

Development and Regulation Committee

10:30	Friday, 31 May 2013	Committee Room 1, County Hall, Chelmsford, Essex
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Quorum: 3

Membership:

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

For information about the meeting please ask for:

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Essex County Council

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Part 1

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

	Pages
1 Apologies and Substitution Notices The Committee Officer to report receipt (if any)	
2 Declarations of Interest To note any declarations of interest to be made by Members	
3 Appointment of a Vice-Chairman To appoint a Vice-Chairman of the Committee.	
4 Minutes To approve as a correct record the minutes of the Development and Regulation Committee held on Friday 26 April 2013.	7 - 12
5 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.	
6 Minerals and Waste	
6a Terminus Drive Application for a change of use of land and the erection of buildings, hardstanding, roadways, parking and storage areas to enable the use of the site as a waste recycling and materials recovery facility. Location: Land to the south of Terminus Drive, Pitsea Hall Lane, Pitsea, SS16 4UH. Ref: ESS/69/12/BAS DR2013	13 - 50
6b Unit 2 Manor Trading Estate Retrospective planning application for the change of use of the site from storage land to the manufacture and storage of blocks using waste tyres as raw material and the storage and sale of waste tyre products and the use of existing offices. Location: Unit 2, Level D, Fulton Road, Manor Trading Estate, Benfleet, Essex, SS7. Ref: ESS/76/12/CPT DR2113	51 - 82

7	Committee Protocol	
7a	Revision of Protocol To endorse a revised Committee protocol.	83 - 100
8	Enforcement Update	
8a	Local Enforcement Plan To seek the Committee's endorsement of a Local Enforcement and Site Monitoring Plan ('the Plan'), as advised to be prepared by the National Planning Policy Framework. The Plan incorporates and updates previous versions of the Council's enforcement protocols and concordat. DR1313	101 - 136
9	Information Items	
9a	Statistics May 2013 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.	137 - 140
10	Date of Next Meeting To note that the next meeting will be held on Friday 28 June 2013.	
11	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.

12 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 19 APRIL 2013

Present

Cllr N Edey (Chairman)
Cllr R Boyce
Cllr W Dick
Cllr M Garnett
Cllr I Grundy
Cllr T Higgins

Cllr G McEwen
Cllr M Miller
Cllr D Morris
Cllr I Pummell
Cllr J Reeves
Cllr C Riley

1. Apologies and Substitution Notices

Apologies were received from Councillor Hillier (substituted by Cllr Riley).

2. Declarations of Interest

Councillor Dick declared a non-pecuniary interest in Agenda Item 5a, as Member for Thundersley.

Councillor Riley declared a non-pecuniary interest in Agenda Item 5a, as Cabinet Member for the Environment at Castle Point BC.

Councillor Garnett declared a non-pecuniary interest in Agenda Item 5b, as Member for Harlow North.

3. Minutes

The Minutes and Addendum of the Committee held on 22 March 2013 were agreed and signed by the Chairman.

4. Identification of Items Involving Public Speaking

There were none identified.

Minerals and Waste Development

5. Manor Trading Estate, Benfleet

The Committee considered report DR/14/13 by the Assistant Director, Sustainability, Environment and Enterprise.

The Members of the Committee noted the contents of the Addendum attached to these minutes and a change to the conditions.

The Committee was advised that the proposal was for the change of use of the site from storage land to the manufacture and storage of blocks using waste tyres as raw material and the storage and sale of waste tyre products and the use of existing offices.

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
- Highways and Vehicle Access
- Visual Impact, Odours and Fumes
- Noise
- Fire Risk
- Flooding.

A number of concerns were raised by Members.

In response to questions raised, Members were informed that:

- Tyres are not known to give off odours as part of this process or in storage and burnt or dirty tyres would not be received at the site
- There are ongoing problems with the drainage from The Manor Trading Estate as a whole but this process does not use water and traffic flow from the site would be reduced
- The unit is situated 30 m from the boundary perimeter and utilises electrically powered machinery, which is quieter than its petrol/diesel counterpart
- Tyres and tyre blocks are surprisingly difficult to ignite initially. The Fire Officer's recommendations have been adopted
- There will be a height restriction on the storage of the tyre bales
- The area was formerly a part of a builder's yard, and is set within an existing builder's yard.

The resolution was moved, seconded and following a vote of four in favour and eight against, further discussion was held and it was

Resolved

That planning permission be refused for the following reasons:

The impact on the surrounding area of the odours produced by the tyres and the risk of fire.

In accordance with the Committee Protocol, it was agreed Officers present a report to the next meeting setting out appropriate advice as to the clarity and reasonableness of the reasons put forward for refusal of the application and a plan for appropriate enforcement action, if necessary. It was also agreed that the flooding issue should be considered.

6. Former Kores Nordic Site, West Road, Harlow

The Committee considered report DR/19/13 by the Assistant Director, Sustainability, Environment and Enterprise. The Committee noted that this was

an additional item to the agenda, being considered at this meeting to expedite resolution of the issues.

The Members of the Committee were advised that the proposal was for a 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 at the site of the proposed Waste Transfer Station.

Details of Consultation and Representations received were set out in the report. Members were informed that officers would normally authorise non-material amendments, but these amendments had been brought to the Committee, as Harlow District Council had concerns about this process (although not about the proposed changes themselves).

The Committee noted the key issues that were:

- Procedure
- Environmental/Residential Impact

The resolution was moved, seconded and unanimously agreed and

Resolved:

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

Village Green

7. Harwich Green

The Committee considered report DR/15/13 by the County Solicitor.

Members considered an application made by Mr Andy Rutter from The Harwich Society to register land at Harwich Green, Harwich, as a town or village green pursuant to the provisions of Section 15 of the Commons Act 2006 ("the 2006 Act").

The Committee noted:

- The application had been amended by agreement, with a smaller area now under request; but this reduction had not lessened the case as put forward
- The original date stated for when the land had become town green was 1970 and had been changed to 1984 by the applicant without objection
- The Local Member had made no comment.

Following the presentation, which included photographs and detailed maps of the application land and surrounding area, the recommendation to accept the application in its amended form was moved, seconded and unanimously agreed and

Resolved:

- (1) That the applicant's substitute plan for the application land and the area of Harwich East Ward for the locality be accepted.
- (2) That the application for town or village green status in relation to the area shown on the front of the report is accepted and the town and village green record be amended to include the application site with town or village green status recording the owner as Tendring District Council.

Enforcement of Planning Control**8. Birkett Hall**

The Committee considered report DR/16/13 by the Assistant Director, Sustainability, Environment and Enterprise.

