

**DR/19/13**

committee                      DEVELOPMENT & REGULATION

date                              19 April 2013

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## **MINERALS AND WASTE DEVELOPMENT**

Proposal: **Non-material amendment to planning permission Ref. ESS/38/11/HLW to allow: a reduced concreted yard area; amended dimensions of the fire sprinkler tank and pump house; relocation of vehicle wash bay and modification of refuelling area; alteration to weighbridges and kerbs; and amended location of vehicle and pedestrian doors.**

Location: **Former Kores Nordic Site, West Road, Harlow, Essex CM20 2AL.**

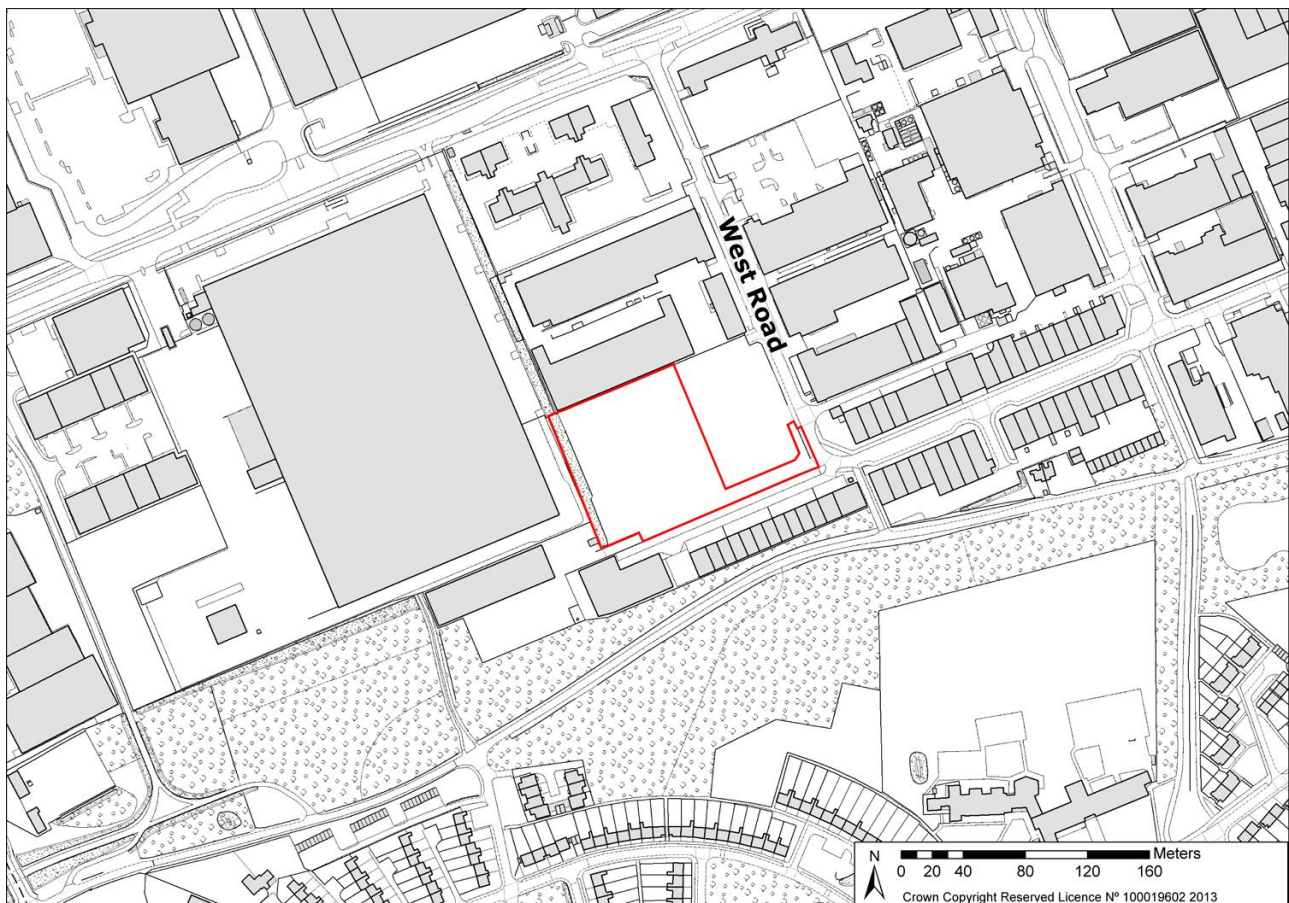
Ref: **ESS/38/11/HLW/NMA**

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Report by Head of Planning, Environment and Economic Growth

