY COUNCIL AS WASTE DISPOSAL AUTHORITY: No comments to make

PLACE SERVICES (Ecology): No objection, subject to conditions to ensure compliance with the 'Protection Measures for Protected Species' as set-out in the 2011 AMEC report and a condition requiring monitoring and management of predator species.

PLACE SERVICES (Landscape): No objection

PLACE SERVICES (Historic Buildings): No objection. The site has no impact on the historic built environment, however the movement of traffic to the site passes Cromwell House, a grade II Listed Building but this raises no concerns.

BOWERS GIFFORD & NORTH BENFLEET PARISH COUNCIL – No comments received.

CANVEY ISLAND TOWN COUNCIL: No comments received

LOCAL MEMBER – BASILDON - Pitsea – Cllr Mc George - Concerned that two waste facilities are operating within Basildon at the same time.

LOCAL MEMBER – BASILDON - Pitsea – Cllr Bobbin - Any comments received will be reported verbally

Adjacent LOCAL MEMBER – BASILDON – Westerly Heights. Any comments received will be reported verbally

Adjacent LOCAL MEMBER – CASTLE POINT – Canvey Island West - Any comments received will be reported verbally

6. REPRESENTATIONS

15 properties were directly notified of the application, the majority of which were non-residential properties. Two letters of representation have been received raising the following matters:

Observation

The lorry route passes a Listed Building Cromwell Manor, the EIA should have included a Heritage Statement as required with respect to other waste applications.

Comment

A Heritage Statement has subsequently been submitted. See appraisal

Residents of Basildon were told this tip would be completed in 2015 and this should be upheld, residents' wishes are being ignored and promises broken.

See appraisal.

Basildon now has to suffer HGV movements in relation to Pitsea & Courtauld Road with consequent loss of air quality

See appraisal.

7. APPRAISAL

The key issues for consideration are:

- A. Need & Waste Policy Considerations
- B. Basildon Local Plan Policy considerations
- C. Green Belt
- D. Ecological Impacts
- E. Traffic & Highways
- F. Landscape and Visual Impact
- G. Noise, Dust & Air Quality
- H. Cultural Heritage

A NEED & WASTE POLICY CONSIDERATIONS

The National Planning Policy for Waste (NPPW) 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. However, while it is stated that disposal is the least desirable option, it is also recognised that land raising or landfill

sites need to be restored to beneficial afteruses at the earliest opportunity and to high environmental standards.

Pitsea landfill is a preferred site for non-hazardous landfill (LNI4) identified in the WLP 2001 (NB The void capacity referred to in the WLP of 4.4million m³ was prior to the application in 2006, as at 2006, 8 million m³ was required to complete the landfill). Historically this site was a co-disposal site taking special waste including liquid waste, but with changes in legislation this is now not permitted and now the site receives only non-hazardous waste both local authority collected waste and industrial and commercial waste and inert waste.

At the time of this application's preparation in 2014 the volume of waste still required to complete infilling of the void was estimated at approximately 3.5 million m³ (4.6 million tonnes) with an additional approximately 2 million m³ (3.2 million tonnes) of restoration material required a total of 5.5 million m³ (7.8 million tonnes).

In the period until 2025 the site would continue to receive waste to infill the void as well as restoration materials. Upon completion of the void, restoration materials would continue to be imported for a further 2 years until December 2027, estimated to be around 130,000 m³ per annum for those last two years.

In 2006 when the timescale for completion of the landfill was last reconsidered it was envisaged the importation of waste materials would be completed by December 2015 and completion of importation of restoration materials complete in order to achieve restoration by December 2017. This was based on inputs rates prior to 2006, however, the applicant has stated there has been a considerable change in circumstances with respect to the amount and rate of fill material, which could not have been foreseen at that time including the following factors:

- The effects of the recession;
- The steady increase in landfill tax which is currently £80 per tonne which has driven waste away from landfill as local authorities and businesses look to reduce their costs;
- Increased recycling following the introduction of tighter regulations;
- Improved recycling /separation schemes by local authorities including kerbside collection of food waste;
- Since October 2014 the diversion of Local Authority Collected Waste to Courtauld Road MBT.

The combination of the above is that waste input rates have been less than those predicted in 2006 and hence insufficient waste will have been imported by December 2015 to infill the void and complete the capping and restoration.

The applicants' have stated, and that the completion of the approved restoration is supported by the Environment Agency, that it is essential the currently approved post-settlement restoration landform is achieved.

Phasing of the site approved in 2007 consisted of a ring of phases around the outer edge of the site to be completed first and then central phases to be infilled after the outer ring. The landfilling of phases in the outer ring is complete and approximately

two thirds of this area restored to nature conservation, with the remaining third to be restored in the next two years, subject to availability of suitable restoration materials. This leaves only the centre phases to be completed, which are larger in volume than the outer phases. Infilling of these phases would be largely screened by the outer completed phases; apart from when infilling reaches the upper levels of these central phases. Without completion of these inner phases, the site if restored at the existing profile, would leave a hollow in the centre of the site that would naturally fill with water, likely causing a water body. The waterbody would prevent satisfactory management of surface water, leachate and landfill gas and likely require continual disturbance of the site's surface to address problems. This continual disturbance would prevent delivery of the nature conservation after use and limited public access to the site. The Environment Agency have commented that the completion of the profile permitted in 2007 is essential to ensure natural shedding of water, which would reduce difficulties with managing landfill gas and leachate.

The Environmental Permit would be required to be amended as a result of the extended period to include management measures for leachate and landfill gas over the extended period. If planning permission is granted there would need to be subsequent applications for the retention of existing leachate and landfill gas management facilities which may require amendments, potentially requiring planning permission.

The approved profile was designed specifically to ensure that the site, post settlement would naturally shed water and facilitate long-term management of leachate and landfill gas. The applicants have considered an alternative revised profile to that approved to reduce the volume of waste needed to complete the site. A gentler profile would be less likely to naturally shed water and likely to lead to problems with management of leachate and landfill gas requiring continual disturbance of the surface. In addition a revised profile would require the reworking of the outer phases with associated visual impact, odour issues due to exposing decomposing waste and difficulties managing leachate and landfill gas while re-opened.

The continuation of landfilling over the next 10 years is considered essential to achieving the completion of the site and delivery of a sustainable restoration scheme providing both nature conservation and public open space benefits.

The application seeks an extension of 10 years; the timescale for completion has been based on both applicants (Veolia) and its agents SLR's knowledge of waste markets, both at Pitsea and nationally and the likely rate of importation of waste to the site. The applicants have stated that the calculations have been conservative; assuming a decrease in input rates of 5% a year based on the applicants & consultants knowledge. Thus potentially the site could be finished earlier. For example since submission of the application infill rates for late 2014 and early 2015 were higher than expected. However, there could be years when infill rates are less.

Due to the decreasing availability of non-hazardous waste it is likely a greater proportion of waste would be inert in nature. Concern was raised by the WPA with the applicant that as inert material settles less, that perhaps the pre-settlement levels needed to be reconsidered. The applicant reviewed the settlement model in 2011 as

required by previous conditions and also reviewed settlement rates to date and considered no change is required with respect to the pre-settlement levels. However, the applicant has proposed to review the model on a regular basis, in particular, if there was a significant increase in the volume of non-biodegradable waste (which settles less), so that pre-settlement could be amended on incomplete phases, if required to ensure achievement of the post settlement levels. Such monitoring and amendment to pre-settlement levels could be secured by planning condition, if planning permission were granted.

In conclusion it is considered there is a technical need to complete the site in order to achieve a sustainable beneficial afteruse, where leachate and landfill can be properly managed. This is in accordance with the principles of NPPF to achieve a high standard of restoration for landfills.

While disposal to landfill is at the bottom of the waste hierarchy there is a need to provide for disposal of the residue, once recyclables have been removed from the waste stream. The WPA is currently preparing a Replacement Waste Local Plan (RWLP), the evidence base for the RWLP has shown that there may be a slight increase in waste arising with respect to non-hazardous waste within Essex & Southend and there is a need to provide for a proportion of London's residual waste. However, such provision for Greater London will reduce as London develops its own facilities to manage its waste. The Greater London Plan (adopted March 2015) states that no non-hazardous waste will be exported from Greater London after 2026. The evidence base for the RWLP indicates there could be an excess of non-hazardous landfill capacity, by the end of the plan period 2031, but this will depend on the level of increase in waste arisings within Essex & Southend and Greater London achieving its aim of no export of non-hazardous waste by 2026.¹

The potential for Pitsea not to be completed by 2015 was recognised within the evidence base for the RWLP, as it was known that infill rates had not been as high as predicted in 2006. Because of the existing capacity (at Pitsea and other sites) no new non-hazardous landfill capacity has been proposed within the emerging RWLP. Pitsea has been identified as a safe guarded site within the emerging RWLP, as the capacity within the site has been acknowledged in assessing what further non-hazardous landfill capacity would be required².

Due to the potential excess of non-hazardous landfill capacity within the life of the RWLP, there is no need to identify additional void capacity. However, it must be emphasised that the current application has not been justified on the need for the void space, but the need to complete infilling of the existing permitted capacity to achieve satisfactory restoration of the site and deliver the nature conservation and public open space after use. In addition there is potential, as mentioned earlier, that the applicant may utilise the void capacity within the site for disposal inert waste as opposed to non-hazardous waste in response to the market availability of waste materials. The WLP policy W3D seeks to ensure that where sites/void capacity was identified in the WLP for non-inert waste the void was utilised for this purpose. AS

¹ The Replacement Waste Local Plan is still in its early stages and the evidence has not been tested at Examination in Public and therefore limited weight can be attributed to its content.

² The Replacement Waste Local Plan is still in its early stages and the evidence has not been tested at Examination in Public and therefore limited weight can be attributed to its content.

mentioned before the evidence base for the emerging RWLP would indicate there may be an excess of non-hazardous (non-inert) void capacity within the plan area. Therefore it is considered, that should the applicant consider it beneficial to utilise the existing void space for inert waste as opposed to non-hazardous waste, while not in conformity with WLP policy W3D it is considered the need to complete the infilling and restoration in a timely manner, justifies the non-compliance with this policy. It must also be recognised that at the time of the adopted WLP, the technology and level of recovery of recyclable material from waste was not as developed as today and alternative technologies for disposal of waste were in their early stages, such that disposal of waste was much more dependent on landfill and hence capacity was protected to maximise its potential. In addition more recent national policy within NPPW emphasises the need for restoration of a high standard in a timely manner.

Concern has been raised as to the concentration of waste facilities in the Basildon area namely Tovi Eco Park (Courtauld Road) MBT as well as Pitsea landfill. The NPPF emphasises that waste facilities should be located near to the communities they serve. The location of Pitsea landfill is historical and not one that can be changed and its satisfactory restoration is essential. In considering the cumulative impacts of the proposal, the most likely to give rise to adverse effects is that of vehicle movements, as considered later in this report, no objection has been raised on highway safety and capacity grounds by the Highways Authority or with respect to air quality grounds by the County's air quality advisor and therefore the cumulative impacts of the development are not considered unacceptable.

The applicant has, as part of the application, sought to be allowed to import waste without restriction as to its geographical source, in view of the need to complete the restoration as soon as possible. The permission granted in 2007 required cessation of waste sourced from Kent by 2010 and waste from London reducing over the life of the site in accordance with the former Regional Spatial Strategy and WLP policies W3B and W3C. The emphasis of National policy with respect to constraining the geographical source of waste has changed since the determination of the application in 2007. While the proximity principle is still supported, by local (WLP policy W3A) and national policy (NPPW), it is recognised that waste facilities may need to serve an area greater than the immediate local authority. In view of this change in emphasis of national policy, and the need to see the site's restoration completed as quickly as possible, it is considered acceptable not to constrain the source of waste, such that waste from Kent and Greater London and elsewhere can be disposed of at the site. The condition seeking to limit the source of waste could be deleted, if planning permission were granted and thereby assist the restoration to take place in a timely manner.

It is considered in accordance with the NPPW there is a need to ensure a high standard of restoration at Pitsea Landfill. Policies of the adopted WLP also seek to ensure high standard of restoration including protection of ground and surface water (WLP policies W4A and W4B) from pollution and proper management of landfill gas (WLP policy W10D) and ensure that the restoration is acceptable and feasible (WLP policy W10C). The completion of the approved profile and restoration would, ensuring surface water, leachate and landfill gas management can be properly managed in the long term to prevent environmental pollution and to deliver the benefits of the restoration scheme, namely areas of nature conservation and public

open space. These benefits can only be fully achieved, if the site is completed in accordance with the approved profile. It is therefore considered that the additional time needed to import waste to achieve this approved profile is justified and would deliver a sustainable beneficial restoration of the site in accordance with the NPPW and WLP policies W4A, W4B, W9A, W10C and W10D.

B BASILDON POLICY CONSIDERATIONS

Pitsea Landfill is designated as Marshes within the adopted Basildon District Local Plan to which Policy C7 relates, which seeks to protect the Marshes of Vange, Bowers & Pitsea from inappropriate recreational uses and preserve the landscape, character and nature conservation value of the Marshes.

Veolia the applicants have provided a long lease to the RSPB on land within Bowers Marsh adjacent to the landfill, where the RSPB have undertaken works to create a wetland habitat for birds and reserve accessible by the public.

The creation of the nature conservation habitats as part of the restoration scheme on the landfill, of which nearly half has already been delivered, would complement the existing designated and undesignated nature conservation areas, which surround the site. The completion of the restoration and delivery of the public access to these habitats is considered to be in accordance with Basildon Local Plan policy C7.

Within the emerging Basildon Local Plan 2031 - Core Strategy there are key areas noted for Primary Areas for Development and Change (PADC). In all three the Spatial Growth Options scenarios, Pitsea Hall Lane is located within the urban PADC. Policy PADC13 relating to the South Essex Marshes seeks to improve and transform the Marshes into a publicly accessible Thameside wilderness, connected to nature reserves in neighbouring districts and boroughs. The policies in combination aim to regenerate and improve the amenity and enjoyment of Pitsea and its surrounding areas, with this area providing a 'Gateway' to Pitsea and the rural environment to the south. Concern has been raised by Pitsea Mount Residents Association that the continuation of HGVs and delay in restoration of the landfill does little to support the regeneration of the Pitsea Area which Basildon Borough Council is seeking to achieve. Basildon Borough Council has raised no objection but requested improvements to the public realm in Pitsea Hall Lane. The applicant has responded that there is an existing commitment to fund a pedestrian bridge on Pitsea Hall Lane over the railway line and there are opportunities for funding of projects through the Environmental Trust (utilising landfill tax) and applications for projects should be made to this fund.

It is acknowledged that the continuation of HGV movements to the site would detract from creating a pleasant "gateway" to the Marshes Area. Although, while it is acknowledged that the majority HGV movements on Pitsea Hall Lane are to Pitsea Landfill, there are HGV movements associated with ECC's HWRC and the Tuskit Industrial Estate, which would continue after the landfill is completed. The continued commitment by Veolia to provide a pedestrian bridge over the railway line will improve pedestrian accessibility to the area. The continuation of HGV is unavoidable if the landfill is to be completed and the restoration benefits delivered.

As part of the restoration both permanent and temporary areas for cultivation of bio fuels (willow) have been included in the restoration, to provide bio fuel to the heating system at Wat Tyler Country Park operated by Basildon Borough Council. This was previously secured through legal obligations which would be carried forward to any new legal agreement, if planning permission were granted. An area of temporary bio fuel cultivation is located adjacent to Bowers Marsh and is due to be cut this year. Permanent areas planted for bio fuels are located in the north of the site near the access road. Due the position of the temporary area, access is likely to become restricted in the near future due to completion of restoration in the adjacent area and thus its removal by summer 2017 is considered necessary to ensure its satisfactory restoration. Removal of the willow is also necessary to ensure nesting of corvidae is discouraged and these are likely to predate on birds within the new RSPB Bowers Marsh reserve. Its removal and restoration could be secured through condition if planning permission were granted.

The completion of the site is essential to enable delivery of the nature conservation afteruse and the public open space which would contribute to the other surrounding nature conservation areas and public open spaces, including Bowers Marsh RSPB reserve and Wat Tyler Country Park. While it is acknowledge the 10 year extension will delay the delivery of these benefits, their delivery would provide long-term benefits, such that it is considered the extension of time is in accordance with the aims and objectives of BDLP policy C7 and emerging policy PAD13.