The Members of the Committee were advised that the enforcement related to the unauthorised importation of and spreading of waste materials (including waste soils and rubble) on the land and the unauthorised raising of land.

Members having noted the proposal, the resolution was moved, seconded and unanimously agreed and

Resolved:

1. Subject to no further waste materials being imported to the site, it is not considered expedient to take enforcement action requiring the removal of the previously deposited waste materials. Officers shall continue to monitor the site to ensure that the land is restored appropriately, and thereafter
2. a further update shall be provided at the October 2013 meeting.

9. Cock Inn

The Committee considered report DR/17/13 by the Assistant Director, Sustainability, Environment and Enterprise.

The Members of the Committee were advised that the enforcement related to the unauthorised importation, deposition crushing and processing of construction and demolition waste (including concrete, brick other rubble and road scalplings).

Members having noted the proposal, the resolution was moved, seconded and unanimously agreed and

Resolved:

1. Subject to the continued removal of excess materials to restrict the operation to that permitted by the CLUED, it is not considered expedient to take further enforcement action. Officers shall continue to monitor the site to ensure that the materials are removed in accordance with a timetable to be agreed with the operator.
2. a further update shall be provided at the October 2013 meeting.

Information Items

10. Statistics April 2013

The Committee considered report DR/18/13, Applications, Enforcement and Appeals Statistics, as at end of the previous month, by the Assistant Director Sustainability, Environment and Enterprise.

The Committee **NOTED** the report.

11. Date and Time of Next Meeting

The Committee noted that the next meeting will be held on Friday 24 May 2013 at 10.30am in Committee Room 1.

12. Closing Remarks

The Chairman noted that, at the forthcoming elections, several Members of the Committee would not be standing for re-election, himself included. He expressed his thanks to and appreciation of all those who had served on the Committee over the past four years, and all those officers who had assisted. He also wished well to all those who would be standing for re-election in May.

Councillor McEwen expressed thanks on behalf of the Committee to Councillor Edey for his many years in the chair and wished him well in his "retirement".

There being no further business the meeting closed at 11.45am.

Chairman

Committee DEVELOPMENT & REGULATION

Date 31 May 2013

MINERALS AND WASTE DEVELOPMENT

Proposal: **The change of use of land and the erection of buildings, hardstanding, roadways, parking and storage areas to enable the use of the site as a waste recycling and materials recovery facility.**

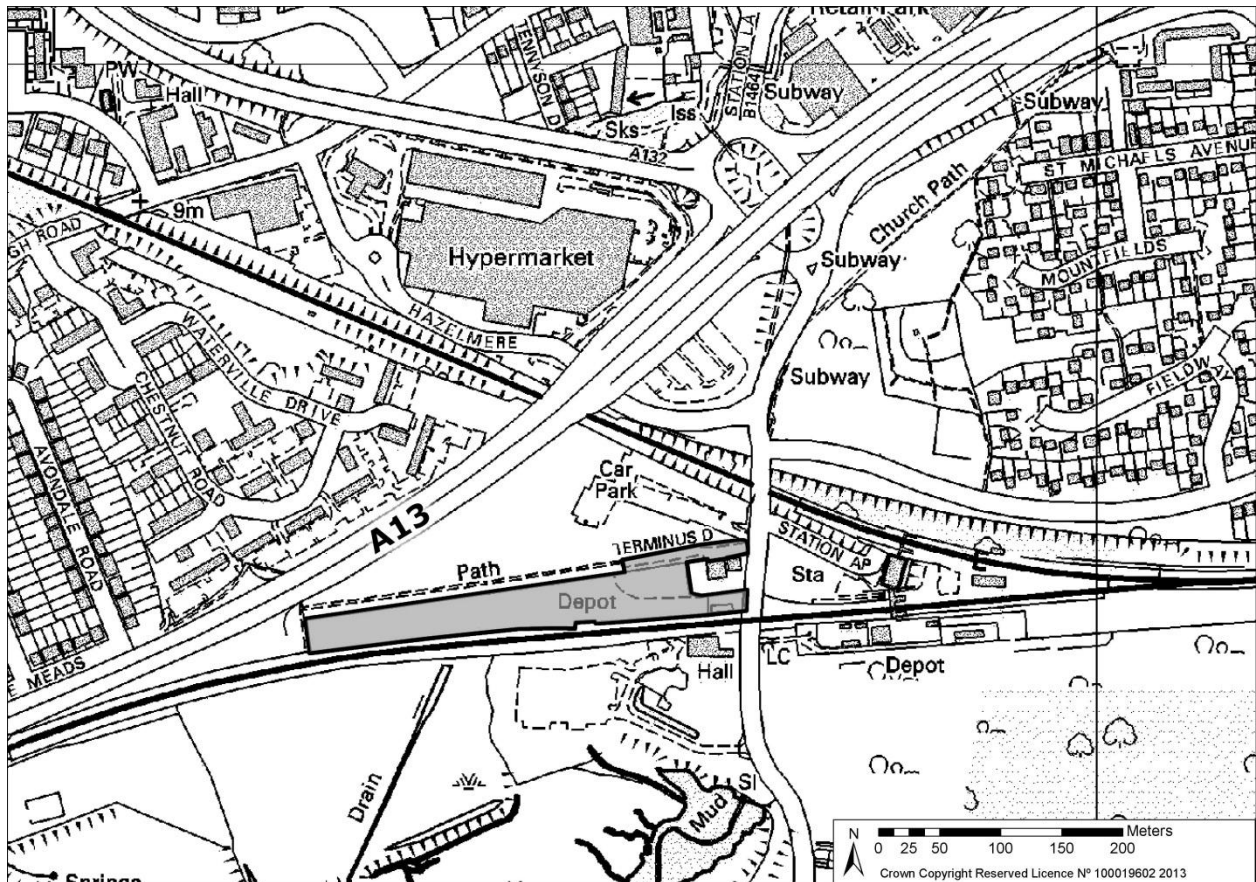
Location: **Land to the south of Terminus Drive, Pitsea Hall Lane, Pitsea, SS16 4UH**

Ref: **ESS/69/12/BAS**

Applicant: **Heard Environmental**

Report by of Planning, Environment and Economic Growth

Enquiries to: Gemma Skillern Tel: 01245 437502



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1. BACKGROUND

The applicant is currently operating a waste management business in Harvey Road, on the Burnt Mill Industrial Estate, Basildon, which was granted planning permission by Basildon Borough Council most recently in 1988 (BAS/1429/88). This application was for the change of use from storage yard to non-toxic waste handling facilities. On the Burnt Mills site, the applicant is involved with a wide range of activities such as demolition, site clearance and ground works.

