

DR/52/13

Committee DEVELOPMENT & REGULATION

Date 22 November 2013

MINERALS AND WASTE DEVELOPMENT

Proposal: **Continuation of waste transfer and recycling operation without compliance with condition 4 (no external handling, deposit, processing or transfer of waste) and condition 5 (external layout plan) attached to planning permission ref: ESS/02/12/CHL to allow the external handling, storage, processing and transfer of waste and the removal of condition 2 (internal layout plan) to allow flexible internal working (Retrospective)**

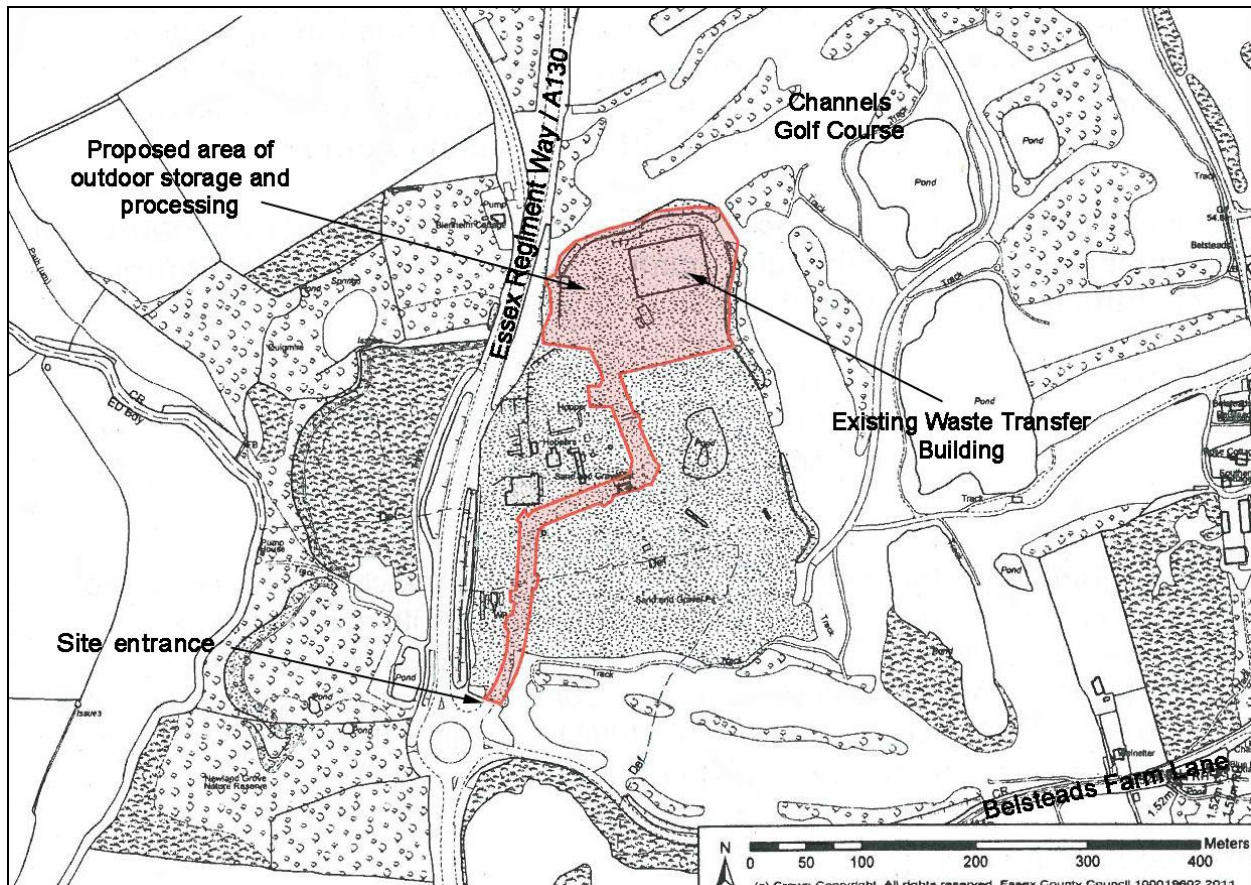
Location: **Mid Essex Gravel Pit. Essex Regiment Way, Little Waltham, Chelmsford, Essex, CM3 3PZ**

Reference: **ESS/42/13/CHL**

Applicant: **Dunmow Skips Ltd.**

Report by Director for Operations, Environment and Economy

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1. SITE & BACKGROUND

Mid Essex Gravel is located approximately 2km to the north of Chelmsford town centre on Essex Regiment Way (A130) to the east of the valley of the River Chelmer.

The area to which this application relates is situated to the north of the site, as a whole, bound by Essex Regiment Way (A130) to the west and Channels Golf Club to the north and east. The site is accessed off the Belstead Farm Lane roundabout on the A130, from which an internal haul road (running south to north) leads to the site.

This site and area has a long minerals and waste related planning history with planning permission with regard to sand and gravel extraction pre-dating 1947. In 1999 planning permission was granted for the change of use to land to be used for the recovery of reusable materials from waste, the production of recycled aggregates and the shredding of timber including the use of fixed and mobile plant, the existing office, workshop and weighbridge until 01 January 2007 (application reference: ESS/21/99/CHL). Furthermore another temporary planning permission was granted in 2004 (application reference: ESS/21/04/CHL) for the relocation of the neighbouring materials recycling facility and the use of the existing site infrastructure to enable waste materials to be processed, stored and distributed to local commercial users of recycled products. This permission was also limited to 01 January 2007 but in 2007 extensions to both the aforementioned was granted until 01 January 2010 (application references: ESS/54/06/CHL and ESS/55/06/CHL).

The above applications were granted in line with an over-arching Section 106 Agreement, signed in May 1999, with regard to the phased cessation of mineral processing and the restoration of the site. Details pursuant to the S106 were approved in August 2006 (application reference: ESS/06/03/CHL) with a deferment of formal cessation and restoration until 2010 and 2011, respectively, approved in 2006. This has in part been complied with although the non-implementation of a planning permission issued by Chelmsford City Council for the siting of a car auction facility has delayed ultimate restoration and some inert stockpile bunds remain to the south of the site.