C GREEN BELT

National planning policy in the last few years has sought to emphasis the protection afforded to Green Belt land, both through the NPPF and NPPW. The Green Belt for Basildon is defined by policy BAS GB1 of the saved policies of the adopted Basildon District Local Plan and seeks with others policies of that plan to protect the Green Belt from inappropriate development. The emerging Basildon Core Strategy seeks to ensure the Green Belt serves its purpose through “pro-actively managing the use of land in the Green Belt so that it benefits local communities”.

The NPPF states that “The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

The NPPF states the Green Belt has 5 purposes:

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

Firstly the principle of Pitsea Landfill’s location has been established through previous planning permissions. There has been a landfill on the marshes at Pitsea, since before formal planning legislation and this situation needs to be taken into account when considering its continued acceptability in the Green Belt. The majority

of the nature of the landfill is not one of built development in its normal form i.e. buildings, but the use of land for landfilling resulting in a landform. However, it is acknowledged that there are existing buildings such as offices, staff facilities and workshops that would be required to be retained for the life of the landfill. In this context consideration with respect to the defined purposes of the Green Belt 1, 2 & 4 are less relevant to this application.

With respect to safeguarding the countryside from encroachment, the current application would see no change to the area or shape of the final landform, only a longer period to achieve restoration. The restoration to nature conservation and public open space would meet the purposes of the Green Belt keeping the land permanently open.

The height and shape of the pre-settled landform is untypical of the Marshes area, which are relatively flat, but this has been necessitated as the understanding of landfill technology has improved requiring the settled landform to be able to shed water naturally and allow extraction of the landfill gases generated. However, the restoration has been designed to be in sympathy with surrounding ecological areas and enhance the biodiversity of the area. The management of site by the RSPB for in excess of 130 years would be in accordance with the purposes of the Green Belt in that it would secure the area in the long term for nature conservation and public open space in sympathy with surrounding international and national designated ecological areas and the Wat Tyler Country Park.

It is recognised that, in appropriate development in the Green Belt, is by definition, harmful to the Green Belt and landfilling is not one of the exceptions as defined in the NPPF (paragraph 89). However, outdoor recreation is considered an exception, “as long as it preserves the openness of the Green Belt and does not conflict with the purpose of the including land within it”. It is considered that the restoration after use of public open space would meet this exception criterion.

Nonetheless, it is acknowledged that continuation of landfilling operations for a further 10 years, with the retention of the associated built infrastructure, is inappropriate development within the Green Belt, but it is considered that the need to complete the landfilling, to achieve the landform that would ensure satisfactory restoration of the site and delivery of nature conservation and public openness alone amount to very special circumstances, such that its location within the Green Belt does not warrant refusal on these grounds.

D ECOLOGICAL IMPACTS

The Pitsea Landfill is surrounded by various sites of nature conservation value, including, international and nationally designated sites (Ramsar, SPA, SAC's SSSI and County Wildlife Sites). In addition the RSPB in the last few years have created a new reserve on the Bowers Marsh with water bodies and creeks specifically designed to encourage wetland bird species. National and local planning policies seeks to ensure protection of these ecologically sensitive areas and where possible seek enhancements.

The impacts on the surrounding ecology have to be considered in terms of the

continued impacts during the completion of landfilling and restoration over a further 10 years and the impact of the proposed restoration and afteruse.

In considering the proposed extension the Environmental Statement recognised the greatest impact arising from the continued landfilling operations were the attractiveness of the site to gulls and the existing population of foxes. Both species have the potential to feed on the eggs of breeding birds and prey upon certain fauna such as young birds, reptiles and young baby hair.

The separation of food waste at source prior to importation of waste to the site has reduced the amount of food waste being landfilled, such that there is less food to be scavenged. The site at present is not subject to any specific management measures with respect to deterring gulls, such as noise deterrents and use of hawks, as these would likely impact upon other bird species visiting the adjacent nature conservation areas. However, the site is subject to good management practices such as covering of waste and keeping the open tipping area to a minimum, to reduce the area attractive to gulls.

The site also has a known population of foxes, the reduction in food waste will also likely reduce the number of foxes, but due to their predatory nature of foxes measures have been also been taken to try and reduce fox numbers, including discouraging staff from feeding them. The RSPB initially raised objection to the application, in that inadequate measures had been proposed with respect to managing predators, in particular foxes. However, a monitoring and management plan has now been agreed by the applicant with the RSPB, and the RSPB has withdrawn its objection. The implementation of this monitoring and management plan could be secured by a legal obligation, if planning permission were granted.

The application also includes the continuation of importation of restoration materials by barge using an existing wharf on Holehaven Creek. However, Holehaven Creek is an SSSI and of particular importance as it is used by the Black-tailed Godwit (nationally important numbers visit the Holehaven Creek), Curlew and Dunlin which are protected species and are sensitive to disturbance. Use of the Holehaven Creek is limited by the tides. The use of the wharf is overseen by the Pitsea Barge Impact Group (PBIG)³. Veolia fund monitoring surveys and advice as to best operational practices is agreed by the group and adhered to by Veolia. Natural England has commented that the existing number of barge movements should be seen as a maximum and involvement by Veolia in the PBIG should continue for the life of the landfill. Monitoring reports to date have indicated that greater disturbance tends to be caused by other movements in Holehaven Creek such as jet skis and motor boats. The previous legal agreement did require that importation of material should be limited to restoration materials only i.e. not to include non-hazardous waste. However, no other restrictions were placed on the use of the wharf. Voluntarily Veolia have funded monitoring and complied with the operational practices suggested by the PBIG. The existing obligation would be carried forward and Veolia are agreeable to obligations that require their involvement with the PBIG, including funding of monitoring during barge movements and compliance with operational

³ The Pitsea Barge Impact Group is made up of Natural England, RSPB, Port of London Authority, Wat Tyler Country Park, Thames Estuary Partnership, Veolia Environmental Services & S Walsh & Sons (operators of the barges)

practices agreed by the PBIG, including the number and timings of barge movements.

The site in terms of management both during the life of the site and upon restoration can be divided into two parts, those areas which have been subject of recontouring since 2007 and still requiring completion and those which have remained undisturbed around the perimeter of the site.

Those areas already reprofiled and restored and to be restored, during the life of the landfill, would be managed to achieve their nature conservation afteruse. Monitoring to date has already shown restored areas to be supporting species of nature conservation value. If landfilling and restoration were not completed the full nature conservation value of the site is unlikely to be realised, as the site would be likely subject to constant disturbance (removal of soils) to address issues relating to surface water, leachate and landfill gas management. Conditions would be imposed, requiring 5 years aftercare for restored areas of the site and through a legal obligation management beyond the 5 year aftercare by Veolia until such time as management is passed to the RSPB.

As explained above there is an area of land on the perimeter of the site that has not required re-profiling and this currently includes ditches and channels related to both surface and leachate management, often referred to as the area below the 10m contour (although the area isn't strictly below the 10m contour). This perimeter area is currently positively managed by Veolia to enhance its nature conservation as well as meeting its functional needs with respect to management of the leachate and surface water. To date the management of these areas has not been secured through planning controls. To ensure adequate control of these perimeter areas is continued, it is considered appropriate to impose conditions, requiring the details of management to be submitted and approved and implemented throughout the life of the landfill and aftercare period.

As mentioned above the long-term management of the site is to be undertaken by the RSPB and arrangements are in place for the site. RSPB management would commence upon completion of the aftercare period, previously anticipated to be in approximately 2022/23 (5 years after completion of the site in 2017), but now likely in 2032/33. The management of the nature conservation areas and management of visitor facilities (in the existing site offices) would under the current application continue to be undertaken by the RSPB for a period in excess of 130 years. However, the proposed 10 year extension of time to complete the landfill would require an amendment to the existing legal arrangement between Veolia and the RSPB, reflecting the delay in commencement of the management period. It is necessary that this revised legal arrangement between Veolia and the RSPB is in place prior to the completion of any new legal agreements necessary in relation to this planning application and the issuing of the planning permission. The recommendation at the end of this report reflects this requirement.

In terms of impacts following restoration, there is potential for positive benefits from the nature conservation afteruse, complementing the surrounding areas subject of ecological designations. Natural England has expressed disappointment in the delayed delivery of these bio-diversity benefits and in the delay in access by the

public to the restored areas of nature conservation. In order to enable some public observation of the restored areas until completion of the restoration, the use of cameras on the site has been suggested, with potentially live web cameras. The applicants have indicated a willingness to provide such facilities and these could be secured through a planning obligation should planning permission be granted.

The long-term afteruse of the site includes access by the public the extent of this access would be managed by the RSPB. There is potential for human presence resulting from the recreational use to have an adverse impact on biodiversity benefit to be delivered by the site, but it is considered that the RSPB has experience in balancing these two conflicting uses and thus additional control is not necessary with respect to this matter.

Subject to the planning conditions and legal obligations, as described above it is considered the impacts arising from the extended period of landfilling, importation of material by barge and long-term management of the site for nature conservation and public open space would not result in adverse impact on surrounding sensitive ecological habitats. In addition, in the long-term, the site should deliver benefits in terms of biodiversity. The proposals are therefore considered to be in accordance with the NPPF, NPPW and WLP policy W10E and BLP policy C1 and C7 in protecting and enhancing areas of biodiversity.

Habitat Regulations Assessment

Pitsea landfill is within 2km of the Benfleet and South Essex Marshes Ramsar site and SPA and as such it was necessary to adopt a screening opinion as to whether an Appropriate Assessment was required. The application has been subject of consultation with Natural England and the County's Ecologist.

The sensitivity of the Ramsar and SPA designations largely relates to ensuring the quality of water is not deteriorated. It was concluded that the proposed development would not increase the risk of degradation of water quality, above that which would exist without the development and controls are in place including the Environmental Permit administered by the Environment Agency to minimise any impact from surface water or leachate generated at the site. It was therefore concluded that an Appropriate Assessment was not required.

E TRAFFIC & HIGHWAYS

No additional movements are proposed as part of the application, only a continuation of the existing vehicle movements. HGV movements are currently limited to 1100 movements a day (550 in 550 out) Monday to Saturday. This is also set out within the associated existing legal agreement, such that this is the total movements for the site, not just those associated with the landfill i.e. all HGV movements associated with activities at the site which include, green waste composting, in-vessel composting and inert recycling. In addition 100 movements (50 in 50 out) are permitted on Sundays and on Public Holidays, these movements allow deposit of waste arising from Household Waste Recycling Facilities, which are often busy at weekends and in the past allowed receipt of Local Authority Collected Waste as part of catch up collections after public holidays. If granted permission, conditions and legal obligations could be re-imposed to ensure the existing control is maintained.

Some restoration materials are imported from London by barge to a wharf on the edge of the site within the Holehaven Creek, one barge can carry about 500 tonnes equivalent to about 29 lorries (58 movements). However, the tides only permit barges to access the wharf twice a day and the movement of barges is further constrained by the need to minimise disturbance to protected birds that feed on the marshes particularly at night. Due to these constraints the use of barges cannot be expanded.

Pitsea Mount Residents' Association has suggested that the number of HGV movements per day could be reduced, due to the extended time to complete the landfill. If HGV movements were reduced below that currently permitted this could further delay restoration of the site, by reducing the daily input of non-hazardous waste and restoration materials. In particular, restoration materials mainly become available in the summer months and often are associated with a specific construction project, such that there can be a large number of movements in a short period. At these times movements are managed to ensure not exceeding the permitted maximum. Reducing the daily HGV movement numbers could potentially further delay restoration and completion of the site.

As part of the planning permission granted in 2007 Veolia committed to provide a pedestrian bridge over the railway line on Pitsea Hall Lane. It should be emphasised that this was not a requirement of the Highway Authority or the Planning Authority, but an offer by Veolia as a good will gesture to the community of Pitsea. The bridge over the railway line is subject to protection measures to ensure two HGVs aren't on the bridge at the same time. The existing footpath is quite narrow over the bridge and even with only 1 HGV on the bridge; use of the pedestrian path is not pleasant. Therefore, Veolia are working with ECC & Network Rail to deliver a pedestrian bridge adjacent to the current road bridge. The original commitment was to provide the bridge by 2012. The process has been extremely slow due to the number of authorisations required from Network Rail, but progress is now being made and it is hoped the bridge will be in place during 2016/17. If permission were granted to extend the life of the landfill, the commitment to provide the bridge could continue to be required by legal agreement, the bridge to be fully funded by Veolia, with the bridge subsequently becoming an ECC structure.

The existing access arrangements meet the criteria of WLP policy W4C in that access is via an existing road to a main route, the A13. The Highways Agency has raised no objection and the Highway Authority has raised no objection, subject to imposition of the existing conditions relating to highway matters, namely, number of HGV movements and access point to the site.

It is therefore considered that the continued number of HGV movements and use of Pitsea Hall Lane would not give rise to issues of highway safety or capacity and that planning permission could not be withheld on highway grounds.

F LANDSCAPE AND VISUAL IMPACT

The site is located in the flat area of the Marshes such that the proposed domed landform is slightly unnatural, although to the north lie areas of higher ground

including Pitsea Mount. Also when viewed from the north it is seen in the context of much larger built objects, including electricity pylons, the cranes of the new DPworld and structure of the Coryton Refinery, which are more prominent than the landfill.

The application proposes no additional land take and would not change the permitted landform. The surrounding ground levels are in the range of 0-5m AOD, while the proposed maximum height of pre-settlement levels is 43m AOD falling to post settlement levels of 30m AOD, the settlement within initial years would be greater, slowing overtime. The landfilling of the outer phases is now completed with only the southwest face awaiting restoration. Landfilling is now taking place within the central phases and is screened from views by the outer phases. However, there would be times when a central phase is nearing completion that landfilling operations would be prominent on the top of the landfill.

It is acknowledged within the ES that not completing the landfill would leave an unfinished profile which would be less consistent, and the completed profile would be more desirable in landscape terms. The ES states the proposed landform would not positively contribute to the landscape character of the area, but would provide some contribution to the structure of the landscape as the restoration of the site progresses. It is therefore considered that while the extended time period would result in the operational impacts for a further 10 years, the overall completion of the site was preferable in landscape terms, than, not completing the landform and restoring the current profile.

The visual impact of the site was assessed from a number of public locations surrounding the site, the greatest impact of the site was considered to be movement of vehicles and plant associated with the landfill operations, but these would be intermittent and occur mainly when landfilling was taking place on the upper levels of a phase where operations would not be screened by the outer completed phases. Most views are relatively distant and are viewed in the context of the larger structures of DPworld and the refinery. .

It is therefore considered that the proposal would not give rise to adverse landscape and visual impact that would warrant refusal and the proposals are in accordance with the NPPF, NNPW, WLP policy W10E.

G CULTURAL HERITAGE

The impact on cultural heritage was assessed as part of the Environmental Statement. No heritage assets are within the application site. There are Listed Buildings north of the site. Cromwell Manor (formerly Pitsea Hall) is located on Pitsea Hall Lane near the railway lane, but it was concluded there would be no additional impact on this asset, only a continuation of the vehicle movements passed the property. The landfill is also visible from St Michael's Church, but with restoration completed on the north side of the site, operations would only be visible when completing the tops of the remaining phases and this visual impact is not considered significant.

English Heritage has required determination in accordance with national policy and local advice. The County historic advisors have raised no objection and considered

the movement of HGVs passed Cromwell Manor would not result in adverse impact. It is therefore considered the proposals are in accordance with NPPF and WLP policy W10E.

H NOISE, DUST & AIR QUALITY

The method of operation of the landfill would not change, but extended for a further 10 years. The applicant has carried out noise monitoring and shown compliance apart from occasional high readings near the site entrance where there is a residential property. Consultation has taken place with this property and no letters of representation or complaint have been received or from other residents. The County's noise consultant has raised no concerns, subject to previous conditions with respect to maximum noise limits and requirements for noise monitoring. In addition, the existing condition limiting hours of operation could be imposed if planning permission were granted to ensure disturbance from both HGV traffic and operations on site was minimised.