The applicant has identified this site at Terminus Drive as being suitable for its needs and if planning permission were granted, would relocate from Harvey Road. The reason for seeking relocation stems from limitations on the existing site in terms of capacity and size, where there is no opportunity to expand within the Burnt Mills Industrial Estate.

2. SITE

The Terminus Drive site was vacant, but has a historical use as a minerals yard, which was involved with the importation of minerals and/or aggregate by road and possibly rail for onward distribution. The area itself had been granted permission in 1994 for car parking associated with proposed retail development (on Old Market Site), High Road, Pitsea (94/00384/BAS), although the proposed retail development did not occur. Within the Basildon Local Plan (1996), the area is designated as a proposed employment area (Policy E2).

The Secretary of State for Transport issued the Safeguarding Direction for Crossrail in 2008 for this site. The Direction requires local planning authorities to consult with Crossrail Ltd regarding planning applications within the limits shown on the safeguarding plans before granting planning approval as they may conflict with the proposed route.

Immediately adjacent to the proposed site in the east (between the application site and Pitsea Hall Lane) is an existing permission (93/00004/FUL) from Basildon District Council, which changed the use of Primrose Villa from residential to offices. There is an existing industrial building located behind Primrose Villa.

In terms of the locality, Terminus Drive is located to the south of Pitsea town centre. The site itself adjoins the London to Shoeburyness railway line, with Pitsea station to the southeast. To the south, beyond the railway line (approximately 10m), is the Vange Creek Marshes (LWS) and Cromwell Manor, which is a Grade II listed building used as a wedding and conference venue, which is also approximately 10m from the site boundary. Terminus Drive is approximately 150m to the north of the existing Pitsea Landfill site, which once restored will also become an RSPB reserve and part of the Wat Tyler country park.

The site is in close proximity to the A13 flyover on the western end of the site, beyond which is a large retail development and residential area, while Pitsea Mount

is located approximately 50m to the northeast. The nearest dwelling is 60m to the northwest of the site.

Footpath Vange 136 is adjacent to the northern boundary of the site and would traverse the site access, which is already used by the existing commercial/industrial activities permitted by 93/00004/FUL.

3. PROPOSAL

The application is for the change of use of land to enable the use of the site as a waste recycling and materials recovery facility. This would include the erection of a building within which waste would be sorted and materials recovered, with associated offices and hardstanding. The site itself covers an area of approximately 1.24 hectares and it proposed that the annual throughput of waste handled at the site would be 49,000 tonnes. Of this total approximately 10% would be household waste, 60% commercial and industrial waste and the remaining 30% would consist of construction & demolition (C&D) waste. The onsite operations would involve the recycling and recovery of materials, which would include waste arising from ground works, demolition and site clearance. All residual waste (up to 15% of the total brought on to site) would need to be disposed of and sent to landfill.

The proposal involves the erection of a single waste processing building on the northern boundary at the eastern end of the site. This building would be constructed from corrugated steel and measure 19m x 30m and 13.1m high at the highest point. The building would face in to the centre of the site, thus meaning the unenclosed entrance to the building would face towards the south/railway line.

The WC/mess cabin and administration offices would consist of two porta-cabin style offices between the waste processing building and the access/visitor car parking. Included in the proposals are the installation of a new weighbridge (on the site of the existing redundant weighbridge) 20 car parking spaces, 2 motorcycle spaces and 5 bicycle spaces.

The central area of the site would consist of storage area for skips and the C&D waste, while in the extreme west of the site would be 20 lorry parking spaces for storing vehicles while not in use.

The access would consist of the existing access on to Pitsea Hall Lane, which is currently used by the occupier of the industrial premises to the east of the proposed site. It is proposed that there would be 100 HGV movements (50 in and 50 out) Monday to Friday and 50 HGV movements (25 in and 25 out) on Saturday. These movements would consist of skip lorries, tipper and roll on/off HGVs and some articulated HGVs. There would be a number of employee cars and vans. To reach the western extremity of the site by HGV the vehicles manoeuvre along the southern boundary of the site, next to the railway line.

Hours of operation stated within the application would be 07:00 to 17:00 (Monday to Friday), 07:00 to 13:00 (Saturdays) with no work taking place on Sundays and/or Bank Holidays.

4. POLICY CONSIDERATIONS

The following policies of the Essex & Southend-on-Sea Waste Local Plan (2001) (WLP) and Basildon District Local Plan Save Policies (1996) (BDLP) provides the development plan framework for this application. The following policies are of relevance to this application

<u>Policy</u>	<u>BDLP</u>	<u>WLP</u>
Country Parks	BAS C2	
Proposed Employment Area	BAS E2	
Untidy Industry	BAS E6	
General Employment Policy	BAS E10	
Waste Strategy		W3A
Need for Waste Development		W3C
Flooding		W4A
Surface & Groundwater		W4B
Access		W4C
Materials Recovery Facilities		W7E
Non Preferred Locations		W8B
Development Management		W10E
Hours of Operation		W10F
Public Rights of Way		W10G

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

Paragraph 215 of the Framework states, in summary, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The level of consistency of the policies contained within the Basildon District Local Plan Save Policies (1996) and the Essex & Southend-on-Sea Waste Local Plan (2001) is considered in the Appendix to this report.

5. CONSULTATIONS

BASILDON DISTRICT COUNCIL - Object on the following grounds:

- Loss of residential amenity through noise vibration and dust
- Does not comply fully with Policy BAS E2
- Absence of landscaping scheme to mitigate visual impact
Surface water issues
- Contrary to Policy BAS E6

- Site subject to Secretary of State Direction

CROSSRAIL LTD - No objection

ENVIRONMENT AGENCY – No objection, subject to the imposition of a condition see appraisal

HIGHWAYS AGENCY – No objection, but requested that the applicant aims to minimise HGV movements at peak times to reduce severe congestion experienced.

NETWORK RAIL - No objection, subject to imposition of conditions – see appraisal

HIGHWAY AUTHORITY – No objection, subject to imposition of conditions – see appraisal

HIGHWAY AUTHORITY - Public Rights of Way - No objection, subject to imposition of a condition – see appraisal

COUNTY COUNCIL'S NOISE CONSULTANT – No objection, subject to imposition of conditions – see appraisal

PLACE SERVICES (Ecology) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection, subject to imposition of conditions – see appraisal

PLACE SERVICES (Urban Design) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection, subject to imposition of conditions – see appraisal

PLACE SERVICES (Landscape) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – Object on the following grounds:

- Landscape proposals do not adequately mitigate from the landscape and visual impact;
- Impacts on views from PRow's and properties, particularly to the south;
- Planting/boundary treatment required to the southern boundary.