In 2008 planning permission was granted for the construction of a warehouse for the purpose of operation as a waste transfer and recycling station together with associated parking, external storage, fuelling point, workshop, two-storey office accommodation, weighbridge, landscaping and fencing. The facility was permitted to handle up to 150,000 tonnes of waste per annum of which 60% would be recycled and reused. Waste permitted to be handled included construction/demolition and commercial waste from within the Essex catchment area.

In respect of the above, agreed through the submission of details pursuant to condition, the development approved is to be constructed in two phases. Phase one of the development, which has been implemented, is the northern half of the

building/warehouse and phase two is the southern half of the building which once constructed would resemble the complete 5600m² building/warehouse permitted. As alluded to phase two of the development has not yet been implemented and currently this area, as detailed below, is being used for other purposes.

Since the parent consent for the waste transfer and recycling station was granted there has been a few variations to the details as approved. Including permission to allow the outdoor storage of wood for a temporary period until 28 February 2012, a variation of condition 5 of ESS/03/08/CHL (application reference: ESS/12/11/CHL) and an application to allow minor amendments to the design of the waste transfer station building (application reference: ESS/02/12/CHL). ESS/02/12/CHL is the current consent for the site and is the permission to which this application is seeking to vary.

Further to the above two separate consents have been issued for the site 1) the outside storage of wood on land adjacent to the waste transfer building (the area to which phase two of the development, as approved, relates) until 28 February 2014 (application reference: ESS/20/12/CHL) and 2) the erection and use of two port-a-cabin office buildings (application reference: ESS/17/13/CHL).

The area is allocated as an employment area in the Chelmsford City Council Core Strategy but is located adjacent (to the south) to an area, identified within the North Chelmsford Area Action Plan (NCAAP) adopted 20 July 2011, intended to accommodate new neighbourhoods providing at least 3,200 new homes and 64,000m² of floorspace for business to generate substantial employment. Outline planning permission for the erection of a minimum of 650 and a maximum of 750 dwellings; provision of open space and a community hub providing a maximum floor area of 3,500m² and comprising uses in Class A1 (retail) and/or A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments), A5 (hot food and takeaways) and D1 (non-residential institutions); and the provision of the northern section of the radial distributor road and junction improvement works to Essex Regiment Way was approved by Chelmsford City Council in October 2012.

2. PROPOSAL

This is a variation and proposed removal of condition application. The application seeks the continuation of waste transfer and recycling operation without compliance with condition 4 (no external handling, deposit, processing or transfer of waste) and condition 5 (external layout plan) attached to planning permission reference: ESS/02/12/CHL to allow the external handling, storage, processing and transfer of waste and the removal of condition 2 (internal layout plan) to allow flexible internal working.

As existing conditions 2, 4 and 5 of ESS/02/12/CHL state:

Condition 2

The internal layout plan, internal circulation, internal storage and machinery shall be in accordance with letters dated 10 & 17 June 2009 and Drawing Numbers AQA1 SK401 revision P2 (Location of Internal Equipment Phase1) dated June

2009 and AQA1A SK403 revision P1 (Location of Internal Equipment Phase 2) dated June 2009 approved by the Waste Planning Authority on 17 August 2009 under planning permission reference ESS/03/08/CHL. The development hereby permitted shall be implemented in accordance with the approved scheme.

Condition 4

The handling, deposit, processing or transfer of waste outside the confines of the buildings approved for this purpose, shall only be permitted until 28 February 2012. After which time no handling, deposit, processing or transfer of waste shall take place on site outside the confines of the buildings approved for this purpose.

Condition 5

Machinery to be used and storage bays shall be in accordance with letters dated 10 & 17 June 2009 and Drawing Numbers AQA1A-SK402 Revision P2 (Location of External Equipment Phase 1) dated June 2009 and AQA1A-SK404 Revision P1 (Location of External Equipment Phase 2) dated June 2009 approved by the Waste Planning Authority on 17 August 2009 under planning permission ESS/03/08/CHL. The development hereby permitted shall be implemented in accordance with the approved scheme.

The proposed variations to conditions 4 and 5 have been justified by the applicant on the basis that, as existing, there is a health risk posed to employees by confining the operations within such a limited space; and the current restrictions impose unjust economic constraints on business viability and growth. By allowing the outside handling, storage, processing and transfer of waste it is proposed that a further 3-5 staff would be employed to facilitate the operations and the additional space would facilitate safer and more efficient on-site practices.

The proposed external activities, covered by this proposal, would be located to the north east of the site and would include the storage and processing of waste materials such as metals, inerts, construction hardcore, plastics and cardboard.

The removal of condition 2 has been applied for as it is considered, by the applicant, that the condition serves no regulatory planning function and poses an impediment on the development and the installation of new machinery/changes to working practices to facilitate the sustainable, efficient and effective operations within the building.

No other conditions or details of planning permission ESS/02/12/CHL would be affected by this application.

3. POLICY CONSIDERATION

The following policies of the Essex and Southend Waste Local Plan 2001 (WLP) and Chelmsford City Council Core Strategy and Development Control Policies 2008 (CCS) provide the development framework for this application. The following policies are of relevance to this application:

Policy

Sustainable Development, National Waste

WLP

W3A

CCS

Hierarchy & Proximity Principle	
Need for Waste Development	W3C
Materials Recovery Facilities	W7E
Alternative Sites	W8B
Planning Conditions and Obligations	W10A
Material Considerations: Policy Compliance and Effects of the Development	W10E
Securing Sustainable Development	CP1
The Borough-Wide Spatial Strategy	CP2
Minimising Environmental Impact	CP13
Protecting Existing Amenity	DC4
Amenity and Pollution	DC29
Employment Areas	DC48

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

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

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

Paragraph 216 of the Framework nevertheless states that 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 the Framework (the closer the policies in the emerging plan to

the policies in the Framework, the greater the weight that may be given).