There have been complaints at times with respect to mud on the road and the adjacent footpath along Pitsea Hall Lane, during periods of adverse weather conditions. Veolia do undertake sweeping of the road and do implement best practice with respect to preventing mud being carried out on the highway, with wheel cleaning facilities on site. Appropriate conditions could be imposed, if planning permission were granted, to minimise debris being carried out onto the public highway.

There have been incidents of odour complaint; some of these have proven not to be attributable to the landfill, potentially arising from the Pitsea sewage works. However, Veolia does investigate these complaints; including checking the operation of landfill gas management systems and the site is subject of Environmental permit administered by the Environment Agency, which controls the landfill gas management system.

Concern has been raised by a local resident as to the impact on air quality resulting from the continued HGV movements. The number of HGV movements would be limited to those previously permitted such that there would be an increase but a 10 year continuation of existing levels of vehicle emissions. The County's air quality consultant has raised no objection to the application.

Any complaints, the outcomes of investigations and actions taken are reported to the site liaison group. The operation of the liaison group would continue throughout the life of the development and an existing obligation for such would be included in the revised legal agreement.

It is considered subject to the imposition of existing conditions with respect to noise and hours of operation, and implementation of best practice with respect to landfill gas management and prevention of mud on the road, the site would not give rise to adverse impact with respect to amenity issues including, noise, dust and air quality in accordance with the NPPF, NPPW and WLP policy W10E and W10F.

I CONCLUSION

The NPPF seeks to achieve sustainable development and identifies three dimensions environmental, economic and social.

With respect to the environmental dimension, it is considered that the completion of the previously approved landform of Pitsea landfill is essential to achieve a sustainable restoration with a beneficial afteruse. If the approved profile is not achieved, it is likely to lead to long term difficulties with the management of surface water, leachate and landfill gas and potential environmental pollution, in a particularly ecological sensitive location, due the number of both internationally and national designated ecological site. The NPPW recognises that while landfill, is at the bottom of the waste hierarchy disposal of non-recyclable waste is necessary and that restoration of landfills should be to a high environmental standard. Completion of the scheme would not only ensure a sustainable restoration, reducing pollution risk but provide social benefits in the creation of a public open space as well as making positive contributions to bio-diversity. The extension of time enabling the completion of the restoration scheme while, providing an environmental sustainable solution, also provides an economic solution for the restoration of the site.

It is considered the completion of the restoration to achieve a high standard of restoration, delivering public open space, accords with the objectives of the Green Belt and the continued need for restoration to an appropriate Green Belt use warrants the very special circumstances, required to justify the continuation of development within the Green Belt.

It is considered subject to planning conditions and legal obligations, to minimise the impacts over the extended 10 year period and to secure the delivery of the restoration scheme and the public open space, the proposals are in accordance with NPPF, NNPW and WLP policies W3A, W4A, W4B, W4C, W9A, W10C, W10D, W10E and W10F and BDLP policies BAS GB1, BAS C1, BAS C2 and BAS C7 and is considered to be in conformity with the development plan as a whole.

8 RECOMMENDATION

That planning permission be **granted** subject to

i.

- A. The prior completion of a legal agreement between the RSPB & Veolia for long-term management of the site upon completion of the aftercare period. And that ECC is satisfied that the agreement adequately provides for:
 - the lease of the site by the RSPB,
 - management of the site by the RSPB for nature conservation and public open space, for a period in excess of 130 years
 - and adequate funding mechanisms are in place to ensure the proposed management is deliverable by the RSPB.
- B. AND the prior completion, by the 31 December 2015, of Legal Agreements under the Planning and Highways Acts to secure the

following obligations:

New obligations

- Veolia participation in the Pitsea Barge Impact Group, and implementation of agreed operational practices and funding of monitoring while barges importing material to the site
- Management of restored areas for the benefit of nature conservation in accordance with an agreed scheme of management until completion of aftercare period on the last phase or until the RSPB take over management whichever is the sooner.
- Compliance and implementation of the Predator Monitoring and Management Plan for Pitsea Landfill and Bowers Marsh.

Existing obligations & amended existing obligations of the 2007 legal agreement

- The total number of all HGV movements Monday to Saturday shall not exceed 1100 movements (550 in 550 out) with 100 movements. In addition 100 HGV movements on Sunday and Public Holidays for deliveries of waste required by the Waste Disposal Authority.
- The preferred route for HGV vehicles via the A13, A132, A127 and A130 and notification of such to all drivers
- No parking of vehicles on the access road and the developer to impose penalties on drivers for non-compliance
- Management of the nature conservation areas by the RSPB until 9 March 2159.
- Provision for release of the site for informal recreation and nature conservation uses upon completion of restoration and aftercare
- To provide for an Education Interpretation and Field Study Centre (EIFSC) at the site, only to be used in relation to informal recreation and nature conservation purposes
- Provide for a liaison group for the life of the site
- The developer to provide at no cost to the County Council a pedestrian bridge over the railway line on Pitsea Hall Lane. Time period for provision of the bridge extended to 31 August 2017. A maintenance sum to be paid with respect to the bridge and funding mechanisms to be put in place to reimburse costs incurred by ECC in assisting with securing the necessary approvals/authorisation from Network Rail for the pedestrian bridge.
- Submission and compliance with Management Plans for the restored

areas and for land on the perimeter of the phases until completion of the aftercare period on the last phase.

- Submission and compliance with Management Plans for the Fobbing Horse Area
- Upon completion of the restoration not to use the Site other than for, aftercare, nature conservation, public open space for informal creation, agriculture necessary for aftercare and nature conservation and willow coppicing
- The southern wharf shall only be used for the importation of restoration and engineering materials.
- The use of the EIFSC shall not be detrimental the facilities provided at Wat Tyler Country Park
- Provision of pedestrian and vehicular access to Wat Tyler Country Park via the Old Redland Road.
- Provision of 15 hectares for 50 years for cultivation of biofuel
- Provision of drying and storage for harvested biofuels
- That the agreement supersedes all previous legal agreements

ii And conditions relating to the following matters;

1	Comm 2 - Commencement (Waste Specific)
2	Comm3 - Compliance with submitted details
3	CESS2 Cessation of development – landraising by the 31st December 2025 and the site restored by 31st December 2027.
4	CESS3 Removal of ancillary development
5	HOUR3 Hours of operation (Waste Specific) 07:00-18:30 hours Mondays to Saturdays The site may in addition be open solely for the receipt of material of the Waste Disposal 08:00-16:00 hours Sundays and Public Holidays
6	High5 Vehicle movement limits 1100 Monday to Saturday 100 Sundays & Public Holidays for deliveries as required by the Waste Disposal Authority.
7	NSE 6 - Silencing of plant and machinery
8	NSE 1 – Noise limits
9	NSE 2 Temporary operations
10	NSE 3 - Monitoring Noise Levels
11	NSE 5 - White noise alarms
12	Dust control measures in accordance with previously approved details
13	HIGH 2 Vehicular access
14	Storage of restoration materials in accordance with previously approved details

15	Machine movements in accordance with previously approved details
16	LS8 - Soil handled in a dry and friable condition
17	LS6 – Retention of soils
18	Soil depths in accordance with previously approved details
19	RS2 - Restoration in accordance with pre-settlement contours
20	Compliance with previously submitted Restoration Management Plan and submission of planting details with respect to each phase of the site
21	LAND 2 – Replacement planting
22	ECO 2 - Mitigation plan for legally protected species and/or priority species
23	Submission of details to address differential settlement
24	AFT1 - Aftercare scheme to be approved
25	AFT2 - Drainage of restored land and compliance with previously submitted details
26	No development of the previously permitted MBT
27	Cess 6 - Early restoration in event of suspension of operations to revised restoration scheme
28	Eco 6 - Biodiversity/Landscape Management Plan for land outside the identified phases, until 2027 and during the aftercare period.
29	High 3 - Surfacing/maintenance of access road
31	Submission of details of nature of waste, submitted on an annual basis, with review of settlements rates every two years and/or if the nature of the waste changes by more than 60% over a 12 month period.
32	Removal and restoration of the temporary short rotation coppicing area by 31 September 2017.
33	Submission of details to be used in the construction and maintenance of access roads located within the restored areas
34	Within 6 months a scheme for provision of a minimum of 4 monitoring cameras observing the flora and fauna of restored areas. The footage either to be available as live feed via a website, or highlights of the footage to be made available through a website.

8. BACKGROUND PAPERS

Consultation replies

Representations

Planning Application and Environmental Statement Reference ESS/49/14/BAS

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

The proposed development would be located within 2km of the Benfleet and South Essex Marshes Ramsar site and SPA and would not be directly connected with or necessary for the management of that site for nature conservation.

Following consultation with Natural England and the County Council's Ecologist no issues have been raised to indicate that this development would adversely affect the integrity of the European sites, either individually or in combination with other plans or projects.

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

EQUALITIES IMPACT ASSESSMENT

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

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

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

LOCAL MEMBER NOTIFICATION

BASILDON - Pitsea

BASILDON – Westerly Heights - adjacent

CASTLE POINT – Canvey Island West - adjacent

Environmental Impact Assessment

For: Continuation of installation of waste pre-treatment facilities and recontouring of the landfill to facilitate restoration permitted by ESS/35/06/BAS without compliance with condition 4 (completion timescales), to allow waste to be deposited on site until 31 December 2025 and the site restored to nature conservation by 31 December 2027 and without compliance with condition 3 (waste geographical sources) to allow importation of waste from outside Essex and Southend and also without the development of the previously permitted waste pre-treatment facility

Location: Pitsea Landfill, Pitsea Hall Lane, Pitsea, Basildon, SS16 4UH

Ref: ESS/49/14/BAS

An Environmental Statement (ES) has been submitted with the application and examines the potential impact of the proposal on the natural and built environment and considers, where necessary, ameliorative measures to reduce and minimise that potential impact.

The assessment has been undertaken according to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 and through the consultation process the ES has been revised as required and mitigation measures introduced either by amendments to the proposal or as suggested planning conditions. The assessment covers the following:-

Alternatives

Ecology

Landscape & Visual Effects

Traffic & Transportation

Air Quality

Flood Risk Assessment & Water Environment

Cultural Heritage

Noise

Geology & Land Quality

Socio-Economic

Alternatives

The impacts of restoring the site to a revised final landform were considered.

The implications of “no development” were considered to be:

- Leaving a bowl in the centre of the site, subject to ponding with implications for ongoing water infiltration into the waste mass and risk of pollution
- Continuous management of the gas distribution system, involving regular excavations disturbing restored areas
- Due to ongoing and long terms gas and water management, the revised landform would not deliver the nature conservation and amenity benefits, as the surface would be continually disturbed and accessibility would be greatly reduced.
- Unsustainable, would require ongoing long term management to prevent pollution of the environment

The potential disturbance and potential risks of leaving the site in this manner were

considered unacceptable in this environmentally sensitive location.

With outer phases completed it would require disturbance of the outer phases to achieve an overall revised profile, which would lead to problems with leachate landfill gas and odour and visual intrusion from exposure of previously deposited waste.

It was concluded the no development or amended profile alternatives are environmentally less desirable than the proposed development and were not preferred.

Ecology

The Pitsea Landfill site is adjacent or close to a number of internationally, nationally and locally designated sites, including the following:

- Benfleet & Southend Marshes SPA/Ramsar (encompassing Benfleet & Southend Marshes SSSI and Benfleet & Marshes European Marine site)
- Thames Estuary & Marshes SSI/SPA/Ramsar
- Pitsea Marsh SSSI
- Holehaven Creek SSSI
- Canvey Wick SSSI
- Vange & Fobbing Horse SSSI
- Bowers Marsh LWS
- Pitsea Landfill LWS
- Vange Creek LWS

The in site also includes:

- Flora identified as nationally scarce, Dittander and Essex Red data pyramidal orchid -present,
- Reptiles including common lizard, slow worm, and adder – large populations
- Badger – active setts present
- Water vole – small populations in perimeter ditches
- Breeding birds – protected birds likely to breeding at site including skylark and corn bunting
- Brown hare – unknown population size.

The potential impacts arising from the proposed time extension were considered to be:

- Potential direct impacts to protected and notable species, including impacts due to the continued presence of pest species (gulls and foxes)
- Potential for indirect effects to off-site nature conservation interests during operation and restoration

Direct Impacts

The potential impacts to protected and notable species were identified as:

Presence of pests – considered to be the most likely impact from the continuation of landfilling. Gulls are attracted to landfills and fish and food waste is favoured by some while others will predate the eggs of other birds. Corvidae will also feed on food scraps and some species may predate other eggs. These pests will also predate on small animals, such as water vole, reptiles and young and vulnerable ground nesting birds and young brown hare. Increased numbers of these pests could have a depressing effect on local

populations of these animals and may unbalance local food webs, thereby having additional indirect effects.

The number of gulls and corvidae visiting the landfill is not subject to formal monitoring, nor is it subject to any control measures, such as mechanical and audio scares or managed predator deterrents, i.e. hawks. These traditional methods of bird control are considered highly likely to adversely affect notable populations and therefore are not appropriate at this site. Operational good practice is currently undertaken to deter scavenger birds from foraging on the site, such as the daily cover of exposed food waste and the minimisation of the area exposed waste. The continued diversion of food wastes to the in-vessel composting facility would also reduce the amount of bird attractive waste in the landfill.

Pitsea supports a population of foxes, the site manager considers numbers have reduced with the reduction of food waste in the landfill and staff are discouraged from feeding them. The RSPB consider the foxes are loafing and foraging outside of the site on adjoining areas and have been monitoring to determine what management is justified. Breeding and nesting birds and other fauna in the surrounding SSSI and Local wildlife sites are considered vulnerable to predation by foxes associated with the landfill. Initially the existing measures not feeding and reduction in food waste in the landfill were considered by the applicant as adequate mitigation and future other measures to be considered in conjunction with the RSPB. However following consultation responses from the RSPB and Natural England, which raised concern that more positive monitoring and mitigation should be undertaken to control the pests, a scheme of monitoring with appropriate steps for mitigation to be secured by condition has now been proposed addressing these concerns.

With respect to other direct impacts, the continued operation of the landfill would not lead to any additional land take, fragmentation or isolation of land above that of the existing footprint.

There are also no predicted changes to the operating environment with respect to noise, visual, vibration and lighting disturbance, except the current conditions that would continue for a further 10 years. Changes to ground and surface water could have direct impact upon water vole and aquatic invertebrates, or an indirect effect upon fauna that depend upon aquatic invertebrates for instance breeding and wintering birds. The landfill operates under an Environmental Permit and therefore any continued risks would be controlled.

The 10 year delay would mean the recovery and re-colonisation of protected and notable flora and fauna would also be delayed. However, the alternative to the proposed delayed restoration is not predicted to deliver the long-term benefits to protected species i.e. habitat creation targeted at biodiversity enhancements. The proposed restoration is predicted to have a beneficial effect upon all species receptors highlighted in the EIA. Upon restoration the potential for adverse effects resulting from recreation pressure would be monitored with adaptive management required, by the RSPB who are familiar with balancing biodiversity and human visitors.

There is potential for protected and notable fauna to become established in operational areas and then at risk as a result of continued landfill operations, but the site is subject to continual monitoring under its "Biodiversity Benchmark", which would mitigate this risk.

English Nature in their response highlighted the continued impact of the use of barges on

the Holehaven Creek SSSI and in particular the barge movement's disturbance to the black tail godwit. Veolia are one of group of organisation including Natural England, Port of London and the RSPB involved in the Pitsea Barge Impact group, which is monitoring and agrees operational practices for the use of barges on the Holehaven Creek. Veolia's involvement, support and implementation of the required monitoring and implementation of the groups agreed operational practices is essential to minimise the impact of barges on the Creek and therefore would be secured through a legal obligation.

Indirect impacts

The indirect impacts upon adjacent areas of ecological interest were identified as disturbance due to human activity and noise and dust deposition.

The continuation of the landfill operation would introduce no increase in overall disturbance levels. Species already present in and outside the site are accustomed to the existing noise and human activity, no significant additional impact is predicted.

Dust deposition can have an impact on agricultural and ecological systems. This can result from chemical and physical effects of particles on the vegetation surface or from changes in soil chemistry. Fugitive dust is typically deposited within 100-200 metres, the greatest proportion within 100m. The overall impact of dust deposition is a reduction in plant productivity. The amount of dust is dependent on the weather; less dust is generated in wet conditions and is washed off foliage. Dust suppression measures would continue as controlled under the Environmental Permit and measures currently in place control levels such that the amount of dust that levels the site is assessed as negligible. It was concluded the continuation of landfill operations is unlikely to significantly increase the rate or level of dust and not likely to have a significant impact upon the habitats and species within the application site and in the surrounding areas.