PLACE SERVICES (Historic Environment) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – Object on the following grounds:

- Direct impacts on the setting of the grade II listed Cromwell Manor;
- Potential cumulative impacts on Cromwell Manor;
- Potential impacts upon viability of Cromwell Manor and thereby threatening its on-going conservation;
- Minor harm to the setting of St Michaels' church tower by the intrusion into the foreground of far reaching views from Marshland footpaths.

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

SUDS APPROVAL BODY -No comments received

LOCAL MEMBERS – BASILDON – Pitsea - Any comments received will be reported

6. REPRESENTATIONS

362 properties were directly notified of the application. 13 letters of representation have been received. These relate to planning issues covering the following matters:

<u>Observation</u>	<u>Comment</u>
Highways issues: Infrastructure insufficient – particularly the railway bridge Increase in HGVs Access/egress will further complicate junctions Debris on Highway Increased congestion due to the proximity of level crossing Access to Pitsea Mount is restricted due to congestion	See appraisal – Section B
Recent improvements to Wat Tyler Country Park will be in vain, as people will not visit due to a hazardous journey	See appraisal – Sections B, C & D
Loss of the Public Right of Way	See appraisal – Section E
Odour, noise, pollution, light pollution and disruption will arise	See appraisal – Section F
Cause problems for commuters going to Pitsea Railway station.	See appraisal – Section E
Hours of operation	See appraisal – Section F
Local property values will be adversely Affected	Not a planning issue
Inappropriate to have a recycling yard in the midst of modern development	See appraisal – Section A
Affect viability of local business at Cromwell Manor	See appraisal – Section G
Does not accord with the existing or	See appraisal – Section A

emerging Local plans. Also premature to the emerging Waste Local Plan.

Affect the setting of the Grade II Listed Cromwell Manor	See appraisal – Section G
Effects on the Greenbelt, national and internationally designated ecology sites in the vicinity	Site is not within the greenbelt, see appraisal
No consideration of reducing CO ₂ emissions or adaption to climate change	See appraisal – Section B
Proximity to Pitsea Landfill and the Recycling Centre for Household Waste	See appraisal – Section A
There is too much waste development in the Basildon area.	See appraisal – Section A
Ensure access to the currently vacant Homes and Community Agency land is continued	See appraisal – Section B
Adverse impact on health and quality of life	See appraisal – Section F
Increase in vermin	See appraisal – Section F

7. APPRAISAL

The key issues for consideration are:

- A – NEED, PRINCIPLE & POLICY CONSIDERATIONS
- B – HIGHWAY IMPACTS
- C – IMPACTS ON PUBLIC RIGHTS OF WAY
- D – DESIGN, LANDSCAPE AND VISUAL IMPACTS
- E - IMPACTS ON ECOLOGY
- F - IMPACTS ON LOCAL AND RESIDENTIAL AMENITY
- G – IMPACTS ON THE HISTORIC ENVIRONMENT AND VIABILITY OF CROMWELL MANOR
- H - IMPACTS ON HYDROLOGY

A. NEED, PRINCIPLE & POLICY CONSIDERATIONS

Need for Waste Development

Planning Policy Statement 10 (PPS10) notes that the planning system is pivotal to the adequate and timely provision of the new facilities that will be needed. It provides a framework, which allows communities to take responsibility for their own

waste and ensure provision of waste facilities to meet the needs of their communities. It emphasises that the locational needs of waste management facilities together with the wider environmental and economic benefits of sustainable waste management, are material considerations that should be given significant weight in determination. It does not require, however, applicants to demonstrate a quantitative or market need for their proposal.

WLP policy W3C (Need for Waste Development), requires significant waste management facilities (with a capacity of over 25,000tpa) to demonstrate a need for the development. One representation has noted that the need of the development had not been satisfactorily demonstrated, in terms of the Waste Capacity Gap Report (2011) and would:

- i. increase capacity directly by approximately 25,000 tpa, and;
- ii. increase capacity indirectly as a precedent had been set at the existing the Burnt Mills site for waste use and any future proposal for waste management on that site would likely be permitted, particularly as policy BAS E6 (Untidy Industry) directs untidy industry to this Industrial estate.

With this respect, at the time of the application, the Capacity Gap Report (2011) noted that there was sufficient recycling capacity. However, as part of the emerging Waste Local Plan a further capacity gap report has been published in 2013¹. This notes that even if all strategic facilities were delivered there would remain a need for a further 170ktpa non-hazardous treatment capacity until 2031². Therefore, it is considered that a need for further capacity within Essex has been suitably demonstrated. There were further representations, which consider there is too much waste development in the Basildon area (namely Pitsea landfill, the Pitsea Recycling Centre for Household Waste and Courtauld Road Integrated Waste Management Facility among others) and this site would exacerbate this. It has been noted in the proposal that the types of waste, which would be handled, are materially different to those handled in the permitted but currently non-operational Courtauld Road facility (notably construction and demolition waste). It is the case, however, that many of the waste developments are correctly located in the Untidy Industry areas, and that despite the number of waste permissions within the Basildon district it is the case that PPS10 requires waste facilities to be located close to areas where waste is produced.

The existing business is long established at Harvey Road, and focuses on its centre of operations in the Basildon area, but has the ability to serve the south of Essex due to the transport links. The applicant has identified a need to find new premises as the existing site is now constrained, creating difficulties with day-to-day operations. The existing site (planning permission ref: BAS/1429/88) is approximately 0.11ha and is constrained on all boundaries and there are currently no vacant larger units within the Burnt Mills Industrial estate. The applicant

¹ Given the early stages of the emerging Replacement Waste Local Plan (RWLP), the Waste Capacity Gap Report has not been 'tested' and therefore very little weight, in accordance with the Framework, should be given to this report at this time.

² For the purposes of the capacity Gap Report (2013), the recycling of non-organic waste falls in to the treatment category, to which this application relates.

considers there is no means of expanding the premises and has identified the Terminus Drive site as suitable for the business's needs as it provides a more functional site, with a greater site area and improved accessibility to the route hierarchy.

In particular, the applicant has stated that the larger site area and capacity would enable new demolition contracts to be established within Essex. As a local employer (employing 15 people), it is noted within the application that the local economy would benefit if the application were granted, as these jobs could be safeguarded with the potential for further job creation. Such a development would have significant economic implications in a time of particular economic austerity.