Whilst it is not considered that the Waste Development Document: Preferred Approach 2011 (now known as the Replacement Waste Local Plan (RWLP)) is at a sufficient stage to be afforded any more than little weight, CCC have produced a focussed review of the CCS seeking to make amendments to a selected number of policies in order to ensure complete compliance with the Framework. Examination Hearings for the Focussed Review Document were held in July 2013, conducted by Ms Claire Sherratt DipURP from the Planning Inspectorate. The Inspector's report has now been published and the report finds that with the recommended main modifications set out in the appendix of the report, the Focussed Review Development Plan Document (FRDPD) meets the criteria for soundness in accordance with Framework. Chelmsford City Council is reporting the finding to their Development Policy Committee on 07 November 2013 and will be seeking approval from Members of the Committee for the FRDPD to be referred to Full Council for adoption.

With regard to waste policy and guidance the Framework does not contain specific waste policies, since national waste planning policy will be published as part of the National Waste Management Plan for England. The Waste Management Plan for England and an update to the national waste planning policy: Planning for sustainable waste management have both been published for consultation by the Department for Environment Food & Rural Affairs and the Department for Communities and Local Government, respectively. The principles of these documents can therefore be considered in determination of this application however, until formal adoption Waste Planning Policy Statement (PPS 10) remains the most up-to-date adopted source of Government guidance for determining waste applications.

4. CONSULTATIONS

CHELMSFORD CITY COUNCIL (CCC) – Object to the proposal on the basis that the proposal would result in additional external noise. The nearest residential properties to the site are situated on the opposite side of Essex Regiment Way, approximately 60m away. A significant amount of new residential development is planned on land south and east of the site and in the absence of a robust noise survey it has not been demonstrated that the noise levels from the development, taken as a whole, would be acceptable and not harmful to living conditions, contrary to CCS policy DC4.

Applicant's comment

In response to the above objection the applicant re-submitted a summary of the most recent noise assessments (submitted in respect of condition 23 of ESS/02/12/CHL). These assessments, it has been suggested by the applicant, provide a robust noise impact study and it is considered the results should alleviate the concerns expressed about additional noise impact. The operations to which this application relates commenced in July 2012 and therefore the noise monitoring submitted since this period, by default, has assessed/included this working. The applicant is furthermore unaware of any objections or complaints received by ECC or CCC with regard to noise nuisance since such operations

began.

CCC (SECOND RESPONSE) – It is considered that it has not been demonstrated that the noise levels from the development, taken as a whole, would be acceptable and not harmful to the living conditions of nearby residents. Therefore, CCC continues to object to the application for non-compliance of conditions 4 and 5 and the removal of condition 2 of planning permission reference: ESS/02/12/CHL.

ENVIRONMENT AGENCY – No objection.

ESSEX FIRE & RESCUE SERVICE – No comments received.

THE COUNCIL'S NOISE AND AIR QUALITY CONSULTANT

Noise – Noise emissions from the site are currently controlled through condition 22 and 23 of planning permission reference: ESS/02/12/CHL. In normal circumstances with an application as such the applicant would be required to submit a noise assessment to demonstrate that adverse noise impacts would not arise from the facility. However, as this is a retrospective planning application and the previously noise assessments for the site have shown compliance, with this working, with the aforementioned conditions it is considered that this application would not result in adverse noise impacts. Noise monitoring of the site would furthermore be required by the continued imposition of conditions 22 and 23, or as subsequently re-numbered, should planning permission be granted.

Air Quality – In terms of dust emissions, the main source identified by the operator is the processing and storage of wood; however, other wastes are proposed to now be handled externally and these too have the potential to create dust nuisance. We are advised that there have been issues in the past with dust emissions affecting the nearby golf course and mitigation measures in the form of water suppression has been introduced by the operator. A number of indicative Best Available Techniques (BAT) requirements are specified in both general and waste sector specific Environmental Permitting Guidance notes and although the applicant has been granted an exemption for some activities/processes on site such guidance on dust minimisation and mitigation should be followed.

Applicant's comment

The applicant has obtained both ISO 14001 and ISO 18001 which have been deemed best practice within the specified operations and have they fulfilled the requirement of condition 1.1.1 (Environment Management System Requirements and Site Working Plan) of the site's Environment Permit.

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

LITTLE WALTHAM PARISH COUNCIL – Totally opposed to this application. This site has a long history of non-compliance with regulations and enforcement, together with retrospective applications following apparent disregard of extant conditions. Furthermore, given the recent history of the site and the two near catastrophic fires, the Parish request that the application go before Committee for

determination.

BROOMFIELD PARISH COUNCIL – No comments received.

LOCAL MEMBER – CHELMSFORD – Broomfield and Writtle – Supports the request made by Little Waltham Parish Council that the application be heard by the Development & Regulation Committee.

5. REPRESENTATIONS

Four addresses were directly notified of the application. The application was also advertised in the local press and on site. No letters of representation have been received.

6. APPRAISAL

The main issues for consideration are:

A - Planning History & Need

B - Proposed Operations

C - Impact on Amenity, Landscape & the NCAAP

A PLANNING HISTORY & NEED

The applicant has stated in support of the application to remove condition 2 that this places an unfair burden on the applicant/operator of the site. This information is considered, by the applicant, to serve no regulatory planning function and poses an impediment on the future development and installation of BATs and new plant.

Planning Policy Statement 10 (PPS 10) (Planning for Sustainable Waste Management) 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.

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

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

WLP policy W3A identifies the need for proposals to have regard to the following principles:

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

WLP policy W3C in addition requires waste developments with a capacity of over 25,000tpa to demonstrate a need for the development in the context of waste arising in Essex and Southend. Where the proposal has a capacity of over 50,000tpa conditions may be imposed to restrict the source of waste to that arising within the Plan area.

This is a variation of condition and in this respect it is considered the principle of siting a waste facility in this location has already been established. Furthermore it is considered that the WPA is accounting for the permitted throughput at the facility (150,000tpa as controlled by condition on ESS/02/12/CHL) in the production of the emerging RWLP and accompanying evidence base. This application is not proposing a change to the permitted tonnage but is in turn seeking operational practices which were not previously proposed and assessed when permission was granted for the waste transfer building/warehouse in 2008.