Comments

Subject to securing through conditions appropriate mitigation with respect species that may be present on incomplete areas through obligations the following:

- while barge movements continue on Holehaven Creek connected with landfill the continued involvement in the Barge Impact Study Group and the implementation of its required monitoring and management practices and
- the long-term management by the RSPB of the habitats to be created through restoration to ensure delivery of the bio-diversity habitats

It is considered the ES adequately assess and mitigates ecological issues.

Landscape & Visual Impact

Landscape

The site is identified as being located in the National Character Area 81: Greater Thames Estuary and Essex Landscape Character Area South Essex Coastal Towns" both include reference to flat coastal grazing marshes. Settlement is located on elevated areas to the north of the application site the southern edge of Basildon and South Benfleet.

The site is described as being within a contrasting area with open marshland being inter-dispersed with medium size settlements. On the banks of the Thames Estuary the scale of industrial development increases including Coryton Refinery and DPworld. The application site is surrounded by open marshes, such that the rise in landform associated with the landfill is visible, but more notable are the structures associated with the refinery and

shipping terminals.

The contribution to landscape character by the application site was assessed as relatively poor, but restored areas do and would provide some structure and the contribution increasing as restoration progresses.

Overall it was assessed no valued components of the landscape would be lost, due to the existing operational nature of the site. Not completing the landfill would mean that the profile would be significantly reduced but less consistent. The completed profile is considered more desirable as the profile would be smoother and more akin to the rolling hills seen to the north. In addition it was assessed the prolonged continuation of landfill operations is unlikely to change how the wider landscape is perceived, particularly when considering the much larger such as the DPworld.

Visual

The developments visual impact was assessed from a number of visual receptors representing local residents, people engaged in outdoor recreation and visits to heritage assets and other attractions. 8 viewpoints were assessed including, the picnic area on Bowers Marsh, the southern edge of South Benfleet, the PROW on Holehaven Creek, from High Road, Fobbing, Vange Marshes and the public open space next to St Michael's Tower.

The key source of visual effect was identified as the prolonged presence of vehicles and plant within the operational parts of the landfill of the landfill, however these would be intermittent and only occurring within the upper levels, the large proportion of activity being screened behind the restored profile. As such visual impact was assessed as being between negligible, minor or moderate impact.

With respect to cumulative development when viewed with other developments, the landfill would have very limited overall cumulative effect due to the large scale of other developments, namely DPworld and the Coryton refinery.

Comments

No mitigation was identified, the timely restoration of completed phases would seek to minimise restoration and conditions could be imposed to ensure restoration areas are restored as soon as possible to minimise the visual impact.

Traffic and Transportation

The ES included a Transport Statement. The transport statement assessed the local road network and junction with the A13. Accident data was considered and it was determined there were no accident patterns that could be attributed to poor highway design and the site has operated without a history of accident issues.

The statement concluded that subject to the re-imposition of existing conditions relating to traffic movements including daily HGV limits and hours of operation, the development would not result in unacceptable impact on road or junction capacity, driver delay, road safety or amenity.

Comments

Subject to re-imposition of conditions with respect to HGV movements and highways and carried forward of the obligation for preferred routing of vehicles and maximum HGV movements for all activities associated with the landfill, the traffic impact is acceptable.

Air Quality

Assessment was provided of the impact of landfill gas generation potential of the landfill site and the impact of the extension of time. In addition the impact of fugitive landfill gas emissions and their global warming potential was assessed

The assessment looked at the waste stream type and how this is likely to change over the extension period. It was recognised that due to other facilities the element of MSW was likely to decrease and the inert element increase. The generation of gas was modelled over the life of the site.

The site is subject to gas management plan in accordance with industry best practice. The site would be progressively capped and gas extraction system installed. The gas would be utilised in the existing 11 generators.

The model of gas generation demonstrated that the amount of fugitive gas over the extend life of the operational landfill were small, such that no additional measures were necessary. Landfill gas is subject of control under the Environmental Permit.

Comments

No mitigation with respect to air quality as considered necessary as part of the planning controls as these matters are appropriately addressed through the Environmental Permit.

Flood Risk and Water Environment

With respect to the Flood Risk Assessment as the propose areas lie 20m above ordnance datum well above the predicted maxim flood elevations of 5mAOD, and it was concluded the previously accepted FRA adequately discussed and identified the risks of flooding.

The ES set out the leachate and surface water management arrangements for the site and assess the impact of the ingress of rainwater over the additional 10 years to complete the landfill. Generation of leachate is considered to likely decrease due to increased areas that which would be capped, the expanding surface water drainage system and the improved profile of the restored areas better able to shed water. Existing leachate levels within the site have been monitored and are below acceptable limits.

It was conclude subject to the proposed leachate management system and expansion of the surface water system in conjunction with capping and restoration, during the 10 year extension the ongoing effects of leachate generation on groundwater quality, surface water quality, drainage and ecology in the vicinity of the site would not be significant.

Cultural Heritage

The assessment identified there are no heritage designated assets within the site, but 5 Listed Buildings within 1km of the site, including Little Coopers Cottage and Blunts within Wat Tyler Country Park, Pitsea Hall, north of the site adjacent to Pitsea Hall and ST Michael's tower on Pitsea Mount.

There would be no direct impact on heritage assets. The impact on Pitsea Hall would be

the continuation of HGVs past the Hall which is a transient short-term impact and HGV movements and hours would be limited by existing conditions. Views from St Michael's tower were considered to be limited and completion of the landfill would be beneficial in the long-term.

It was concluded there would be no significant impact on heritage assets.

Noise

No additional impacts beyond those considered in 2006 have been identified and the existing conditions already provide adequate mitigation.

Comments

Existing noise conditions would be re-imposed.

Geology/Land Quality

No significant effects on geology and soils were identified in the 2006 ES and it was assessed this continued to be the case for the following reasons:

- No additional land take
- Landfilling and engineering operations are not proposed to change and therefore no impact on underlying geology
- No soils will be impacted upon

Socio-economic

No significant socio-economic impacts were identified in the 2006 ES and the current application would see the existing staff employed for a further 10 years

Comment The number of staff has reduced since MSW ceased to be received at the site

Basildon Borough Council Appraisal/Compliance of saved policies with NPPF

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

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

Saved Policy		Conformity	Observations in relation to NPPF	Whether supported on appeal
			the LPA cannot demonstrate a five-year supply of deliverable housing sites.	
			Where a 5 year land supply cannot be demonstrated Areas of Special Reserve, as part of the allocated supply of sites could be required to come forward ahead of the completion of the Local Plan review.	
BAS S5	Affordable Housing (1999 Alterations)	<u>Compliant</u>	Para 50 supports the inclusion of affordable housing with development in accordance with set policies. Favours on-site provision but where robustly justified, can be supported off-site or by way of a financial contribution.	
BAS C1	Protected Areas – SSSIs, 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 an inward investment to meet anticipated needs over the plan period. Para 22 does stress however that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose.</p> <p>Site BAS E1 is subject to an adopted Supplementary Planning Guidance in 2003 and a hybrid outline planning permission (subject to a s.106 agreement) in 2005 for a mixed use scheme of employment, residential and recreation uses; however its delivery in this form is not viable and therefore it has not been built. Para 22 advises that in circumstances where sites allocated have no reasonable prospect of being used for that purpose, Local Planning Authorities need to consider the merits for alternative uses for land or buildings having regard to market signals and the relative need for different land uses.</p> <p>The Council resolved to grant planning permission for a 15 pitch Gypsy and Traveller site subject to certain agreements was made in December 2012 given that its development would not prejudice the wider, comprehensive development of the site.</p>	
BAS E2	<u>Compliant</u>	<p>The NPPF's commitment to economic growth in order to create jobs and prosperity, (para 18 – 22) is seen as support for the provision and protection of employment areas to meet future needs for the area.</p>	
BAS E3	<u>Compliant</u>		
BAS E4	<u>Compliant</u>		
BAS E5	<u>Generally Compliant</u>	Paragraph 9 of the NPPF promotes sustainable development, which includes making it easier for	

Saved Policy		Conformity	Observations in relation to NPPF	Whether supported on appeal
	Restrictive Automotive Research and Development Uses		<p>jobs to be created, replacing poor design with better design and improving the conditions in which people live, work, travel and take leisure.</p> <p>Para 22 stresses that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose – and that in these circumstances alternative uses for land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses.</p> <p>Planning permission was granted for residential development on the eastern part of this site, where other material considerations such as the demands for housing, the lack of a 5 year land supply and particular circumstances of the application, justified a departure from the adopted policy.</p> <p>For the remainder of the site the policy is still compliant and covers the existing Ford Technical Centre cluster of buildings, test tracks and expansion land.</p>	
BAS E6	Unidty 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	<u>Generally Compliant</u>	In Section 2, ensuring the vitality of town centres, the concept of the sequential approach to sites is	

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

Saved Policy		Conformity	Observations in relation to NPPF	Whether supported on appeal
BAS TC3	Wickford Town Centre – site allocation	<u>Compliant</u>	Policy refers to 2 sites where comprehensive development compatible with a town centre will be supported. This is seen as consistent with paragraph 23 of the NPPF that seeks to ensure the vitality of town centres.	
BAS TC4	Pitsea Town Centre – site allocation	<u>Compliant</u>	Part of this site has already been developed as a mixed use scheme, (residential and retail). However the remainder lends itself to uses appropriate to a town centre and consistent with paragraph 23 of the NPPF that seeks to ensure the vitality of town centres.	
BAS TC5	Markets – protection for 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 space which encourage the active and continual use of public areas included as part of the criteria. This provides support for their protection, albeit this will need to be balanced with the need to accommodate more housing to meet demand.	
BAS R4	Proposed Open Space – Hannikens Farm, Billerica	<u>Generally Compliant</u>	Section 8 of the NPPF deals with promoting healthy communities, with high quality open space which encourage the active and continual use of public areas included as part of the criteria. This provides support for the provision of new open space in Billerica.	
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/Basildon 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>	Paras 29 – 41 focus on promoting sustainable transport which provides good support for local policy.	
BAS BE12	Development Control	<u>Compliant</u>	Section 7 of the NPPF focuses on the requirement for good design. Para 17 seeks good standard of amenity for all existing and future occupants of buildings. Paragraph 58 determines that policies and decisions should aim to ensure developments will function and will add to the overall quality of the area, establish a strong sense of place, respond to local character and history and be visually attractive as a result of good architecture and appropriate landscaping.	Support given on appeal, (including related DC guidelines)
BAS BE13	Areas of Special Development Control Policy - Ramsden Bellhouse	<u>Generally Compliant</u>	Within Section 7 relating to good design, is the recognition that development should respond to local character and history and reflect the identity of local surroundings and materials whilst not preventing or discouraging appropriate innovation. Whilst the NPPF supports the use of design codes, it insists that local policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, landscape, materials and access of new development in relation to neighbouring buildings and the local area more generally.	
BAS BE14	Areas of Special Development Control Policy – Sugden Avenue Wickford	<u>Generally Compliant</u>		Yes
BAS BE15	Areas of Special Development Control Policy – Bowers Gifford	<u>Generally Compliant</u>		

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

DR/27/15

committee DEVELOPMENT & REGULATION

date 25 September 2015

ENFORCEMENT – MINERALS AND WASTE DEVELOPMENT

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

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

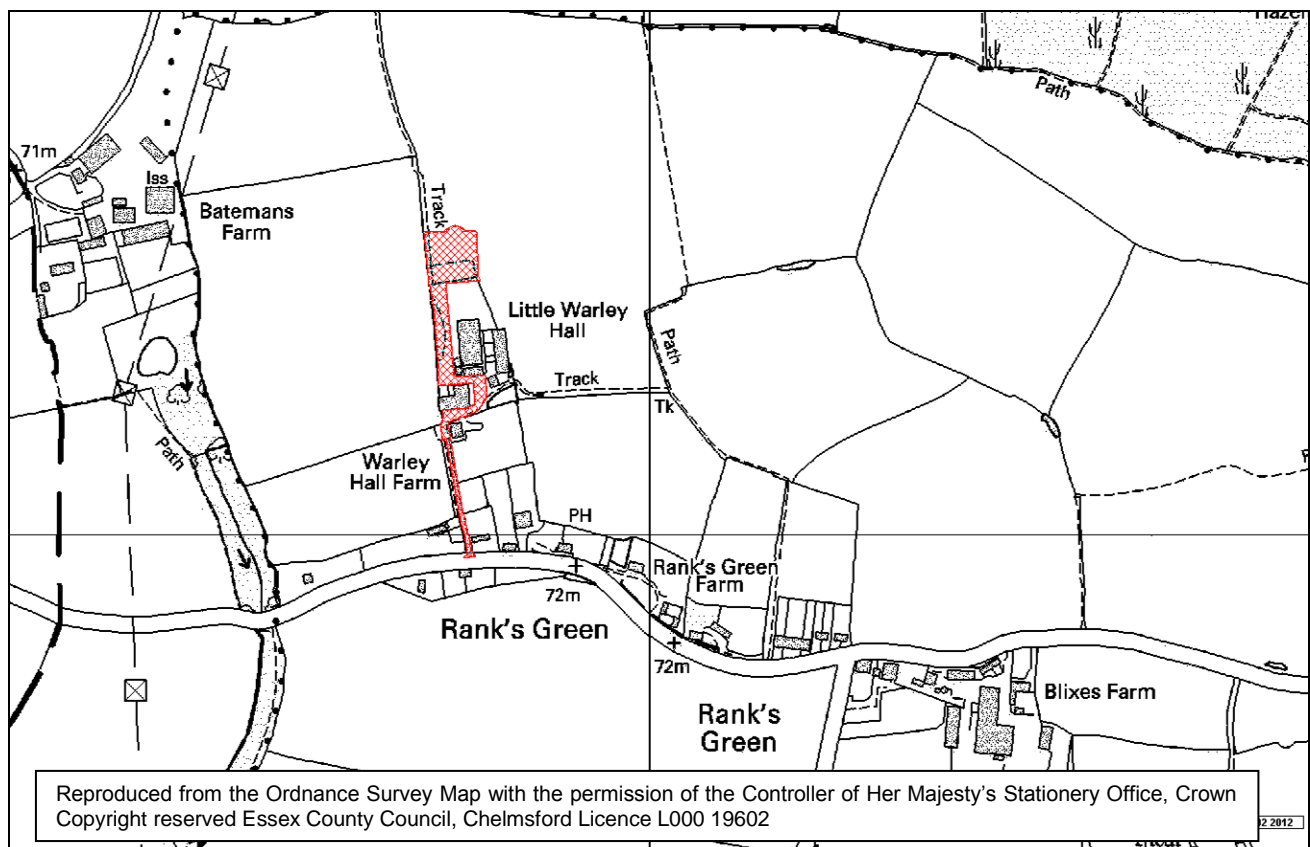
Ref: **ESS/60/13/BTE**

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

Applicant: **C Humphreys and Sons**

Report by Director of Operations, Environment and Economy and Director for Essex Legal Services

Enquiries to: Jacqueline Millward Tel: 03330139671 or Suzanne Armstrong Tel: 03330136823 or email jacqueline.millward@essex.gov.uk or suzanne.armstrong3@essex.gov.uk



1. BACKGROUND AND SITE

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

The committee also resolved to take enforcement action in relation to the tank which had already been erected on site and was in use and an enforcement notice was issued on 7 May 2014. This required the use of the tank to cease by 7 June and for the circular tank, the container and all the equipment to be removed by 5 September 2015.

The applicant appealed the enforcement notice on grounds (a) that planning permission should be granted and (f) that the steps exceed what is necessary to remedy a breach of planning control or remedy any injury to amenity.

The Secretary of State issued a decision on 19 May 2015 upholding the county council's enforcement notice and refused the application for deemed planning permission.

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

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

2. LEGAL CHALLENGE

A court application has been made to the High Court (reference: Mr Paul Humphreys v Secretary of State for Communities and Local Government (1) and Essex County Council (2), CO/2987/2015 and CO/3254/2015).