With regard to this application, the Terminus Drive site is a brownfield site (formally used as a minerals yard, which was involved with the importation of minerals and/or aggregate by road and possibly rail for onward distribution) and therefore development here is preferable to the development of previously undeveloped land (WLP Policy W8B). Terminus Drive is subject to the Basildon District Local Plan (BLP) policy BAS E2, stating that the land at Terminus Drive is allocated for future employment purposes (which must be either B1 or B2 uses). Further to this, BLP policy BAS E10 (General Employment Policy) details that proposals for industrial, business and office development (Use Classes B1 to B8) will be considered with regard to a number of criteria (which will be explored further, later in this report).

It is considered that this proposal is in accordance with PPS10, which requires sufficient and timely provision of waste management facilities to cater for local communities. PPS10 does not require waste management facilities to demonstrate a quantitative or market need for their proposal and therefore the submission complies with these requirements in trying to further address local policy. A need for further waste recycling capacity within Essex has been suitably demonstrated. Furthermore, it is considered that it has been demonstrated that this site is suitable for this use as it is a brownfield site, subject to policy BAS E2 and particularly as much of the applicant's client base is from the local Basildon area and would continue to employ local people.

Principle & Conformity with the Waste Hierarchy

PPS10 remains in force until the National Waste Management Plan for England is produced, as the Framework does not contain specific waste policies. PPS10 encourages waste to be managed as high up the waste hierarchy as possible and that the disposal of waste should be only considered suitable when no other process is appropriate. PPS10 states that proposals should be considered favourably were they are consistent with the policies and criteria set out in PPS10 and the adopted development plan documents, while encouraging waste management facilities to be on previously developed land. Therefore, the proposal is considered to comply with PPS10, WLP policy W8B and BLP policy BAS E2, in so long that the potential social and environmental impacts of the proposal do not outweigh the perceived benefits of developing the site. The identified impacts will be further considered in the following sections of this report.

WLP policy W3A (Waste Strategy) identifies the need for proposals to be consistent with the goals and principles of sustainable development and the proximity principle. It also requires proposals to consider whether it represents the best practicable environmental option (BPEO) for the particular waste stream and at that location or whether the proposal would conflict with other options further up the waste hierarchy. However, the need to consider BPEO has been superseded by PPS10, which no longer requires the consideration of BPEO. In addition, WLP policy W7E (Materials Recovery Facilities) aims to facilitate the efficient collection and recovery of materials from the waste stream by providing materials recovery facilities and supported in appropriate location subject to compliance with other relevant development plan policies.

The Framework promotes a positive approach to consideration of economic development proposals, with significant weight being placed on the need to support economic growth through the planning system. It is noted by the applicant that the existing site on the Burnt Mills Industrial Estate employs 15 people, who would be retained, safeguarded and transferred to the Terminus Drive site, should permission be granted, with potential for increased employment. Furthermore, the proposal emphasises that there is a significant existing client base within Essex and Southend, and the provision of a larger site with increased capacity, would help the applicant more efficiently process waste and thus potentially allow greater opportunities for the applicant to bid for new demolition contracts.

Given that the proposal is a recycling operation moving away from the disposal of waste, it is considered that the proposal is in compliance with the objectives of PPS10 and WLP policies W3A and W7E. It is also considered to be in compliance with the Framework as 15 jobs would be safeguarded with the potential to increase employment (which would benefit the local economy) and increased capacity would enable more efficient processing, of waste. As such, there would be greater opportunities to bid for demolition contracts. The Framework states significant weight should be given to proposals, which support economic growth.

Site selection in relation to Policy Considerations

The Framework supports the effective use of land by reusing land that has previously been developed, provided that it is not of high environmental value. Furthermore, WLP policy W8B (Non Preferred Locations) states inter alia that waste management facilities will be permitted at locations other than those identified in the Waste Local Plan, where they fall in to the following criteria (among others):

- Existing general industrial areas;
- Employment areas (existing or allocated);
- Areas of degraded, contaminated or derelict land.

This is subject to the proposed facility not having a detrimental impact to the amenity of any nearby residential area. In addition, it notes that proposals in the order of 50,000 tonnes per annum will not be permitted unless it is shown that the

preferred locations within the plan are unavailable or unsuitable for the type of development proposed.

One representation noted that the submission did not contain evidence that the Schedule 1 sites (stated within the waste local plan) are not suitable or not available for this proposal), as required by WLP Policy W8B for proposals in the order of 50,000tpa. Subsequently, the applicant has provided reasons this site was considered the best option as opposed to the Schedule 1 sites contained within the WLP, notably:

- Rivenhall (WM1), Warren Lane (WM2), Courtauld Road (WM5), and Sandon (WM6) are unavailable as these have existing permissions and/or are already operational;
- The operator is locally based, so relocating to either Whitehall Road (WM3) or North Weald Airfield (WM4) are simply and logistically not feasible. This would involve moving an established company, which has significant links to the area, would prejudice job retention and move away from the established waste streams that my client collects. Moving the business to outside the Basildon area would not be a practical or economic option;
- The Schedule 1 sites are for larger scale and integrated schemes, which are a valuable resource for a materially different purpose from that contained within this application and should be safeguarded as such.

It is considered that the applicant has satisfactorily demonstrated that the Schedule 1 sites are either not unavailable or inappropriately located for the proposed development.

One other representation objected, as it was inappropriate to have a recycling yard in the midst of modern development, which is assumed to relate to the housing beyond the A13 Pitsea Flyover.

Policy BAS E6 (Untidy Industry) of the Basildon Local Plan notes that untidy industry (which includes waste proposals, such as this which involve recycling, outside storage and the parking of heavy vehicles) will be directed to the Harvey Road and Archers Field area of the Burnt Mills Industrial estate. However, untidy industry proposals in other locations within the existing industrial areas will be assessed based on their likely effects on nearby uses. Outside of industrial areas, untidy industry will not be allowed. With regard to this policy, the existing site is located within the designated industrial estate, but for reasons listed in section A of this appraisal, does not have the opportunity to expand or relocate to larger premises within the industrial estate. The applicant has therefore, identified this employment area (as designated by policy BAS E2) as their preferred option. Therefore, this proposal must be assessed on the likely effects on nearby uses, which will be discussed later in the report.

The proposal is for a sui generis use, which is not specified in BLP policy BAS E2, which requires proposals for Terminus Drive to be within use classes B1 and B2. However, when also considering BLP policy BAS E10, subject to the proposal meeting number of criteria industrial development may be permitted in areas

allocated for employment purposes. In view of the above it is considered that the proposed use, development and impacts would be akin to a B2 (General Industrial) use and therefore would not conflict with BLP policies BAS E2 and BAS E10.