The area to which this application relates is designated as employment land within the CCS and when the application was originally appraised (in 2008), although not a preferred site, it was considered the site/proposed facility did meet many of the criteria of WLP policies W8A and W8B including dealing with Essex waste only, having adequate road accesses and ultimately supporting recycling. In respect of the amendment sought (the removal of condition 2) the Framework states at Paragraph 206 in relation to planning conditions and obligations that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

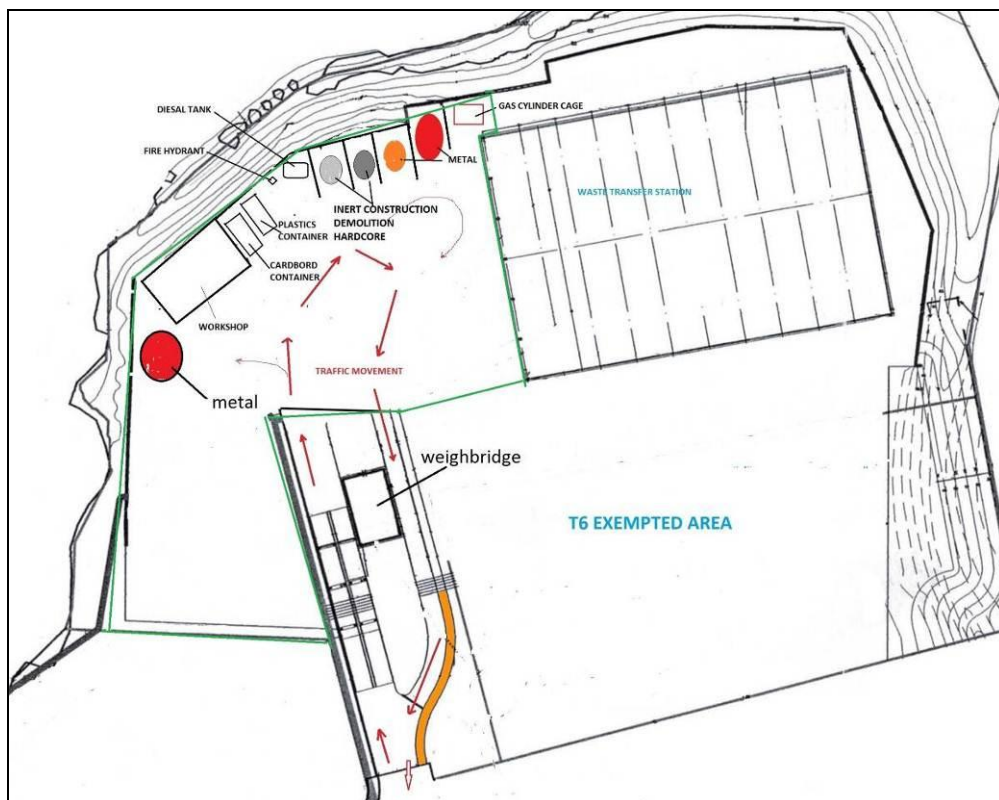
The Town and Country Planning Act 1990 at Section 55 (2) (a) details that the carrying out for the maintenance, improvement or other alteration of any building which (in relation to this application) (i) affects only the interior of the building shall not be taken as to involve development. Using this principle in context of the internal layout and operation of machinery within the confines of the building/warehouse permitted for use as a waste transfer and recycling facility it is considered such changes would not be classified as development and such changes not normally require formal planning consent. As a specific condition to this effect is nevertheless attached to the permission, in this case, such details are controlled/restricted. In consideration of the argument put forth by the applicant it is not considered that the removal of condition would adversely change the decision/conclusion in context of WLP policies W3A, W3C, W7E or W8B. The omission would allow the operator greater freedom which it is considered would allow changes to be implemented on site to maintain best practice and achieve, maintain and strive towards the principles of sustainable development.

With regard to the proposed variation of conditions 4 and 5 the applicant has proposed that handling, deposit, processing and transfer of waste be permitted outside the confines of the buildings approved (condition 4). The applicant has proposed a variation to condition 5 to read in accordance with the site working plan submitted as part of this application (extract on the next page).

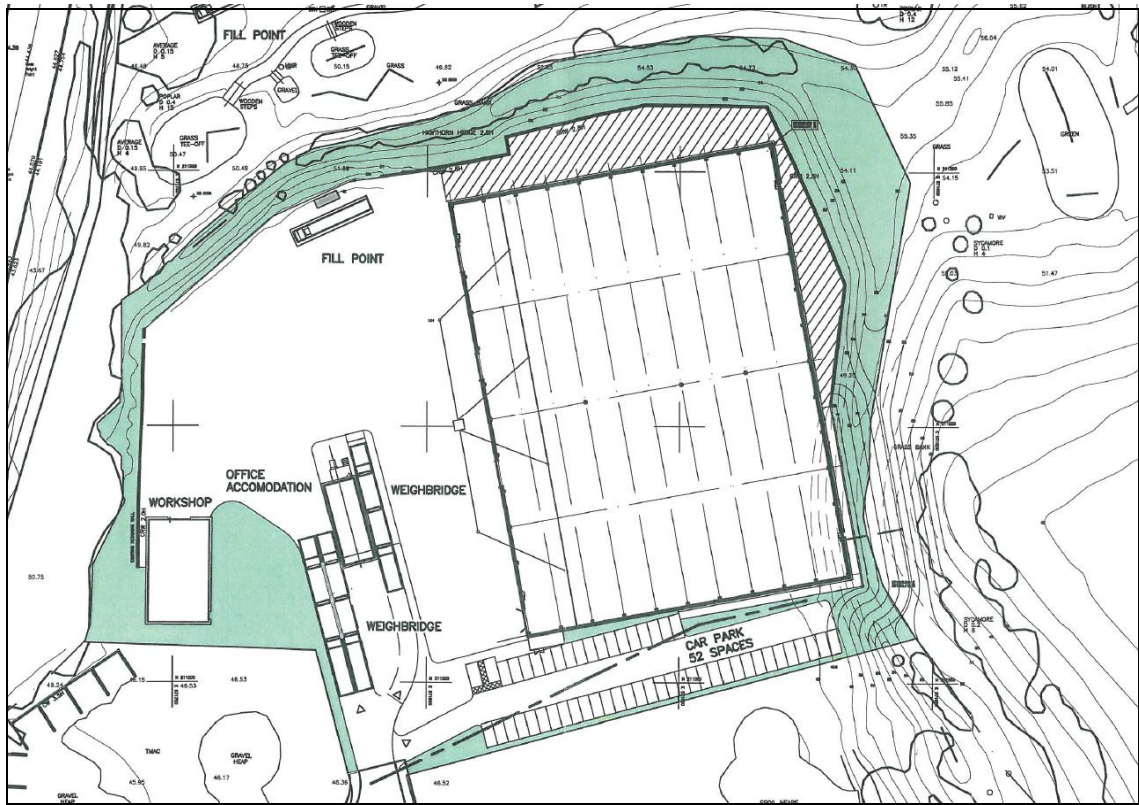
As alluded to the Site & Background section of this report, the submission of details application approved for this development sought this to be a two phase