The court application is made against the Secretary of State. The County Council is joined in to the proceedings as 2nd defendant.

The claim has been made under the Town and Country Planning Act 1990 challenge provisions (in sections 288 and 289) under which a challenge can be made within 6 weeks of a decision. In this case the claimant is also seeking permission to make their challenge late as the 6 weeks had passed for the s289 claim by the time the claim was issued.

The procedure on the section 289 appeal is much the same as for judicial review with a permission stage before the matter can go forward to hearing. Due to a technicality the court office advised the claimant that they needed to make two separate applications which was subsequently done. The two matters are now going forward together.

The principal heads of challenge are as follows:

- The inspector failed to take into account correctly the nature and impact of the analysis of the application by ECC's officers, the Environment Agency and the air quality consultant;
- The inspector gave more weight to her site view from one location instead of the detailed report of the Environment Agency;
- Only one policy was recited in the reasons for the refusal – W3A. The inspector didn't provide reasoning to show how the actors in W3A were applied;
- Alternatively, before relying on policies other than W3A the inspector should have invited comments from the parties on the applicability/weight to be accorded to those policies;
- The inspector applied the criteria 'any harm' rather than 'any unacceptable harm' in relation to smell. This was not consistent with the NPPF and policy RLP36;
- The inspector had no information on which to conclude the deodorising unit 'could be exacerbating' the smell. The inspector also failed to consider whether it might be overcome by a condition;
- The inspector accepted that wash-water tanks condition could frequently be imposed in any application which was not retrospective but then differentiated, without explanation, the position on a retrospective application. It was possible to take account of 'all the merits' of the application in the same way. The inspector also ignored the Environment Agency and ECC air quality consultant views on the point;
- The inspector applied PPS10 in terms of national policy. This was the wrong policy as at 19 May 2015 this had been replaced by National Planning Policy Waste;
- In dealing with the ground (f) challenge the inspector appeared to accept the wash-water tank could be put to other productive uses on the site but concluded that the purpose of the notice is to restore the land to its condition before the breach of planning control AND remedy injury to amenity caused by the breach. On that basis the inspector rejected the ground (f) appeal, but there are 2 limbs to this which operate as alternatives on which the inspector had to decide on sufficient evidence.

The remedy claimed is that the matter should be remitted to the Secretary of State for further consideration. This would usually mean a new inspector and a new decision if the claim is successful. The Planning Inspector's decision used the written representations and site visit procedure.

The claimant has confirmed that the Government Legal Department, acting for the Secretary of State, has returned their acknowledgement of service indicating they will contest the claim.

ECC has acknowledged the claim but indicated that it will take a passive approach in the matter. ECC consented to the joining of the two parts of the claim and the vacation of the initial hearing listed for 29 July 2015.

No further information has been received since the initial claim form apart from a

second claim form for the s289 part of the application.

The court has now scheduled a hearing for 24 November 2015 which is expected to deal with both claims.

The Secretary of State's legal representative indicated on 25th August that it remains the Secretary of State's intention to defend the case. No further details of the grounds of defence have been provided but the legal representatives (the Government Legal Department) has indicated that it would not generally make any submissions until the skeleton arguments fall due, which in this case is 10 November 2015, in advance of the hearing of 24 November 2015.

ECC will be served with the skeleton argument once this is prepared. The Government Legal Department has also confirmed that it will keep ECC informed should its position change.

3. CURRENT POSITION

As stated, an enforcement notice was issued seeking the removal of the tank to prevent permanent harm to amenity and the locality. An appeal was lodged, by the applicant, against the refusal of planning permission and the enforcement notice issued by Essex County Council; the case was determined by way of written representations. The Inspector appointed by the Secretary of State for Communities and Local Government to determine the case issued her decision on 19th May 2015 which was to dismiss the appeal and uphold the enforcement notice. To date the enforcement notice has not been complied with and it is an offence not to comply with an enforcement notice, once the period for compliance has elapsed.

Whilst the Waste Planning Authority may now choose to prosecute for this offence, any prosecution would not remedy the breach of planning control as, upon conviction, the court has no power to require that the requirements of the Enforcement Notice are upheld – i.e. the tank is removed. Furthermore, as the decision by the Secretary of State is currently under challenge by judicial review, it would be pragmatic and reasonable to delay any decision to prosecute for non-compliance with the enforcement notice until after the outcome of judicial review.

RECOMMENDATION

1. That any decision to prosecute for non-compliance with the Enforcement Notice issued on 7 May 2014 is deferred until the outcome of the judicial review (reference CO/2987/2015 and CO/3254/2015) is known and:
2. That a further update is provided to the Committee following the decision of the court.

LOCAL MEMBER NOTIFICATION:

Braintree - Witham Northern

committee DEVELOPMENT & REGULATION

date 25 September 2015

INFORMATION ITEM

UPDATE REPORT ON VILLAGE GREEN APPLICATIONS AND DECISIONS

Report by Director for Essex Legal Services

Enquiries to Jacqueline Millward Tel: 033301 39671

email jacqueline.millward@essex.gov.uk

1. PURPOSE OF THE REPORT

To note the outcome on applications processed in the last 12 months to register land as a town or village green pursuant to Section 15(2) of the Commons Act 2006 ("the 2006 Act").

2. BACKGROUND

Essex County Council is the Commons Registration Authority in relation to the 2006 Act.

New legislation in 2013 introduced new protections for landowners where land could become vulnerable to an application for registration.

Schedule 1A (Exclusion of right under section 15) to the 2006 Act which came into operation on 25 April 2013 sets out events which will exclude the right to apply for the designation of a town and village green under section 15(1) of that Act ("trigger events") and corresponding events which will cause the exclusion to subsequently lift ("terminating events"). Further changes have since been made in 2014 amending Schedule 1A inserting into Schedule 1A additional trigger and terminating events in respect of the right to apply for a designation of a town or village green.

Additional checks are required to be made with the relevant local planning authority and the Planning Inspectorate before applications can be acknowledged to establish if a trigger event has occurred.

Section 15A of the Commons Act 2006, inserted by the Growth & Infrastructure Act 2013, which came into operation on 1 October 2013, has the effect that upon depositing with the commons registration authority a statement in the prescribed form (CA16 Parts A, D & F) and map it brings to an end, for the purpose of section

15 of the 2006 Act, any period during which persons have indulged as of right in lawful sports and pastimes on the land the subject of the application.

It is likely that a landowner would make reference to the deposit when notified of an application. This may fundamentally undermine the evidence the applicant can demonstrate in support of their application.

Both these changes are likely to significantly alter the numbers of applications that are likely to be made on sites which may be developed.

One of the changes to the previous legislative options to establish village greens has also started to be used by landowners in Essex and this is the dedication provision established by section 15(c) of the 2006 Act.

Appendix 1 to this report (a) summarises the position on applications currently pending and lists (b) the decisions made in the last 12 months and (c) the applications that were withdrawn before a decision.

MEMBER NOTIFICATION

Countywide.

BACKGROUND PAPERS

Ref: Jacqueline Millward CAVG/100

INFORMATION ITEM - UPDATE REPORT ON VILLAGE GREEN APPLICATIONS AND DECISIONS - APPENDIX 1

Site and Plan number for active applications and withdrawals	Active/Closed	Application date	Decision made	Current position
Loughton Lane, Theydon Bois Plan A	Closed	07/2004	Application treated as withdrawn 01/14, application land transferred to applicant town council 19/9/2010.	-
Great Leighs Playing Field Plan B	Closed	06/2006	Incomplete dedication application, returned to applicant.	-
Sun Corner, Billericay Plan C	Closed	06/2007	Application withdrawn, now a QEII Playing Field.	--
Sports Field, Little Baddow	Closed	06/2007	Application withdrawn, Parish Council no longer proceeding with works.	-
The Bury, St Osyth Plan D	Closed	12/2008	Incomplete application treated as withdrawn 01/2012. As use ceased now statutorily barred.	-

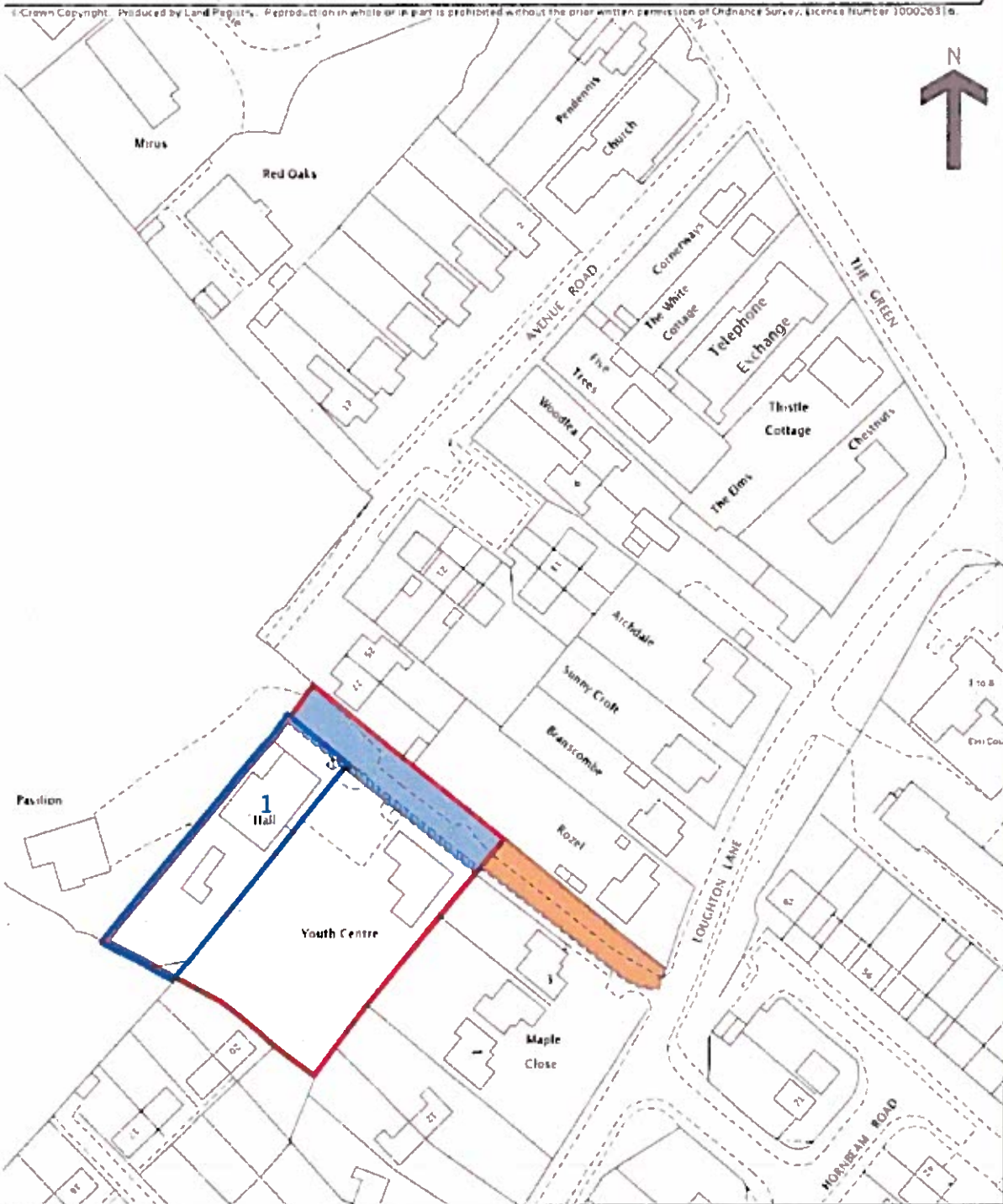
Mistley village green dedication Plan E	Closed	02/2009	Incomplete dedication application, withdrawn by applicant 05/2011.	-
High Street Green, Sible Hedingham Plan F	Active	03/2009		ECC highways objection pending improvement works, now completed. Telephone and water apparatus in ground – concerns over future access. Likely to come to committee for decision.
Mistley Quay, Mistley	Closed	08/2010	Registered in part, committee 25 July 2014	Court proceedings pending by main landowner.
Land opposite Millfields Primary School, Wivenhoe Plan G	Active	09/2010		Late objection by parish council landowner. Locality/neighbourhood issue now clarified. Likely to refer to counsel for advice.
Donkey Patch, Buckhurst Hill Plan H	Closed	06/2011	Incomplete dedication application, returned to applicant.	-
Reindeer Green, Black Notley Plan I	Closed	09/2011	Application withdrawn 10/2012	-
Land at Church Road, Hempstead Plan J	Active	10/2011		Applicant advised of ECC highways objection. Further evidence to be provided. Likely to refer to counsel for advice on whether can succeed.
Horseman's Green,	Closed	01/2013	Rejected, committee 25	-

Witham			May 2014	
Willingale Glebe, Willingale	Closed	04/2013	Registered, committee 27 February 2015	-
Oxford Meadow, Sible Hedingham	Closed	04/2013	Rejected, committee 22 May 2015	-
Good Easter Playing Field	Closed	09/2013	Dedication application, registered, committee 22 May 2015	-
Jessell Green, Loughton Plan K	Active	12/2013		Objection from Epping Forest District Council as landowner on statutory grounds.
Rochford Green, Loughton Plan L	Active	12/2013		Objection from Epping Forest District Council as landowner on statutory grounds.
Rockwood Gardens, Loughton Plan M	Active	12/2013		Objection from Epping Forest District Council as landowner on statutory grounds.
Newmans Lane Green, Loughton Plan N	Active	12/2013		Objection from Epping Forest District Council as landowner on statutory grounds.
Ravens Crescent Playing Field, Felsted Plan O	Active	05/2014		Uttlesford District Council objection on statutory grounds. Both parties asked to clarify evidential position by 30/09/2015.
Old Pastures, Stonards Hill, Epping Plan P	Active	05/2014		Objection received from landowner on the basis of CA16 deposit
Shop Green, Black Notley	Active	07/2015		No trigger event identified. In period for

Plan Q				objections.
Old Hospital Green, Black Notley	Active	07/2015		No trigger event identified. In period for objections.
Plan R				
John Rays Green, Black Notley	Active	07/2015		No trigger event identified. In period for objections.
Plan S				

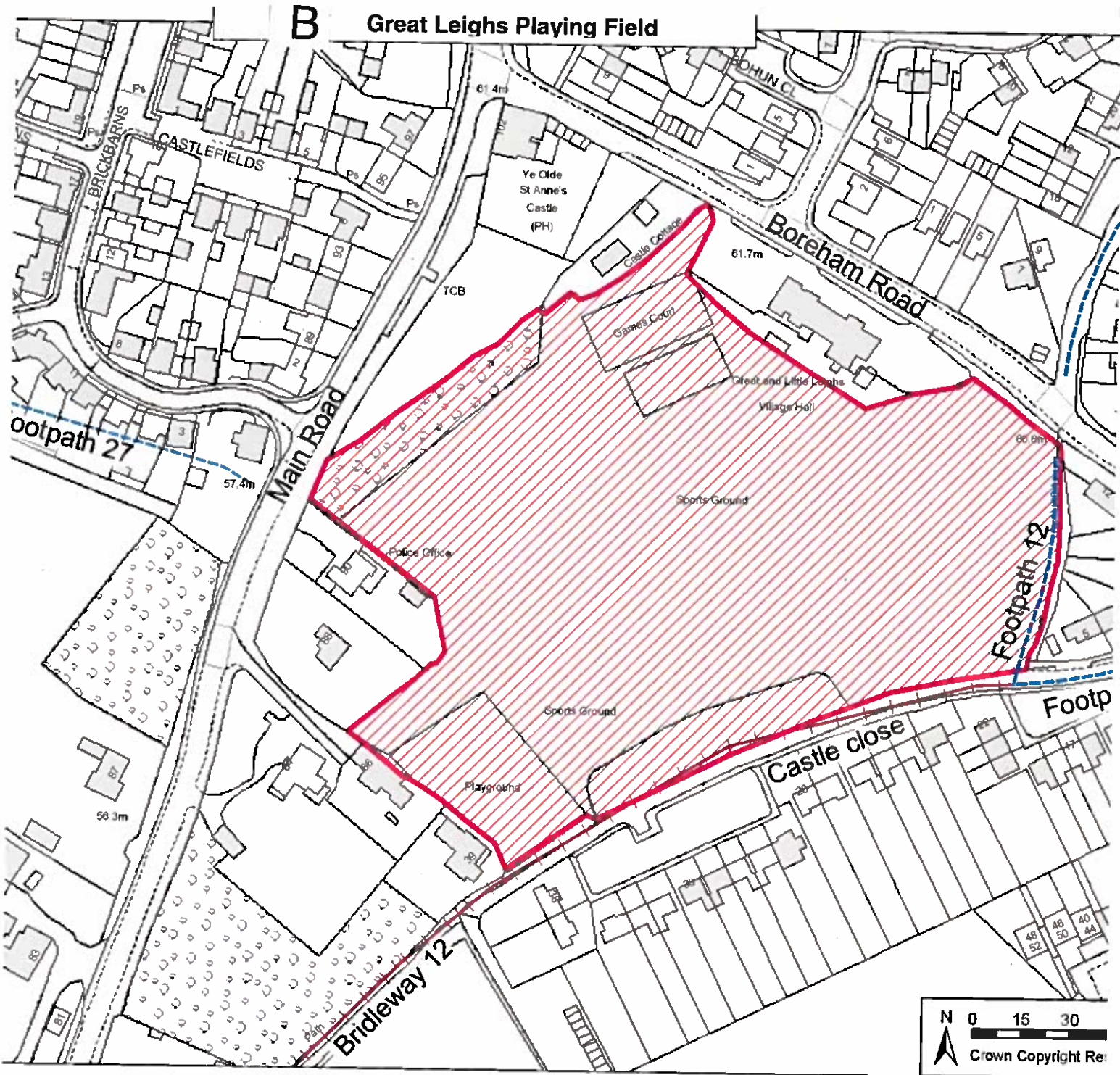
Land Registry
Official copy of
title plan