Emerging Plans & Policies

The Framework (paragraph 216) states that decision takers may give weight to relevant policies in emerging plans. As such, the Basildon emerging core strategy carried out its preferred options consultation 2012 and replacement waste local plan at preferred approach stage was consulted upon in November 2011.

Within Basildon's core strategy there are key areas noted for Primary Areas for Development and Change (PADC). In all three the Spatial Growth Options scenarios, the Terminus Drive area is located within the urban PADC, while the Policy PADC13 relates to the South Essex Marshes (not boundary specific) requires improved and transformed in to 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. Within this document it is also noted that Policy BAS E2 shall be retained until reviewed by Site Allocations DPD.

With regard to the Waste Development Document: Preferred Approach there are a number of locational criteria for inert recycling facilities and materials recycling/recover facilities, in addition to development management criteria. It must be noted that the Terminus Drive site has not been submitted as part of the call for sites for the Waste Development Document: Preferred Approach.

It must be noted that as both of these documents are at preferred approach stage, very little weight should be attached to either, particularly as Basildon's Cabinet on 8th November 2012 heard a report that the Preferred Option would need to be amended in a Revised Preferred Option in 2013.

In conclusion, it is considered that the proposal should be considered favourably within the goals and objectives of the Framework, PPS10 and WLP. The Framework requires significant weight to be placed on the economic benefits of proposals, while PPS10 and WLP policies W3A and W7E, which requires waste to be moved up the hierarchy. It is considered that it has been suitably demonstrated that there is a need to relocate from their existing premises on Burnt Mills Industrial Estate and that further capacity is required for the treatment of non-organic waste (Capacity Gap Report, 2013). As such, the proposal is also in conformity with W8B, as it has been suitably demonstrated that the schedule 1 sites are not available or feasible for a local Basildon company. The proposal is located on a proposed employment area (BAS E2) and an area of degraded, contaminated or derelict land. It therefore complies with the criteria as set out in W8B. Although, policy BAS E6 directs untidy industry to the Burnt Mills Industrial Estate, it has been satisfactorily evidenced that there is no opportunity to expand or relocate to larger premises within the industrial estate. Furthermore, it is considered that Policy BAS E6 is complied with as untidy industry proposals in other locations will be assessed based on their likely effects on nearby uses. The proposal is also in general

conformity with the emerging Basildon Core Strategy as the area is located within the Primary Areas for Development and Change, but must be considered in relation to this area becoming a gateway to Pitsea and the rural area to the south, including Wat Tyler Country Park. This will be considered in the following sections. However, it must be noted that only limited weight can be attached to this emerging policy, as it is not at submission stage. Similarly the emerging Replacement Waste Local Plan bears very little weight as it also remains at preferred approach stage.

B. HIGHWAY IMPACTS

WLP policy W4C (Access) details that access for waste management sites will normally be by short length of existing road to the main highway network, consisting of regional routes, and county/urban distributor, via a suitable existing junction, improved if required to the satisfaction of the Highway Authority.

In addition, BLP policy BAS E2 (Proposed Employment Area), requires any proposal for Terminus Drive to be subject to a Traffic Impact Assessment. Any improvement to the local highway network required to enable the development to take place, will be expected to be provided by the developer. Policy BAS E10 (General Employment Policy) specifically considers proposals against the following highway criteria:

- The surrounding roads must be adequate to accommodate the increase in vehicle traffic generated;
- Developments should relate to the primary road network without using residential estate roads;
- Adequate car parking should be provided in accordance with the Council's Car Parking Standards;
- Adequate servicing and turning areas should be provided on the site in accordance with the Council's Highway Standards;
- Provision for the landscaping and screening of buildings and storage areas with a landscaping strip abutting all highways will normally have a minimum width of 5 metres to be retained at all times.

The access would consist of the existing access on to Pitsea Hall Lane, which is currently used by the occupier of the industrial premises to the east of the proposed site. It is proposed that there would be 100 HGV movements (50 in and 50 out) Monday to Friday and 50 HGV movements (25 in and 25 out) on Saturday. These movements would consist of skip lorries, tipper and roll on/off HGVs and some articulated HGVs. Included in the proposals 20 car parking spaces, 2 motorcycle spaces and 5 bicycle spaces for employees and visitors.

There have been a number of objections made with regard to the traffic and highways implications of this proposal. This includes representations from Basildon Borough Council. The objections specifically relate to the following:

- Does not comply with Policy BAS E2 due to infrastructure requirements and that the site is inappropriate due to the large number of HGVs;
- Local Infrastructure is insufficient (particularly the railway bridge) for any increase in HGVs given Pitsea Hall Lane is the sole access to (and the close proximity of) the landfill and Recycling Centre for Household waste;
- Increased congestion through increased HGV movements in proximity to the level crossing, further restricting access to Pitsea Mount;
- Access is unsuitable as it is narrow, of temporary configuration and used as a Public Right of Way (see below for further consideration in to the PRoW);
- Increased mud and debris on the Highway due to the nature of the site and that the access is not metalled;
- Highways Safety concerns, due to the increased number of HGVs, congestion and access arrangements;
- There has been no consideration of reducing CO₂ emissions or adaption to climate change in relation to this application;
- Access needs to be retained to the currently vacant land to the north of Terminus Drive, to allow access for the maintenance of the A13 flyover and the north of Terminus Drive itself;
- Recent improvements to Wat Tyler Country Park will be in vain, as people will not visit due to a hazardous journey.

With respect to compliance with policy BAS E2, this policy requires a traffic impact assessment, with any resulting improvements to the highway being undertaken by the developer prior to construction and provision of B1 and B2 uses. Basildon Borough Council's objection states that:

- 1) the key restriction is the existing railway bridge cannot be widened thus requires complete reconstruction and realignment;
- 2) the site is inappropriate for storage and distribution due to the large number of HGVs;
- 3) would conflict with the existing vehicles using Pitsea Hall Lane and;
- 4) the developer may be required to make an appropriate make off-site traffic management.

A transport statement was submitted and reviewed by the Highway Authority as required in Policy BAS E2. This notes that the access to the site serving a storage and distribution use does not conflict with the Highway Authority's Policies DM1 or DM4 and that there is good accident record in the immediate vicinity. It also notes that there will be a comparatively low increase in HGV movements over the railway bridge and no overall increase of HGVs using the level crossing; as there would be no greater residual waste being transported to Pitsea Landfill. Importantly the transport statement states that the installation of a pedestrian bridge over the railway (to help alleviate problems on the existing capacity of the railway bridge) is to be provided as part of a legal obligation associated with last planning permission for Pitsea Landfill.