development. Two plans were therefore approved for each condition, one covering phase one and the other phase two. In respect of the area to the west of the site, the area where external storage and processing of materials is proposed, in both approved drawings this is however proposed to remain largely clear. The workshop as shown on the 'Inert/Recyclables Storage Area' submitted diagram is shown in a similar location, as an existing structure from the former mineral processing use, as is the vehicle fill point/diesel tank. For phase two the workshop moves south-west with the remaining western area being completely clear with the exception of the vehicle fill point/diesel tank.

Extract from submitted diagram – 'Inert/Recyclables Storage Area'



Extract from Drawing No. AQA1A-SK404 (Revision P1) Location of External Equipment – Phase 2 (current approved drawing)



The variation and proposed external handling, deposit and processing of waste suggested, by the applicant, as part of this application would be permanent and cover both phases of the development.

B PROPOSED OPERATIONS

Focussing primarily on the proposed variation of conditions 4 and 5, in context of the conclusion already formed with regard to condition 2, it has been suggested that the following classifications¹ of waste would be handled:

- Recycling or reclamation of organic substances which are not used as solvents;
- Reclamation of metals;
- Storage of waste consisting of materials intended for submission to any recovery operation; and
- Storage of mixture of waste prior to the waste being submitted to recycling.

The waste licence/exemption for the site details the operations as the keeping and treatment by size reduction (shredding) of waste for the purpose of recycling.

As shown in the diagram included as part of the Planning History & Need section of this report, it is proposed that materials would be stored along the northern and western border of the site. Metal is proposed to be stored to the south of the

¹ Amalgamated from that provided by the applicant, detailed in Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, the List of Wastes (England) Regulations 2005 and Environment Agency issued guidance on permitting.

workshop, which would be used to process and sort materials, with containers for the storage of cardboard and plastics proposed to the north. Along the northern boundary storage bays for inert construction, demolition and hardcore are proposed with a further store for metal.

In respect of metal scrap the applicant has stated that due to health and safety risks associated with the movement of such material it is necessary to use heavy plant to facilitate safe handling and movement. Due to the large turning and operating area required for such equipment/vehicles, the limited confines of the waste transfer building/warehouse render this within the building/warehouse inappropriate. With regard to hardcore it has been stated that such material accepted requires little treatment apart from initial sorting and segregation. Similar to the above this too requires the use and operation of heavy plant which if contained within the building would severely limit space for other operations. It has been stated that a maximum amount of 1000 tonnes of metal, 1000 tonnes of inert construction, demolition and hardcore type waste and 400m³ of paper, plastic and cardboard would be stored on site at any one time. The total throughput of the site would nevertheless not change (maximum 150,000 tonnes per annum) with this use being absorbed within the maximum permitted throughput at the site.

Within the application details clarification is furthermore provided on the outside storage of wood on land to the south of the waste transfer building. For the purpose of clarity this operation is not proposed as part of this application. Planning permission was granted for the outside storage of wood on land adjacent to the south of the existing waste transfer building for a temporary period until 28 February 2014 in June 2012 (application reference: ESS/20/12/CHL). This is a separate consent to the waste transfer although a number of the conditions refer to the conditions as expressed on the waste transfer permission. As alluded to in the description of the development this consent, unlike the previous temporary consent issued for the waste wood, this permission solely permits storage, it does not allow for processing. Conditions imposed on this permission restrict the amount of waste wood stored on site to 3000 tonnes at any one time and also limit the stockpile height of this material to no more than 3m. When this permission was granted it was acknowledged, similarly to the justification as put forward for this application, that the main need stemmed from economic constraints and phase two of the site/development not yet coming forward. However it was concluded that there was still a justified need for the waste management operation and permission was granted for a temporary period.

In respect of the site, as existing, and that detailed within the application statement it is noted that contrary to this consent the processing of waste wood is occurring on site. ECC are aware of this and will be in discussions with the site operator to resolve this. Within this application it has been suggested that a maximum of 500 tonnes of wood waste is accepted at the site each week / 24,000 tonnes per annum. Up to 3,000 tonnes of waste is stored on site to enable a 6 week supply of woodchip to the particle board and power industries. It is detailed that the treatment of such waste is by pre-breakers, shredders, screens and magnetic separation.

The area to which the wood waste is stored is the area to where phase two would

be constructed. Whilst the details approved for phase two are not time restricted, the site operator has suggested that the intention is to complete the development. That being said issuing a permanent permission for such operations could be seen as stifling or replacing the need for phase two. The WPA, in context of WLP policies W3A, W7E and W10E, further discussed in the next section, and CCS policies CP1, CP13, DC4, DC28 and DC29, again all discussed further in the next section of this report, would like to see phase two implemented and have reservations about a permanent mixed (indoor and outdoor) waste transfer site in this location in respect of potential impacts. PPS 10 states, at Paragraph 36, that waste management facilities in themselves should be well-designed, so that they contribute positively to the character and quality of the area in which they are located. Poor design is in itself undesirable, undermines community acceptance of waste facilities and should be rejected.

C IMPACT ON AMENITY, LANDSCAPE AND THE NCAAP

CCS policy CP1, as proposed within the FRDPD, details that the Council will promote and secure sustainable development. It suggests that such developments create well designed places and spaces, promote social inclusion, work with the environment where they are located and contribute to the growth of the local economy. The policy states that a positive approach will be taken to reflect the presumption in favour of sustainable development. CCS policy DC48, as proposed within the FRDPD, states that in employment areas the Council will seek to retain Class B uses as defined by the Use Class Order 1987 (as amended) or other sui generis uses of a similar employment nature.