Title number EX723254
Ordnance Survey map reference TQ4499SE
Scale 1:1250 enlarged from 1:2500
Administrative area Essex : Epping Forest



B

Great Leighs Playing Field



C

Sun Corner, Billericay

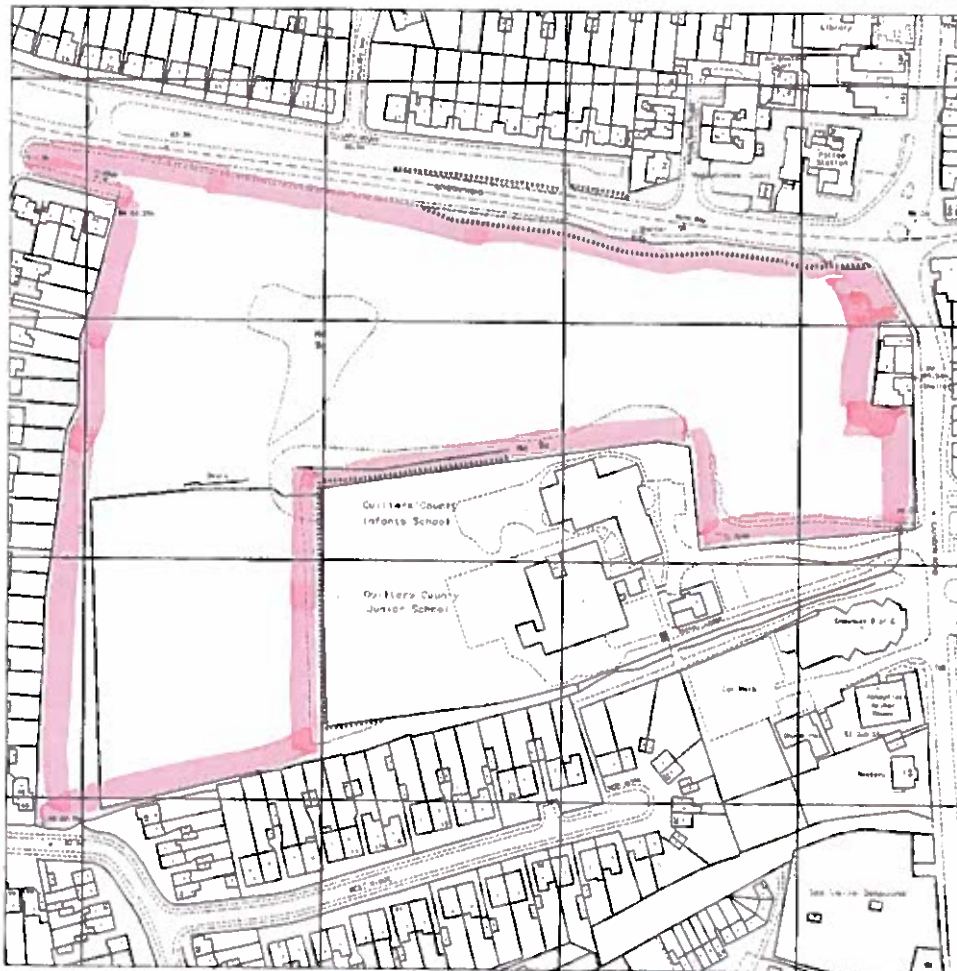


Siteplan® 1:2500

CONFIRMED AS AN EXHIBIT

15.12.06

JUSTICE OF THE PEACE



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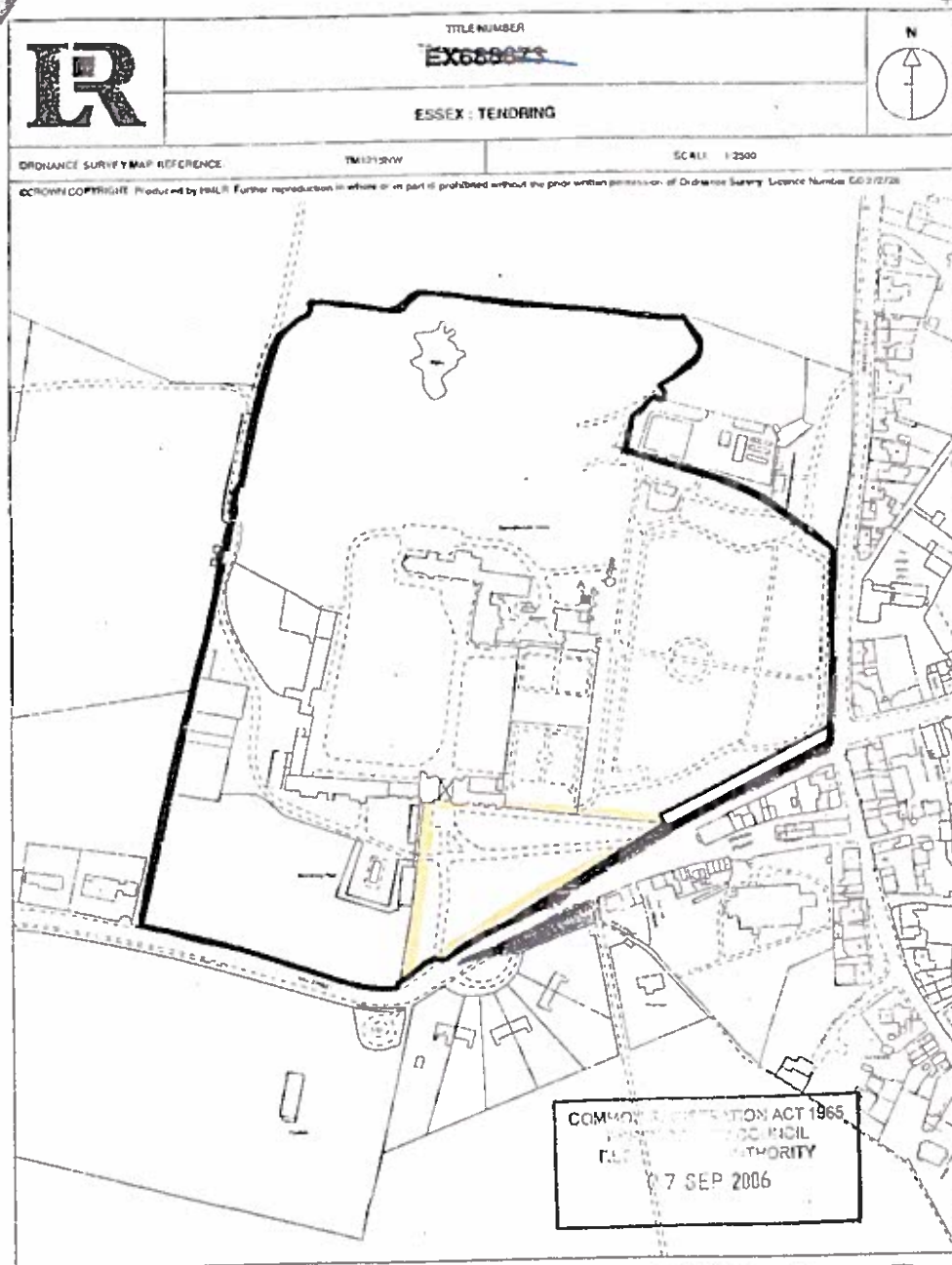
Centre Coordinates: 567168 194130

National Grid sheet reference at centre of this Siteplan: TO6794SW

Supplied by: Hussey and Greaves Brent
Serial Number: 00002800

D

The Bury, St Osyth



This title plan shows the general position of the boundaries: it does not show the exact line of the boundaries. Measurements scaled from this plan may not match measurements between the same points on the ground. For more information see Land Registry Public Guide 7 - Title Plans.

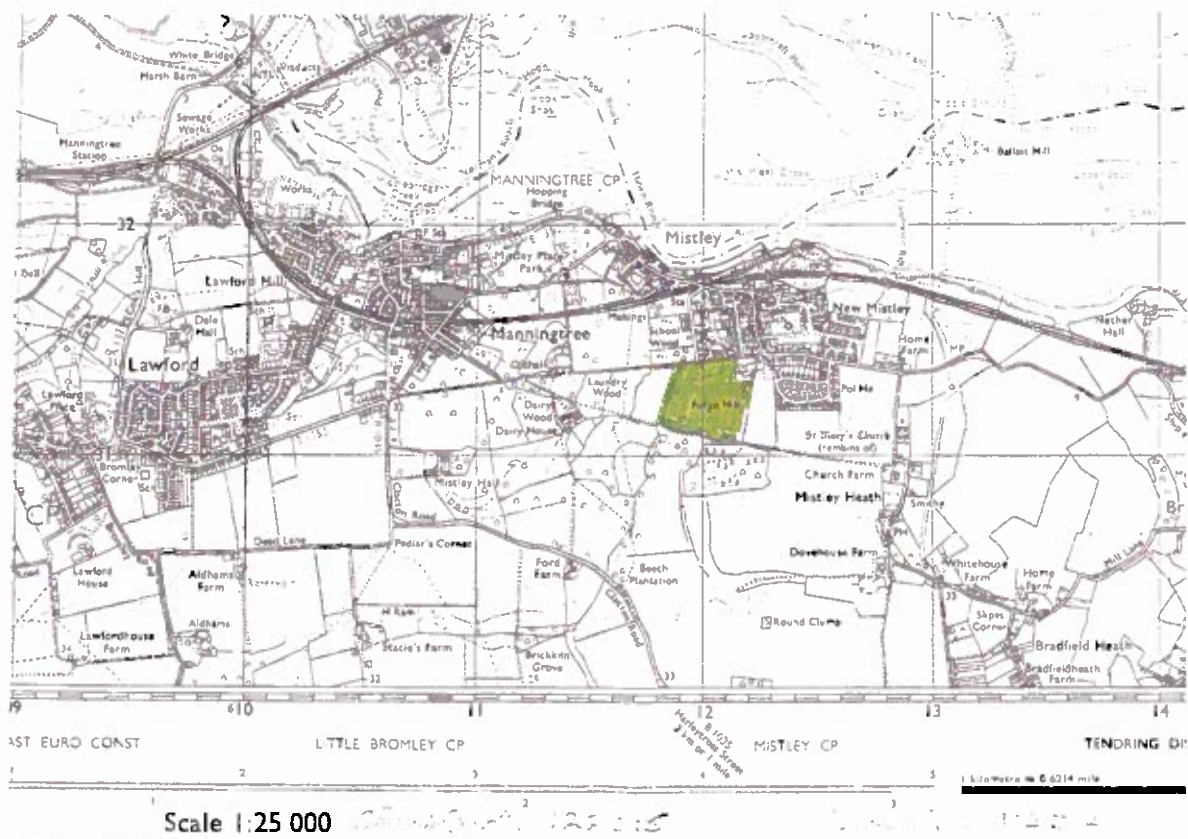
This official copy shows the state of the title plan on 30 August 2006 at 8:45:46. It may be subject to variations in scale.

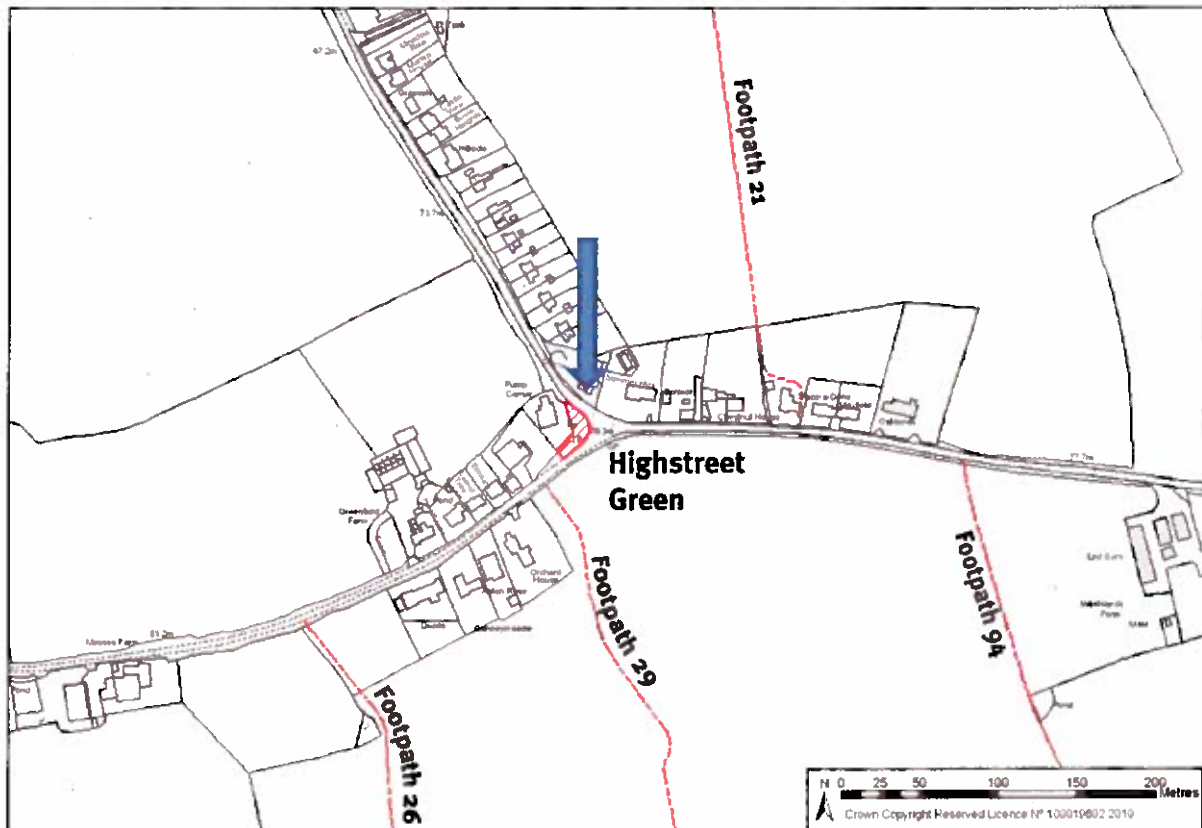
Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence (as the same extent as the original).

Issued on 19 August 2006.

This title is dealt with by the **Peterborough District Land Registry**.







G

Land opposite Millfields Primary School, Wivenhoe

Google maps

To see all the details that are visible on the screen, use the Print link next to the map.