With respect to the comments regarding reducing CO₂ emissions or adaption to climate change in relation to this application it has been noted in the transport

statement that due to the proposed location staff will be encouraged to use sustainable forms of transport, such as cycling (provision of parking is within the application or by public transport). With regards to waste vehicles, it is noted that the relocation of this operation from Burnt Mills Industrial Estate would result in a shorter distance (and therefore a reduction in emissions) for any residual waste being sent to Pitsea landfill.

Within the transport statement it is noted that currently, there is a vehicular and pedestrian gate and concrete blocks impeding vehicular access to the vacant land to the north of Terminus Drive and indeed for maintenance of the A13. These obstructions appear to have been erected to restrict unauthorised access on to the vacant land surrounding Terminus Drive, but their origin is unknown. The proposal would remove the obstructions to enable access to the vacant land and to the A13 for maintenance. To ensure any unauthorised access is still prohibited, the transport statement suggests discussions should be entered into with the current owners of the vacant land to construct a replacement gate as a vehicle barrier, which can be opened for authorised access.

The Highways Agency has no objection to the proposal, but requested that the applicant aims to minimise HGV movements at peak times to reduce severe congestion experienced on the A13. It is not considered that a condition could reasonably be imposed to control movements at busy times, but the operator could be advised of this preference.

Network Rail has no objection to the proposals with regard to the impacts on the level crossing. If permission is granted this would be subject to compliance with the submitted details that access would be as indicated on the plans (in the north east). Network Rail has also indicated that the applicant should get in contact with their asset protection team to discuss the scope of entering an asset protection agreement. The response has been forwarded to the applicant to ensure the issues raised within the response are addressed.

The Highway Authority has reviewed the transport statement submitted as part of the planning application and the comments received during the consultation process. The Highway Authority does not object to the proposal, but in order to maintain highway safety (and address the concerns raised) has required the imposition of conditions to be attached to any granting of planning permission. These conditions specifically relate to the concerns raised during the consultation (as noted above), namely:

- Pre-commencement condition regarding the design of a vehicular turning facility and identification of loading/unloading/reception and storage of associated materials;
- No unbound material would be used surface treatment of the vehicular access from the bellmouth junction of Terminus Drive on to Pitsea Hall Lane for a distance of 12 metres;
- Gated access to the site would be inward opening only and set back 6 metres from the adopted carriageway (Terminus Drive);
- Access and upgrading of the public footpath;

- Parking spaces size to be 2.9m x 5.5m;
- Cycle and motor cycle parking provision;
- Vehicle movement restrictions;
- No occupation of the site prior to the upgrading, surfacing, marking and provision of a 2m wide footway along the northern edge has been provided to the satisfaction of the Highway Authority.

It is considered that subject to the conditions required by the Highway Authority and Network Rail and attaching appropriate informatives, as requested by the Highways Agency, that the proposal is in accordance with WLP policy W4C and Basildon policies BAS E2 and BAS E10. This is because there would be comparatively low increase in HGV movements over the railway bridge and no net increase movements over the level crossing. Granting permission where benefits of development are not significantly and demonstrably outweighed by adverse impacts concurs with the direction of the Framework.

C. IMPACTS ON PUBLIC RIGHTS OF WAY

The Framework requires decision takers to protect and enhance public Rights of Way (PRoWs) and access, by seeking opportunities to provide better facilities. PPS10 remains silent on waste facility impacts on PRoWs.

WLP Policy W10G (Public Rights of Way) states that applications should include measures to safeguard and where practicable improve the Public Rights of Way (PRoW) network. Any works to improve/safeguard the PRoW shall be implemented prior to any development commencing.

Adjacent to the northern and western boundary of the proposed site is PRoW Vange 136. This public footpath follows the line of Terminus Drive, linking Pitsea Hall Lane and the wider Vange Marshes Area. At the western end of the site PRoW Vange 136 joins PRoW Vange 213, which provides access under the A13 to the residential development, particularly Avondale Road and The Glen. The application details that the PRoW would be retained, but the access to the site would be along a portion of the footpath in the east, where it joins Pitsea Hall Lane.

During pre-application discussions, it appears there is no definitive map of the footpath location, so the applicant proposes that the footpath will remain in its current position and a 2 metre wide area will be delineated by signing and appropriate materials on the ground.

Representations have been made which note the loss of a public right of way, the fact that recent improvements to Wat Tyler Country Park will be in vain, as people will not visit due to a hazardous journey and the problems caused by this development for commuters going to Pitsea Railway station. There were also safety concerns of using the current access from this PRoW on to Pitsea Hall Lane, as this area would be used for large vehicles accessing the site.

Currently, the existing industrial development to the east of the application site (and incorporating Primrose Villa - 93/00004/FUL) currently use this part of the PRoW to

access their site and for parking. In addition, there is a vehicular and pedestrian gate and concrete blocks impeding vehicular access, where the PRow meets Pitsea Hall Lane, which appear to have been erected to restrict unauthorised access on to the vacant land surrounding Terminus Drive. The proposal would remove the obstructions to enable access.

However, this proposal would increase the intensity of vehicular use of this part of Terminus Drive, thus potentially affecting the PRow.

Essex Highways (Public Rights of Way) does not object to the proposal as the PRow Vange 136 would be retained, but would like to state that although only a 2 metre wide area is to be delineated as the PRow public access rights to Footpath status will still subsist across the full width of the original path. It is considered that to ensure this delineation and to make both pedestrians and vehicle drivers aware of the access, a condition is attached (if permission is granted) to ensure appropriate signage and demarcation is incorporated and implemented prior to the construction of the waste reception building.

It is considered that subject to the delineation and signage of PRow Vange 136 as submitted in the application, that there would not be significant harm to the existing right of way and that proposal is consistent with WLP Policy W10G, as it safeguards the existing PRow. It would also comply with the Framework as there would be no net loss of PRows and would improve the eastern end of PRow Vange 136 (as it merges with Pitsea Hall Lane), as the proposals would remove the existing obstructions and improve the delineation of the Right of Way where it is currently impacted upon by the existing industrial use.

D. DESIGN, LANDSCAPE AND VISUAL IMPACTS

The Framework emphasises the importance of good design within proposals, which is considered is a key aspect of sustainable development and indivisible from good planning. It requires developments to be of high quality and contribute positively to making places better for people while considering the functionality of the proposals. Similarly, the Framework requires conservation and enhancement of the natural and historic environment, including landscape. Adverse impacts must be addressed with regard to cumulative landscape and visual impacts, particularly in relation to valued landscapes.