It is considered support for this application can be demonstrated within the economic and social dimensions of sustainable development, as defined within the Framework. That being said these benefits are considered to relate predominately to the use/operation in general rather than the variations as sought. WLP policy W10E and CCS policies CP13, DC4 and DC29 seek to ensure the protection of existing amenity and limiting environmental impact. The stance as portrayed in these policies is replicated, inter-alia, throughout the Framework. In particular Paragraph 123 of the Framework, with regard to amenity, states that planning policies and 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;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

Paragraph 122 of the Framework nevertheless details that local planning

authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes.

With regard to the operations covered by this proposal, it is noted by the applicant the sorting and storage of scrap metal including the delivery, unloading, movement and loading of material has the potential for environmental impacts including noise nuisance and surface water and land contamination. Using general good housekeeping practices it is suggested would ensure that noise nuisance is minimised and no undue environmental impacts (spillages/contamination) result. Storage of material would be in bays on existing hardstanding. Dedicated drainage and interceptor sumps, provisions which are existing on site, would furthermore ensure all surface water is collected and contained. Interceptors are as existing, and would continue to be, emptied on a regular basis with the contents, as appropriate, taken to a permitted treatment facility. Noise levels from the operation it has been suggested would be maintained within that permitted for the site. Bi-annual noise monitoring would continue to be submitted, accounting for all site operations, but the applicant is confident that the operations can be undertaken without due impact and below the +5dB LAeq level.

With regard to the management of inert construction, demolition and hardcore wastes the potential for dust and debris is also noted. In the management of such material dust suppression techniques, as existing exercised with regard to the waste wood, are proposed. Including that all operations would be undertaken on areas of hard surfacing; stockpiles, the service yard and the access road would all be dampened and swept, as appropriate, in dry and windy conditions; site traffic would be subject to a maximum 10mph speed limit; all vehicles delivering or taking materials away from the site would enter and leave the site sheeted; wind speeds and directions would be monitored and a decision taken by the Site Manager as to the appropriateness of undertaking certain operations in certain conditions; and continual management checks on such operations would be undertaken at least three times a day. All employees would receive training on how to minimise the production of dust and where the production of dust cannot be prevented would furthermore be trained on the use and maintenance of dust suppression equipment.

A no objection comment, to this application, has been received from the Environment Agency and the Council's noise and air quality consultant. Objection has however been received from CCC and Little Waltham Parish Council in view of concerns about potential impact to amenity.

This area, as alluded to, forms part of the NCAAP and outline planning permission has been granted for the erection of a minimum of 650 and a maximum of 750 dwellings; provision of open space and a community hub providing a maximum floor area of 3,500m² and comprising uses in Class A1 (retail) and/or A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments), A5 (hot food and takeaways) and D1 (non-residential institutions); and the provision of the northern section of the radial distributor road and junction improvement works to Essex Regiment Way.

CCC in consideration of the above consider in the absence of a robust noise survey it is not considered that it has been demonstrated that the noise levels from the development, taken as a whole, would be acceptable and not harmful to living conditions, contrary to CCS policy DC4. Noise monitoring is a requirement of the existing planning consent and is submitted to ECC, as the WPA, bi-annually. This is a retrospective planning application and as such the latest monitoring submissions have by default including such working and the applicant in support of the application has sought to point this out. The noise monitoring dated May 2013 and August 2013 both showed compliance with the requirements of the maximum noise level permitted and it is noted, by the applicant, that in respect of nearest residential property to the site (circa 60m west of the site, on the other side of the A130) the average noise level on the last three assessment reports has been (LAeq,T) 57.2dB, 53.32dB and 52.7dB. The dominate noise in the locality and at monitoring location 5 (at the entrance to the site – relevant to the above NCAAP designation) is suggested as that from the A130, not from the site.

No such concerns with regard to noise impact have been raised by the Council's noise consultant and given the existing parameters/restrictions which are deemed acceptable for noise, which the applicant is happy to accept, it is not considered that further demonstration of likely noise impact is necessary. Noise monitoring is a continuing requirement and should planning permission be granted and the next submitted noise monitoring show an exceedance of the permitted noise level the operator would be required to change their working practices to accord with that permitted.

7. CONCLUSION

CCS policy CP2 details that all proposals for development will be considered in the context of the Borough-wide Spatial Strategy, which sets out the vision for development growth up to 2021. Mention within the policy is made to the forecast growth in North Chelmsford and the NCAAP. In view of CCC's consultation response to this application it is noted that this a strategically important area with a significant portion of CCC's requirement for housing planned in this locality. In context of Paragraphs 21 and 123 of the Framework and allowing suitable flexibility and not being unreasonable because of changes in nearby land uses since existing uses were established it is considered the outright refusal of this application, with regard to the perceived limited harms, would however be unwarranted.

That being said in view of the site history, that external storage and processing was not envisaged when permission was originally granted and that the applicant is maintaining a desire to implement phase two it is considered that a permanent permission for such operations could have more material implications on the character and ultimate appearance of the site/facility.

The WPA in the interests of delivering sustainable development are accepting of the overall benefits from the operations undertaking from this site however in

context of potential impact and WLP policies W3A, W7E, W8B and W10E, CCS policies CP1, CP13, DC4 and DC29 and government issued guidance also have an obligation to ensure suitable consideration of the environment dimension of planning. In this regard the WPA do not consider that the outside storage and processing of waste would be an appropriate permanent provision at this site. Whilst the applicant has suggested that impacts are likely to be minor and the operations can be undertaken in compliance with the existing condition/restrictions it is not considered that such a change is of a material benefit to the character and appearance of the area especially in relation to that planned for this area.

In view of the existing circumstances it is nevertheless suggested that a 12/13 month temporary permission for the outside storage and processing of waste be granted to allow the applicant sufficient time to clear existing stockpiles and plan for phase two of the development. It is considered unfortunate that phase two of the development is open-ended (i.e. the implementation date is not restricted) and as such it is accepted that this does allow for applications similar in nature to this (extensions for outside storage and processing) in the future. However, should planning permission be granted for a temporary period it is considered that this, in context of the above concerns, is compliant with WLP policy W10A. Should the applicant at the end of 2014 not be in a position to progress phase two then a suitable economic rationale and future projection of implementation would be expected to support any such application.