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## **1. BACKGROUND & SITE**

The application site is located on West Road at the junction with West Place, off Edinburgh Way (the A414) in the Templefields Employment Area in northern Harlow. The site occupies the western 0.9 hectares of the former Kores Nordic site (which covers an area of 1.3ha in total) and includes an access road to West Road which runs along the south of the site.

The site is surrounded by a variety of manufacturing, warehousing, storage, distribution, general and light industrial units and offices varying between 1 and 3 storeys high. Many of the buildings are of an industrial style construction. The land is higher to the west, occupied by a large warehouse building with which the application site shares the access road. The two sites are separated by a bank that has trees growing along it. To the north is a storage and office building, with industrial style buildings to the east on the other side of West Road. To the south is a row of relatively new business/light industrial units, separated from the site by a red brick wall approximately 2.5m in height. Further to the south lies the predominantly residential Mark Hall North Conservation Area, separated from the site by a belt of trees approximately 50m wide at its narrowest point. These trees are in the Conservation Area and therefore protected. The nearest residential properties are located on Tany's Court and Tany's Dell, within the Mark Hall North Conservation Area, approximately 150m to the south of the application site. In addition, the boundary of Tany's Dell Community Primary School is approximately 100m to the south west. Footpath 3 (Harlow) runs north-south to the east of the school.

Further to the north is the remainder of the Templefields Employment Area, with the A414 running east-west through it.

On 03 October 2011 planning permission ref ESS/38/11/HLW was granted for 'construction of a Waste Transfer Station including waste transfer building with associated offices; site office with welfare facilities; dual weighbridge with office; water tank and pump house; car/cycle parking; lighting and CCTV; drainage; fencing and landscaping' at the above site.

The permission was granted subject to 30 conditions, several of which require discharging prior to the commencement of development and are currently before the Waste Planning Authority for consideration.

## **2. PROPOSAL**

The applicant now wishes to make amendments to the approved scheme and has applied for a 'non-material amendment' to planning permission ref ESS/38/11/HLW under s.96A of the Town and Country Planning Act 1990 (as amended).

The proposed amendments comprise the following:

- A change in design of the sprinkler tank from 10m diameter x 6m height to 9.3m diameter x 7.26m height.
- A change in design of the pumphouse from 3m x 3m x 2m height to 5m x 4m

- x 3m height.
- Reduction in size of the area of concrete yard.
- Vehicle wash bay and refuelling area relocated within the approved site.
- Weighbridges and kerb positioning altered slightly within the approved site.
- Re-positioning of vehicle and pedestrian doors within the approved elevation to suit steelwork arrangement.

### **3. CONSULTATIONS**

HARLOW DISTRICT COUNCIL – No objection in principle. However, considers that, by virtue of the extensive nature of the proposals and the need for comprehensive re-consultation, the amendments cumulatively cannot be considered to constitute non-material amendments.

ENVIRONMENT AGENCY – No objection.

ESSEX FIRE & RESCUE – No objection.

### **4. APPRAISAL**

It is considered that the issues to be assessed are:

- Procedure; and;
- Environmental/Residential Impact.

#### **A PROCEDURE**

On 1<sup>st</sup> October 2009, a mechanism was introduced for allowing ‘non-material’ changes to existing planning permissions via s.96A of the Town and Country Planning Act. The mechanism is a relatively simple application procedure with a shorter decision time of 28 days.

The CLG guidance ‘Greater Flexibility for Planning Permissions’ dated October 2010 states that there is no statutory definition of ‘non-material’. This is because it is so dependent on the context of the overall scheme – what may be non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under s.96A.