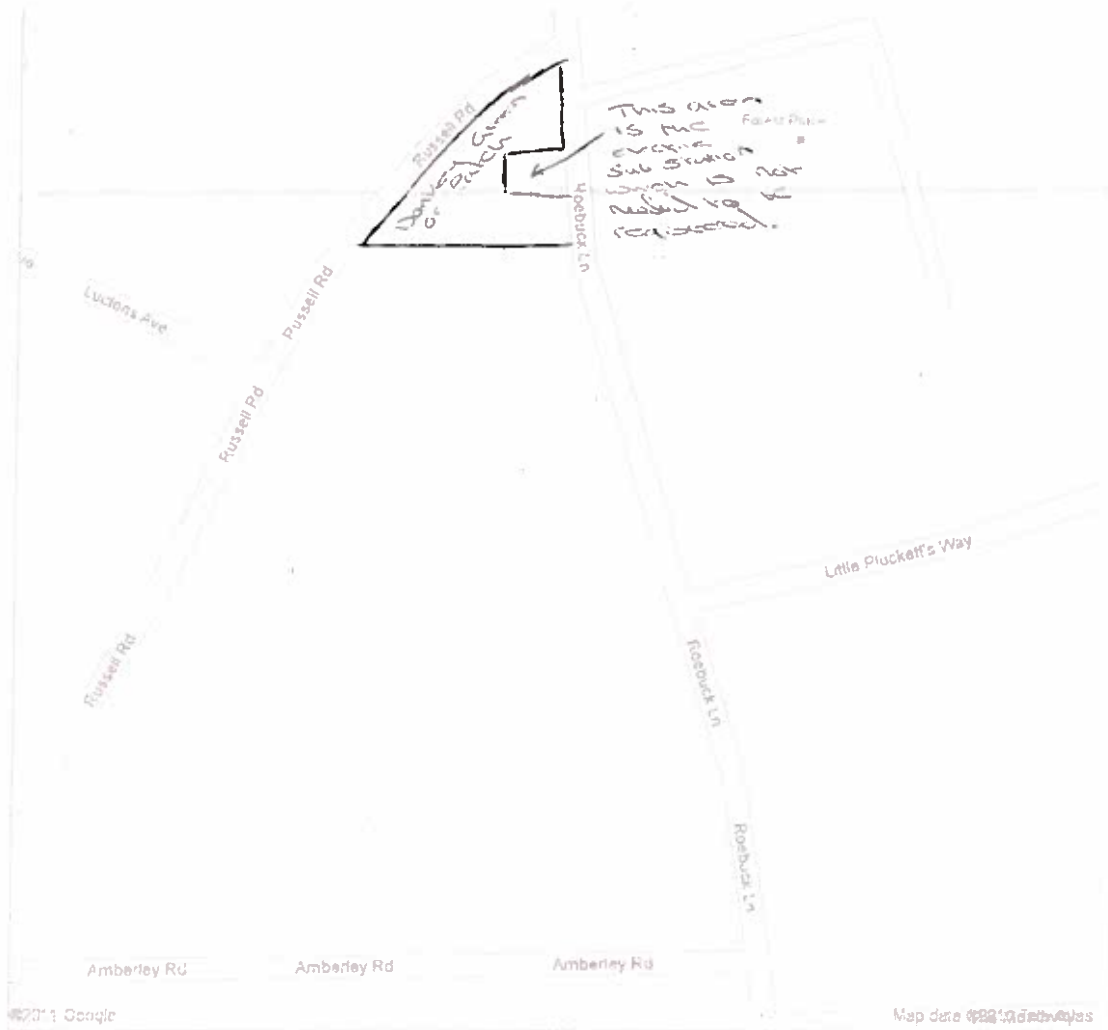
[Get Directions](#) [My Maps](#)

[Print](#) [Send](#) [Link](#)



<http://maps.google.co.uk/maps?hl=en&tab=w>

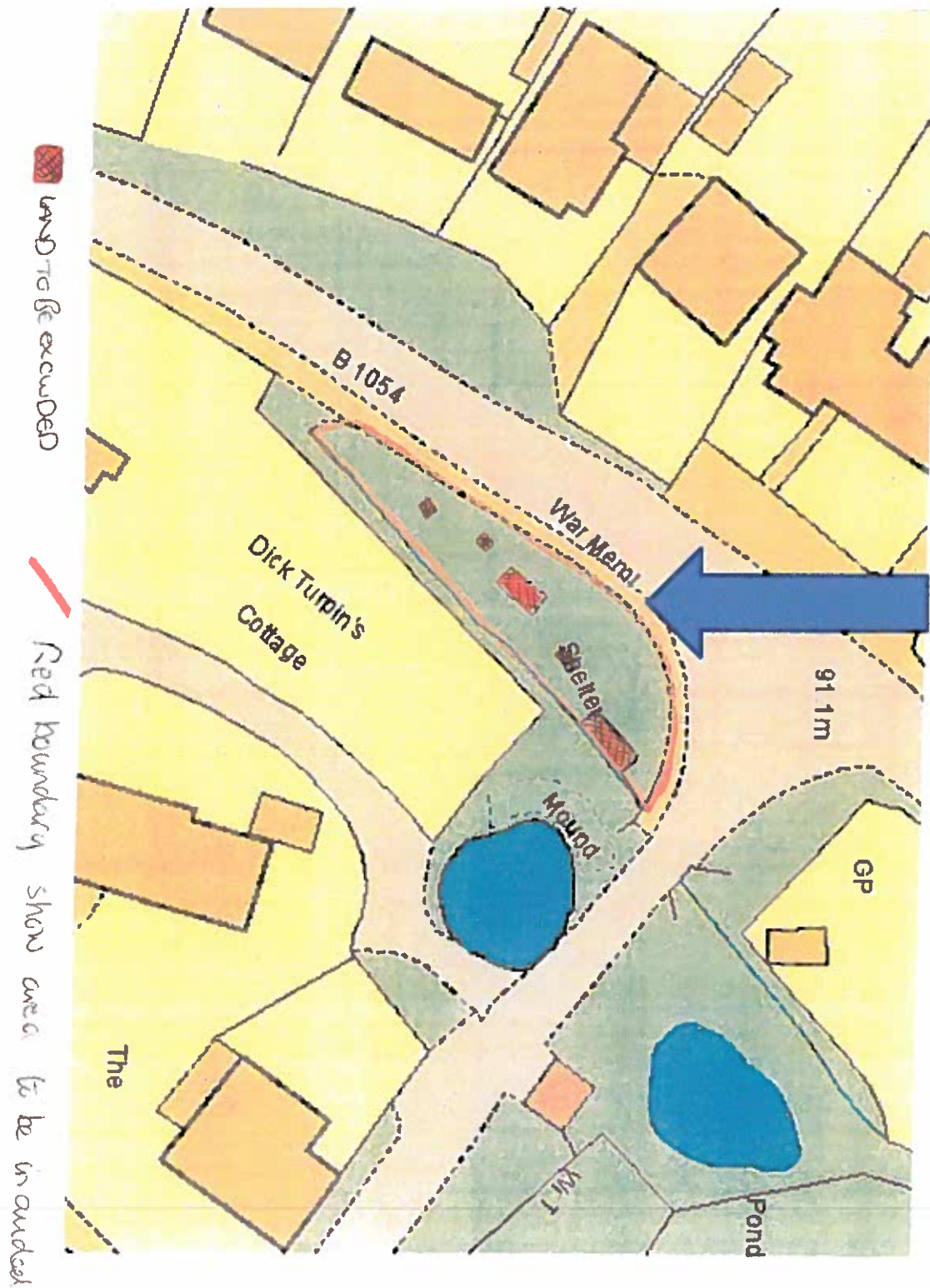
06/09/2010



(Map A)

EXHIBIT 'A'





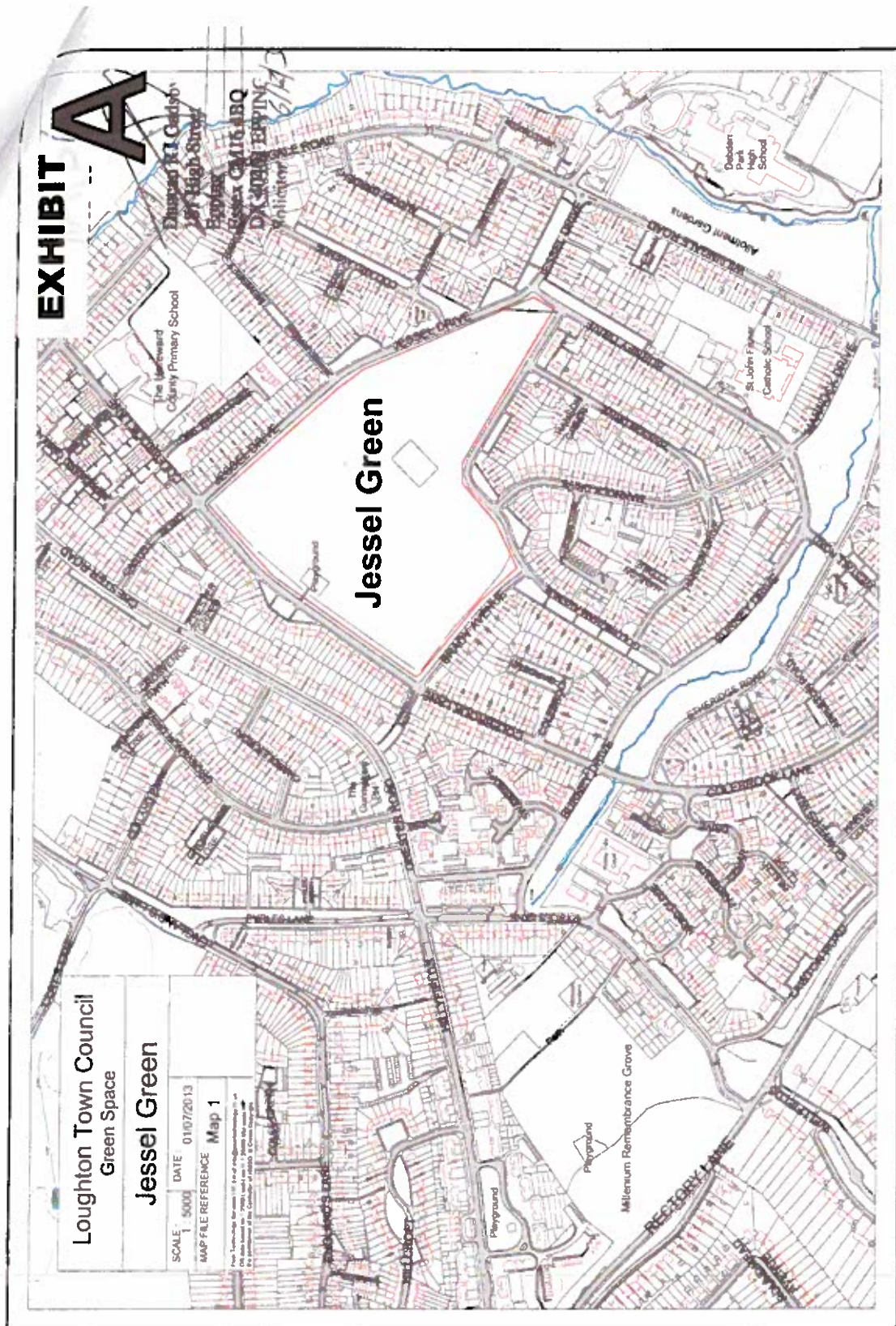
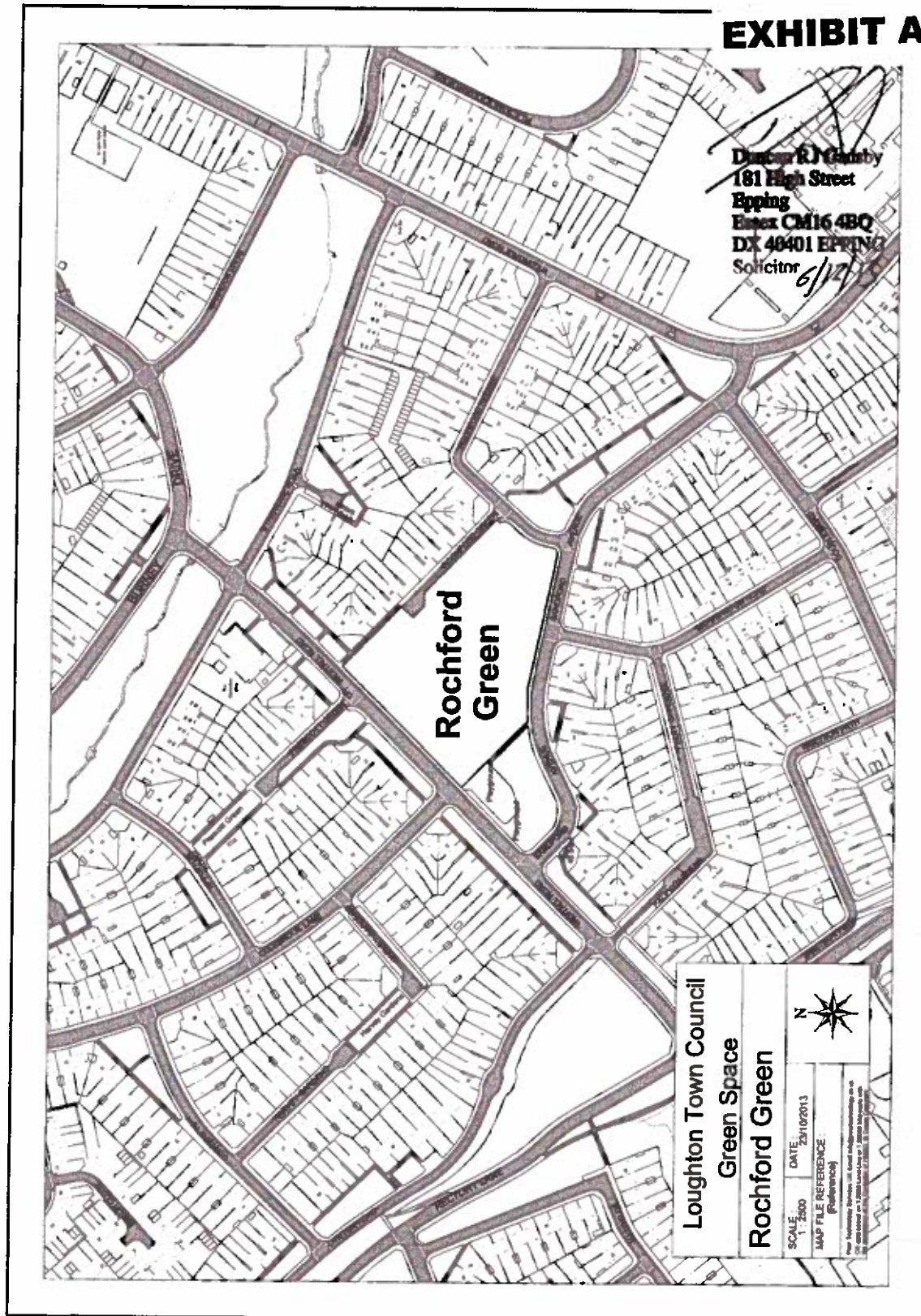
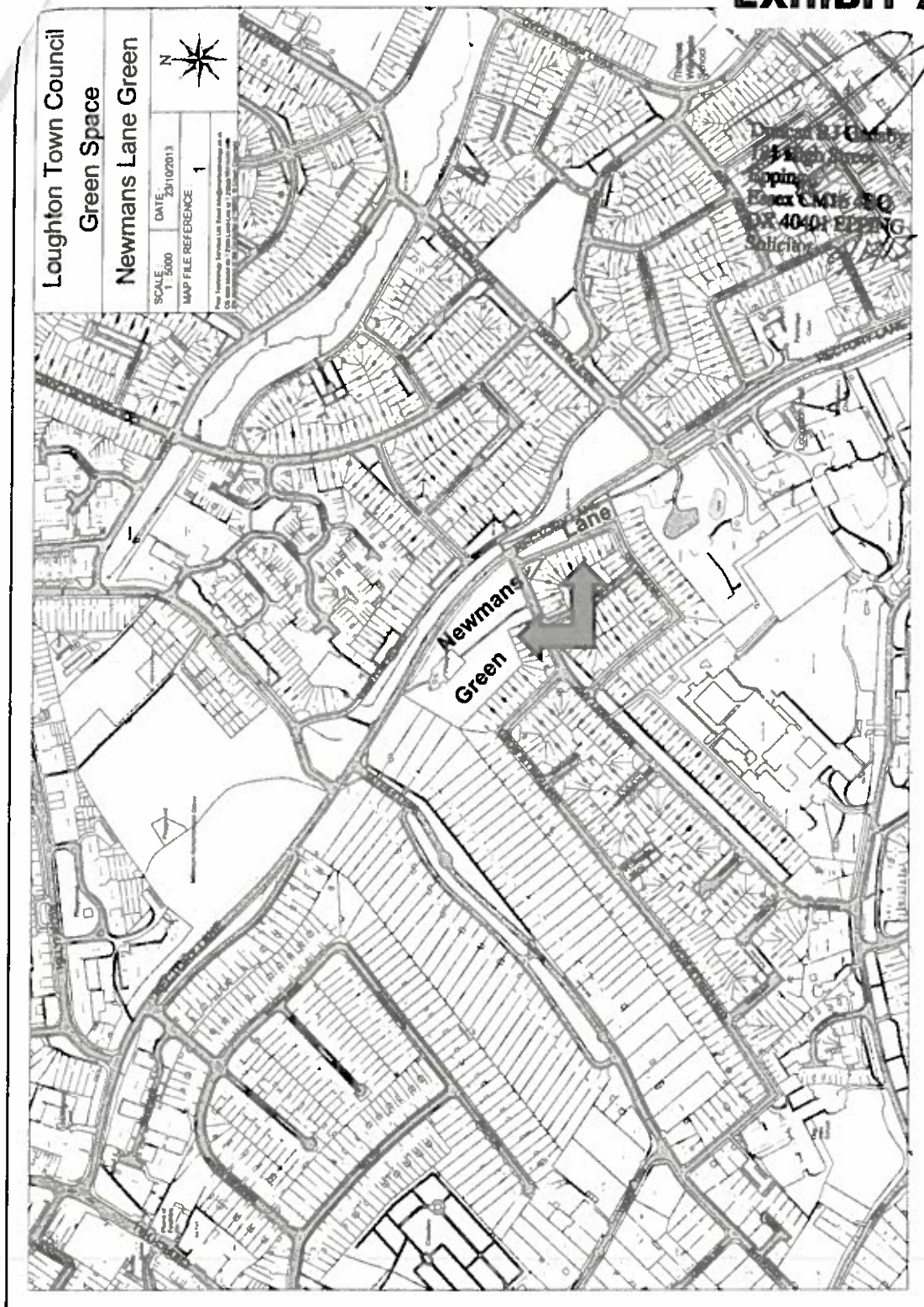