In the above scenario it is proposed that the conditions as proposed to be amended are changed to therefore only account for phase one. After this temporary period, or on implementation of phase two, it would be expected that compliance would be with the existing approved phase two drawings. It is however not considered that there is any undue impact caused from the omission of condition 2 (the internal layout plan) on any future planning permission issued for this site.

8. RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the details of the application (ESS/03/08/CHL) received on 21 January 2008 together with Noise Survey undertaken by Bickerdike Allen Partners dated 8 May 2008, Noise Assessment by AERC Ltd dated June 2006, Safer Places Statement dated 30 April 2008, Flood Risk Assessment received 21 January 2008, Visual Impact Assessment received 21 January 2008, Environmental, Remedial and Geotechnical Options Appraisal received 21 January 2008, Planning Statement received 21 January 2008, Design and Access Statement received 21 January 2008, Transport Statement received 21 January 2008, Emails from Sarah Stevens dated 3 & 17 March 2008 and 13 May 2008, Letter from ETC dated 31 March 2008, Letter from Turley Associates dated 17 January 2008, 11 March 2008 & 3 April 2008, Drawing Numbers 1991-SK-CA-3-Redline Rev D (Site Plan – Red Line) dated 16 January 2008, 1991-SK-CA-0-003 (Existing Site Plan), 1991-SK-CA-003-3 Rev D (Site Plan), 1991-SK-CA-3-000 Rev H (Plan detailed), 1991-SK-CA-

3-002 Rev D (Sections), 1991-SK-CA-3-003 Rev E (Elevations), 1991-SK-CA-3-004 Rev F (Workshop elevations & office buildings plan & elevations), L07/04/02 (indicative landscape & strategy plan), Illustrative Drawings 1991-SK-CA-0-000 Rev C (General Layout 'master plan'), 1991-SK-CA-3-005 (Workshop plan), 1991-SK-CA-3-006 (Plan and elevation of workshop equipment) dated 4 February 2008, details of the application (ESS/49/09/CHL) dated 3 November 2009 together with Drawing Number 98066/PA/01 (Site Location Plan) dated November 2009, Drawing Number 98066/PA/02 (Red Line Application Boundary) dated November 2009, email from John Wilson, AMEC Earth & Environmental dated 13 November 2009, email from Jane Moseley, AMEC Earth & Environmental dated 26 November 2009, details of the application (ESS/12/11/CHL) dated 7 February 2011 together with Drawing Number 7888010081/PA/03 (Red Line Application Boundary) dated February 2011 and Planning Statement (reference: 7888010054), dated 7 February 2011; as amended by the details of application ref ESS/02/12/CHL dated 20 December 2011 together with document titled 'Validation Form 1' received on 29 December 2011, drawing number 1991-SK-CA-3-Redline Rev D received on 29 December 2011 and drawing number AQA1AR-SK408 Rev P1 dated Dec 2011; and the details of application ref ESS/42/13/CHL dated 17 July 2013 together document titled 'Planning Application for Variation of Conditions' dated July 2013 (excluding all references to the storage and processing of waste), additional statement titled 'Ref: Planning Variation ESS/42/13/CHL' dated 20 October 2013 and diagram titled 'Inert/Recyclables Storage Area' which highlights in green the area for outside working, and in accordance with any non-material amendment(s) as may be subsequently approve in writing by the Waste Planning Authority, except as varied by the following conditions:

2. The throughput of waste at the site shall not exceed 150,000 tonnes per annum. The operators shall maintain records of their monthly and annual throughput which shall be made available to the Waste Planning Authority within 14 days of a written request.
3. The handling, deposit, processing or transfer of waste outside the confines of the buildings approved as part of this permission shall only be permitted until 31 December 2014. After which time no handling, deposit, processing or transfer of waste shall take place on site outside the confines of the building approved for this purpose unless otherwise individually permitted.
4. Machinery to be used and storage bays shall be in accordance with diagram titled 'Inert/Recyclables Storage Area', submitted as part of application ref ESS/42/13/CHL and for phase two letters dated 10 & 17 June 2009 and Drawing Number AQA1A-SK404 Revision P1 (Location of External Equipment Phase 2) dated June 2009 approved by the Waste Planning Authority on 17 August 2009 under planning permission ESS/03/08/CHL. The development hereby permitted shall be implemented in accordance with the approved scheme(s).
5. The access and outside areas used in connection with the development hereby permitted shall be sprayed with water during dry weather conditions

to prevent dust nuisance.

6. The outside stockpiles used in connection with the development hereby permitted shall be dampened in dry weather conditions to prevent dust nuisance.
7. No loaded vehicles shall leave the site un-sheeted.
8. No material (including waste) and/or skips shall be stockpiled or deposited to a height exceeding 3 metres from ground level.
9. All plant and machinery shall be silenced at all times in accordance with manufacturer's recommendations.
10. Parking layout and turning tables for vehicle manoeuvring shall be in accordance with letter dated 28 May and Drawing Numbers AQA1A-201 Revision T1 (Tracking in and out on weighbridges) dated March 2009, AQA1A-202 Revision T1 (Tracking in and out from building) dated March 2009, AQA1A0293 Revision T1 (Tracking through weighbridge and reverse into building) dated March 2009, AQA1-106 Revision P1 (Swept path layout) dated August 2008 and AQA1-100 Revision T2 (Site layout) approved by the Waste Planning Authority on 17 August 2009 under planning permission reference ESS/03/08/CHL. The development hereby permitted shall be implemented in accordance with the approved scheme.
11. Boundary fences and walls shall be in accordance with letters dated 28 May and 30 July 2009 and Drawing Number AQA1A-SK405 Revision P1 (Location of boundary fences Phase 1 and 2) dated July 2009 approved by the Waste Planning Authority on 17 August 2009 under planning permission reference ESS/03/08/CHL. The development hereby permitted shall be implemented in accordance with the approved scheme.
12. Landscaping of the site shall be in accordance with the letter dated 17 June 2009 approved by the Waste Planning Authority on 17 August 2009 under planning permission reference ESS/03/08/CHL. The development hereby permitted shall be in accordance with the approved landscaping scheme.
13. Any tree or shrub forming part of the approved landscaping scheme as set out in the letter from Clark Smith Partnership dated 17 June 2009 and approved by the Waste Planning Authority on 17 August 2009 under planning permission reference ESS/03/08/CHL that dies, is damaged, diseased or removed within the period of 5 years after the completion of operations shall be replaced in the next available planting season (October to March inclusive) with a tree or shrub to be agreed in writing with the Waste Planning Authority.
14. Existing and finished site levels, finished floor and ridge levels of the buildings and finished external surface levels shall be in accordance with the letters dated 28 May 2009 and 30 July 2009 and Drawing Number AQA1A-SK406 Revision P1 (Elevation and section of proposed building)

dated July 2009 approved by the Waste Planning Authority on 17 August 2009 under planning permission reference ESS/03/08/CHL. The development hereby permitted shall be implemented in accordance with the approved scheme.