The CLG guidance goes on to state that, although consultation or publicity is not expected to be necessary in the majority of cases, the local authority has discretion in whether and how they choose to inform interested parties or seek their views.

In the case of this application, the WPA has taken into account the fact that Harlow District Council objected to the original application. Therefore, in the interests of keeping the District Council informed the council was consulted on the application for a non-material amendment (NMA).

In addition, the Environment Agency and Essex Fire and Rescue were consulted

due to the proposed changes in the sprinkler tank and pump house. This was to ensure that there were no technical reasons why the changes could not go ahead.

In considering materiality, the CLG guidance states that the local planning authority must have regard to the effect of the proposed change, together with any previous changes made under s.96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification.

In this regard, there have been no previous applications made under s.96A which need to be taken into account. Harlow District Council did not respond within the required 14 days and therefore their comments are not required to be taken into account; nonetheless it is considered appropriate that the views are considered.

Harlow District Council believes the changes to the layout of the site would require additional consultation to ensure there was no impact elsewhere. S96A of the Town and County Planning Act 1990 states the following:

*'In deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change, together with previous changes made under this section, on the planning permission as originally granted.'*

The key test as to the acceptability of an application for a non material change is whether the change is material to any development plan policy.

If the answer is 'no', further tests are able to be applied, such as:

1. Is the proposed change significant in terms of its scale (magnitude, degree etc.) in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

The application of these tests will be considered further.

## **B ENVIRONMENTAL/RESIDENTIAL IMPACT**

Each proposed amendment will be assessed in turn.

### **Sprinkler Tank**

The sprinkler is proposed to be reduced in diameter but increased in height by 1.26m. The main areas with potential for impacts are considered to be the row of business/light industrial units across West Place to the south and the warehouse to the west.

Given that the height increase would be viewed from the south in the context of the main waste transfer building providing a backdrop 9m high to the eaves, it is considered that there would be no material impact.

From the west, the sprinkler tank would be viewed from beyond a retained row of trees. The warehouse is not considered to be a use which would be sensitive to the proposed height increase. When viewed in the context of the site as a whole the height increase is not considered to have a material impact.

#### Pump House

The pump house design is proposed to be altered from 3m x 3m x 2m height to 5m x 4m x 3m height.

As with the sprinkler tank, the main areas with potential for impacts are considered to be the row of business/light industrial units across West Place to the south and the warehouse to the west.

When viewed from the south, the pump house would be positioned in the context of the main waste transfer building providing a backdrop 9m high to the eaves. Therefore there would be considered to be no material impact.

From the west, the pump house would be obscured by the sprinkler tank so there would be considered to be no material impact.

#### Reduction in concrete area and relocation of vehicle wash bay, refuelling area , weighbridges and kerbs

The concrete area approved for vehicle hardstanding and turning is not required operationally. Therefore, in order to reduce build costs, the applicant wishes to reduce the area by approximately 10m in width.

The positioning of the vehicle wash bay, refuelling area, weighbridges and kerbs would therefore be shifted to the west.

Given that the proposed changes would be within the approved site and that the development would continue to function operationally, it is considered that there would be no material impact.

#### Vehicle and pedestrian doors

The vehicle and pedestrian doors located on the eastern elevation of the main building are proposed to change position slightly to suit the steel framework of the building.

The number of doors would not change from that approved and it considered that the change would not have a material impact.

## **5. CONCLUSION**

The proposed changes, individually and cumulatively, are not considered to significantly alter the approved development. In the context of the originally approved scheme, the footprint of the development is reducing and although there

would be a slight increase in the height of the sprinkler tank and pump house there would no additional material impact overall and it is considered that the limited consultation has not caused any injustice to local neighbours or businesses.

When considered against the context of the overall scheme the proposed amendments are considered to be non-material in nature.

**6. RECOMMENDED**

That the application for non-material amendments to planning permission ref ESS/38/11/HLW is **granted**.

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**BACKGROUND PAPERS**

Consultation replies

**LOCAL MEMBER NOTIFICATION**

HARLOW – Harlow North