EXHIBIT A

N

Newmans Lane Green, Loughton

EXHIBIT A





Ravens Crescent,
Felsted

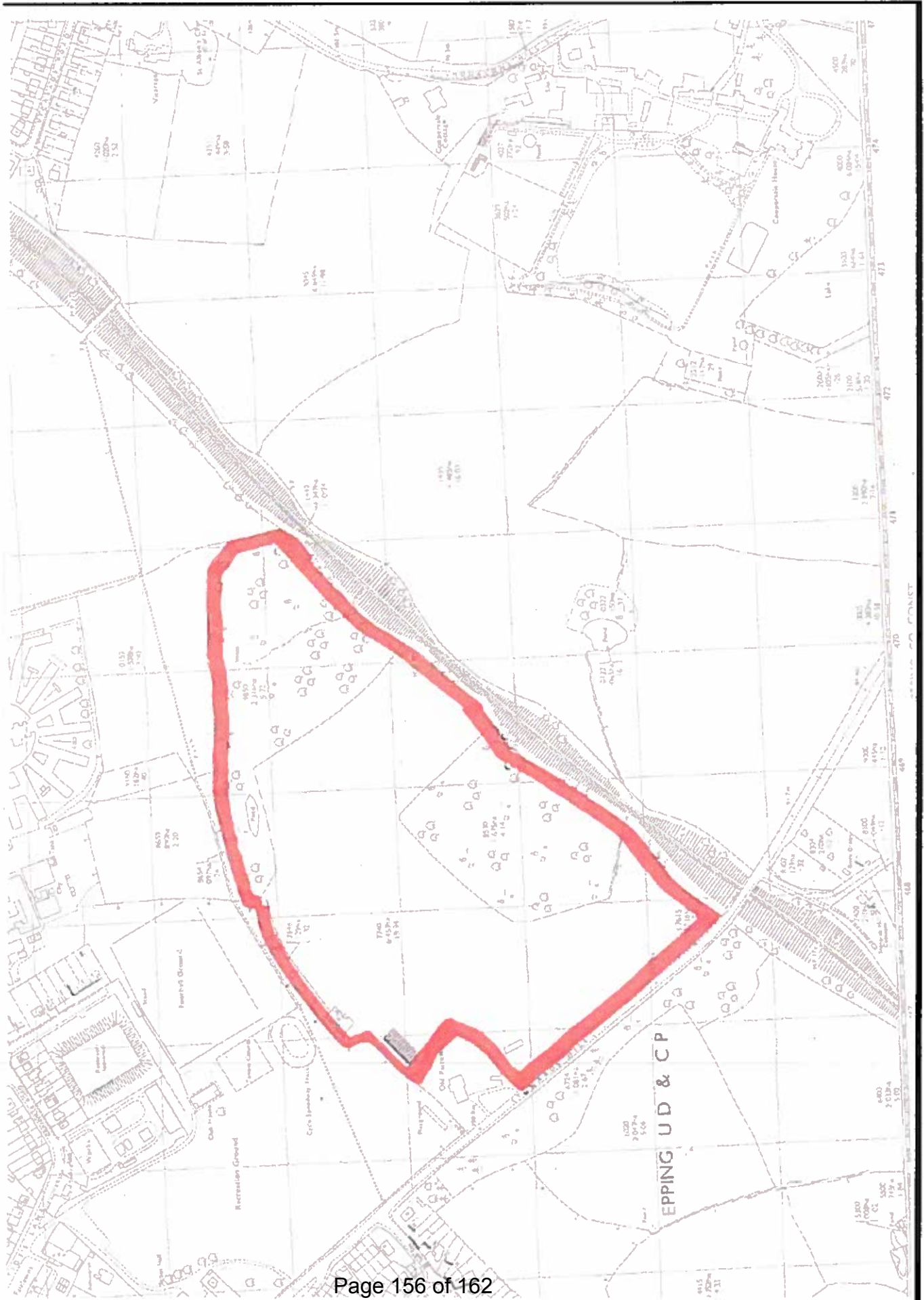


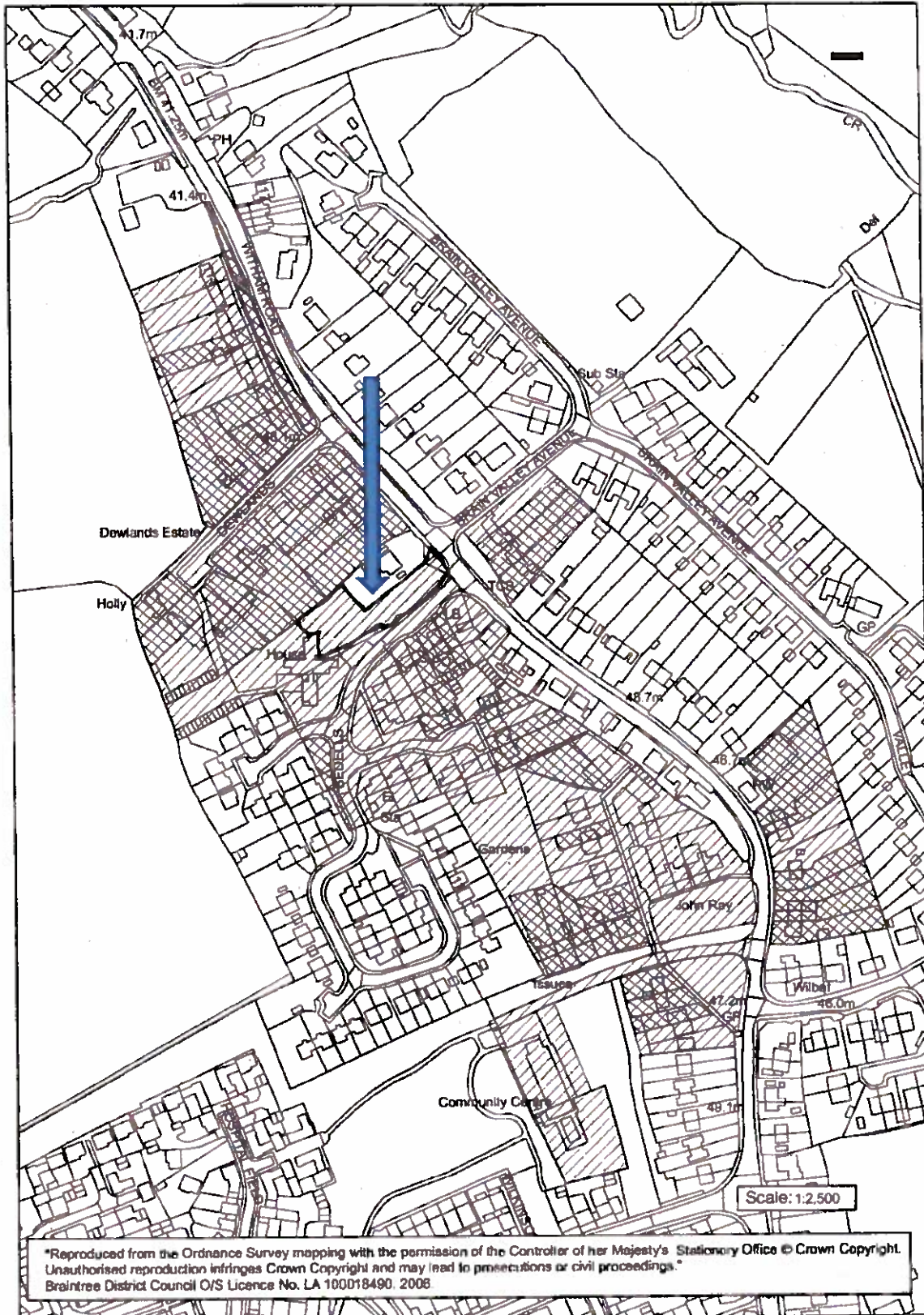
This is the exhibit referred to in
the exhibit of Peter Gifford.

Handwritten signature/initials

23/5/14

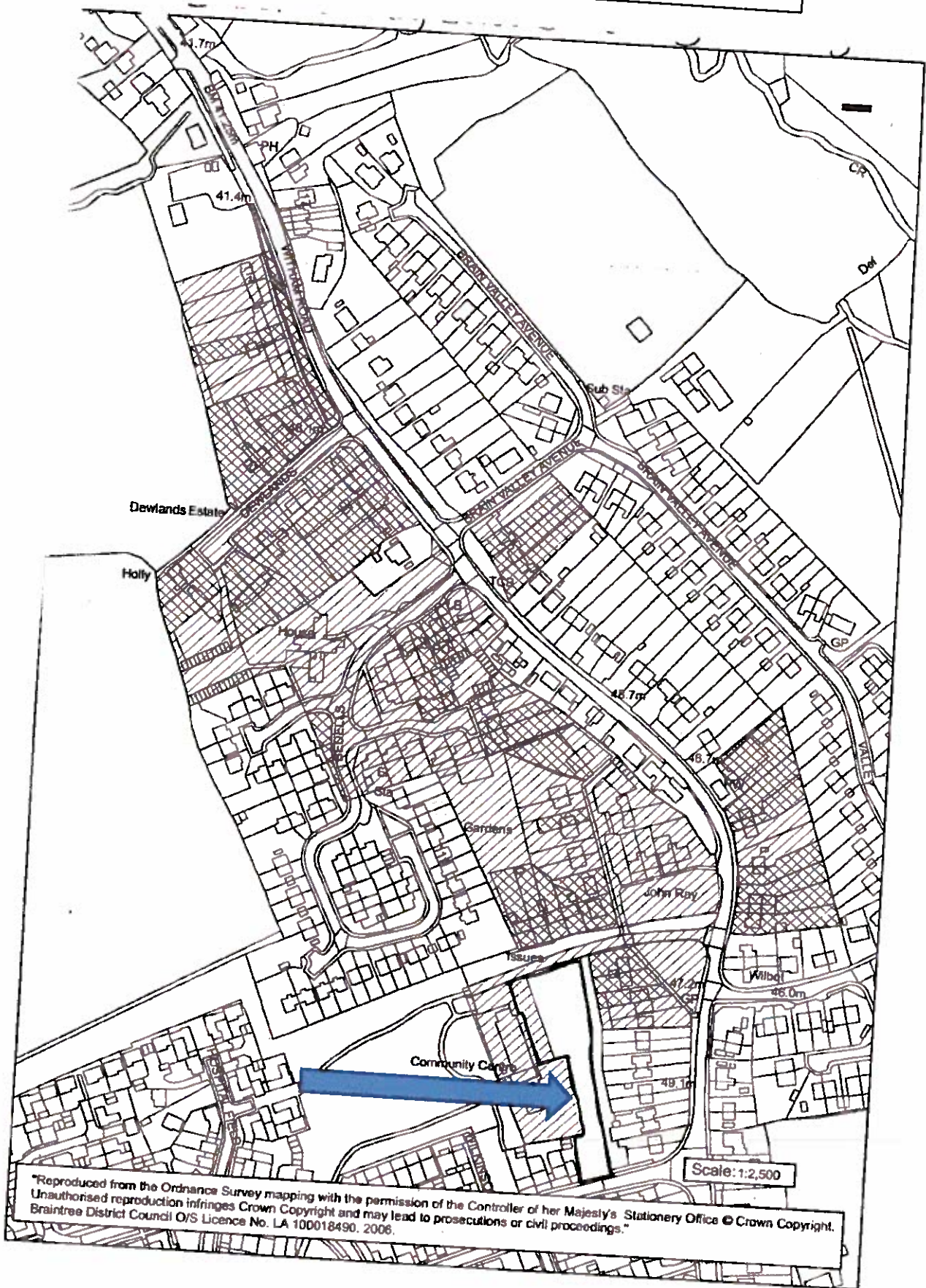
MOSS & COLEMAN
SOLICITORS
170-180 HIGH STREET
HORNCHURCH, ESSEX
RM12 6JP
MICHAEL HARVEY LL B (HONS) 51003 HORNCHURCH
Solicitor



Q**Shop Green, Black Notley**

R

Old Hospital Green, Black Notley



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S

John Ray Greens, Black Notley

~~M. Old Hosp~~ John Ray Greens.

Land either side of John Ray Gardens boundary of
Witham Road and John Ray Gardens.



DR/29/15

Committee DEVELOPMENT & REGULATION

Date 25th September 2015**INFORMATION ITEM****Applications, Enforcement and Appeals Statistics**

Report by Director of Operations, Environment & Economy

Enquiries to Robyn Chad – tel: 03330 136 811
or email: robyn.chad@essex.gov.uk

1. PURPOSE OF THE ITEM

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

BACKGROUND INFORMATION

None.

Ref: P/DM/Robyn Chad/

MEMBER NOTIFICATION

Countywide.

Major Planning Applications**SCHEDULE**

Nº. Pending at the end of July

22

Nº. Decisions issued in August

2

Nº. Decisions issued this financial year

14

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

100%

Nº. Delegated Decisions issued in August

1

Nº. Section 106 Agreements pending at the end of August

0

Minor Applications

% of minor applications in 8 weeks this financial year (Target 70%)	89%
Nº. Pending at the end of July	5
Nº. Decisions issued in August	3
Nº. Decisions issued this financial year	19
Nº. Delegated Decisions issued in August	3

All Applications

Nº. Delegated Decisions issued in August	4
Nº. Committee determined applications issued in August	1
Nº. of Submission of Details dealt with this financial year	108
Nº. of Submission of Details pending at the end of August	98
Nº. of referrals to Secretary of State under delegated powers in August	0

Appeals

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

Enforcement

Nº. of active cases at end of last quarter	28
Nº. of cases cleared last quarter	6
Nº. of enforcement notices issued in August	1
Nº. of breach of condition notices issued in August	0
Nº. of planning contravention notices issued in August	1
Nº. of Temporary Stop Notices issued in August	0
Nº. of Stop Notices issued in August	0