15. External lighting and security measures shall be implemented and maintained in accordance with emails from David Clark received 16/10/2010, 21/10/2010 and 26/04/2010 and email from Faircloth, dated 07/05/2010.
16. Surface water drainage shall be in accordance with the letter dated 28 May 2009 approved by the Waste Planning Authority on 17 August 2009 under planning permission reference ESS/03/08/CHL. The development hereby permitted shall be in accordance with the approved scheme.
17. The development shall be carried out in accordance with the scheme submitted in relation to contamination of the site, received 29/05/2009 titled 'Summary Report on site investigation on Plot 3, Regiment Business Park, Chelmsford, Essex' (Report No: P5206/U11), dated 13th February 2009 and prepared by Geotechnical Developments (UK) Ltd. During the construction phase of the development if any contamination not previously identified is found to be present on site then the construction phase of the development shall cease (unless otherwise agreed by the Waste Planning Authority in writing) until the written approval of the Waste Planning Authority has been obtained for a method statement detailing how the suspected contamination shall be dealt with.
18. Provision and implementation of foul water drainage shall be in accordance with letters dated 28 May 2009 and 30 July 2009 and Drawing Number FAR140-103 Revision C6 (Drainage layout) dated 23 May 2009 approved by the Waste Planning Authority on 17 August 2009 under planning permission reference ESS/03/08/CHL. The development hereby permitted shall be implemented in accordance with the approved scheme.
19. Foul water drainage shall be maintained in accordance with the letter dated 28 May 2009 approved by the Waste Planning Authority on 17 August 2009 under planning permission reference ESS/03/08/CHL. The development hereby permitted shall be implemented in accordance with the approved scheme.
20. Facing materials shall be in accordance with the letter dated 28 May 2009 approved by the Waste Planning Authority on 17 August 2009 under planning permission reference ESS/03/08/CHL. The development hereby permitted shall be implemented in accordance with the approved scheme.
21. During operational phases, wherever practicable any doors (including shutters doors) and windows should be kept closed. Noisy activities that occur externally within the site boundary should not occur before 7am. The free-field Equivalent Continuous Noise Level (rating level LAeq,T/LAeq,1 hour as defined in BS 4142) at noise sensitive premises near the site, due

to permitted operations on site, shall not exceed the limit of Background Level (La90) without the permitted operations +5dB.

22. Noise levels shall be monitored by the operating company at six monthly intervals at the above locations. The monitoring survey shall be for a minimum of two separate 15 minute periods at each location used within the Bickerdiike Allen Partners Background Noise Survey dated 8 May 2008 during all permitted operations and should avoid meal breaks and periods of plant breakdown. The frequency and duration of such monitoring may be modified at the discretion of the Waste Planning Authority. The monitoring may be required more frequently where it becomes necessary to demonstrate continuing compliance with the limiting noise levels specified above, or less frequently where the need does not arise. Monitoring should only be undertaken in calm weather conditions or at receptors with a component of wind blowing from the site. Monitoring should generally be avoided in conditions of wind speeds greater than 5m/sec average; rain; low temperatures (<3 degrees C). All noise measurements taken shall have regard to the effects of extraneous noise and shall be corrected for any such effects. The monitoring shall include the LAeq, 1 hour dB noise levels both with and without the permitted operations, the prevailing weather conditions, details of the measurement equipment used and its calibration and comments on the sources of noise which control the noise climate. The results shall be kept by the operating company during the life of the permitted operations and a copy shall be supplied to the Waste Planning Authority.

23. The development hereby permitted shall only be carried out during the following times:

06:00 – 18:00	Monday to Friday
06:00 – 13:00	Saturday

And at no other time on Sundays, Bank or Public Holidays unless otherwise agreed in writing with the Waste Planning Authority.

24. The surfaced section of the access road from the junction with Essex Regiment Way (A130) shall be kept free of mud, dust and detritus to ensure that such material is not carried onto the public highway.

25. There shall be no more than 400 heavy goods vehicle² movements (200 in and 200 out) at the site in any one working day Monday to Friday and no more than 300 heavy goods vehicle movements (150 in and 150 out) on Saturdays. No vehicle movements shall take place outside the hours of operation authorised in Condition 23 of this permission.

26. Details and elevations of the weighbridge and fuelling point shall be in accordance with the letter dated 28 May 2009 and Drawing Number AQA1-105 Revision T1 (Weighbridge setting out) dated October 2008 and AQA1-107 Revision T1 (Weighbridge foundation arrangement) dated November

² Heavy Goods Vehicles have a gross vehicle weight of 7.5 tonnes or more

2008 approved by the Waste Planning Authority on 17 August 2009 under planning permission reference ESS/03/08/CHL. The development hereby permitted shall be implemented in accordance with the approved scheme.

27. No development permitted under planning permission ref ESS/02/12/CHL shall take place until details of the management of the potential migration of odours and dust escaping the waste transfer building have been submitted to, and approved in writing by the Waste Planning Authority.

INFORMATIVE

1. Consideration should be given for the provision of a further suitable water supply to be made available closer to the site.

BACKGROUND PAPERS:

ESS/42/13/CHL Application File

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010:

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

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

STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER: In determining this planning application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been taken positively and proactively in accordance with the requirement in the National Planning Policy Framework, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012.

LOCAL MEMBER NOTIFICATION:

CHELMSFORD – Broomfield and Writtle