WLP policy W10E (Development Management) states that waste management development will be permitted where satisfactory provision is made in respect of the effect of the development on the landscape and the countryside. The supporting text (paragraph 10.12) of the policy specifically notes that landscaping and design (including siting, design and colour treatment of the elevations) can ameliorate impact, and requires a high standard of design and landscaping to minimise visual impact. It also notes that consideration will need to be taken to the metropolitan Green Belt.

Policy BAS C2 (Country Parks) states that development would not normally be permitted which may adversely affect the conservation to landscape value of a

country park, which in this case would relate to Wat Tyler Country Park, which is less than 500m to the south of the development.

Policy BAS E10 (General Employment Policy) specifically considers proposals against the following criteria:

- Provision for the landscaping and screening of buildings and storage areas with a landscaping strip abutting all highways will normally have a minimum width of 5 metres to be retained at all times;
- The design, form, scale, and materials of the development will be expected to be appropriate and sympathetic to neighbouring developments, particularly adjacent to residential areas.

The single waste processing building on the northern boundary at the eastern end of the site. This building would be constructed from corrugated steel and measure 19m x 30m and 13.1m high at the highest point. It is noted that this is a substantial building and if permitted would be the larger than the existing industrial building on the adjacent site, although, the applicant states the design is functional as an industrial building. There would be two porta-cabin style offices between the waste processing building and the access/visitor car parking which would house the WC/mess cabin and administration.

The central area of the site would consist of storage area and the extreme west of the site would be 20 lorry parking spaces for storing vehicles while not in use. The HGVs and skip lorries would need to manoeuvre along the southern boundary of the site, next to the railway line, which at present is not screened from the Grade II listed building or Pitsea Marshes.

There has been a specific objection noting the proposal could adversely affect the visual amenities of the Green Belt (containing the Pitsea Marshes). However, this site is within a designated employment site (Policy BAS E2) and is not located within the Green Belt. It is considered that the proposals at this site would not have a significant impact on the openness of the Green Belt and in this respect complies with WLP policy W10E.

Landscape and Visual Impacts

The submitted landscape and visual impacts assessment suggests there would be little or no impact on the landscape or visual receptors to either the residential areas in the north or publically accessible areas in the south. However as a result, to reduce landscape and visual impacts, site layout has been reconfigured by moving of the main waste building 5m towards the west with some planting to the north of the site. It is noted within the assessment that it is not possible to provide landscaping to the southern portion of the site, due to maintenance issues associated with the railway line which requires this to be kept open and retained for access and vehicle movement only'. Although works adjacent to railway lines can impose risk to the operational railway, damage the railway infrastructure or risks to individuals during the construction and maintenance of proposals, this does not

preclude development adjacent to railway lines and beyond Network Rails boundary.

Basildon Borough Council and Place Service (Landscape) object to the landscape proposals on the basis of insufficient landscaping and material harm to visual/sensitive receptors from the proposed development and not compliant with policies BAS E10 or W10E. Both representations consider landscaping should soften the visual impact on surrounding areas, particularly the Pitsea Marshes, PRoWs, the Grade II listed building - Cromwell Manor and the transient views from the Railway line. Despite the inclusion of landscaping along the northern boundary and the relocation of the main building 5m to the west, there remains a concern regarding the visual impacts from the south of the site, where there is no proposed screening measures to protect visual amenity from Cromwell Manor, Pitsea Marshes or the railway line.

Place Services (Landscape) note that if the Waste Planning Authority is mindful to grant planning permission despite objection, then a number of conditions could be required to mitigate the impacts of the proposal. The first condition would require a detailed landscaping scheme, which would build on that submitted as part of the landscape and visual impact assessment, including locations and species mix to be submitted prior to the commencement of the development of the waste reception building. The second pre-commencement condition would consist of implementation of a boundary treatment on the southern boundary of the site. This has been specified as planting (which would consequently need protection from vehicles) This is discussed further below and would be subject to agreement with Network rail. Furthermore it is suggested that the existing perimeter fencing should be painted black or dark green to reduce its visual impact.

Place Services (Urban Design) do not object although do note that the scale of building would result in a highly prominent development without adequate screening. There is concern regarding the design, which is of basic form and grey metal clad, producing an industrial appearance which would visually conflict with the gateway perception of Pitsea from the station/railway. Therefore, recommend imposition of conditions if the proposal is granted planning permission. The conditions required would include the provision of a boundary treatment to the southern boundary (as discussed further below) of the development to protect visual amenity, and that the colour of the main building should be rural in character to complement its surroundings, e.g. recessive green, brown, black or olive.

One representation was made noting that recent improvements to Wat Tyler Country Park will be in vain, particularly as people will not visit due to a hazardous journey. With regard to potential impacts on Wat Tyler Country Park policy BAS C2, notes development would not normally be permitted which may adversely and materially affect its value.

Although the site is adjacent to an existing small waste facility, the Pitsea flyover and its previous use as a minerals yard, this site had been vacant for a number of years and a development of this scale would be significantly different to the open nature of the site. Notwithstanding this, it now must be considered if this harm to

the landscape and visual impacts (including those to Wat Tyler Country Park) are significant enough to refuse the application. This must be considered in the light of the Framework, other local policy and ways to mitigate impacts to a satisfactory and commensurate level.

Following discussions with Network Rail, the consultees who objected and the applicant, it is considered that potential harm to the landscape and visual impacts from the design can be satisfactorily mitigated, by the imposition of a pre-commencement condition. This condition would require a suitable boundary treatment to the southern boundary of the site, which would be adjacent to that owned by Network Rail. Despite the hazards of working adjacent to railway lines, both to the operational railway, railway infrastructure and individuals involved with construction, Network Rail agrees this does not preclude development adjacent to railway lines. Therefore, if permission is granted a pre-commencement condition could be imposed (prior to the development of the waste reception building) requiring the submission of details, including suitable plans and method of operations/implementation regarding the boundary treatment. This would need to be provided to Network Rail and Waste Planning Authority to be agreed in writing. This would need to be implemented as agreed, in full prior to any further development.

The Framework states that there is a presumption in favour of sustainable development, and that in the absence of an up to date local plan, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies. The Framework notes that the government is committed to securing economic growth, and it has already been concluded in Section 1 of this report that granting permission for this site would be good for the local economy as a whole. Furthermore, this site is within a designated a proposed employment site (Policy BAS E2). On balance, it is therefore considered that, subject to suitable conditions regarding design and landscaping, the impacts on the landscape and visual receptors are not significant enough to warrant the refusal of planning permission, when considering the economic benefits in accordance with the Framework.

On balance, it is considered that although the proposal does not fully comply with WLP policy W10E and Basildon policies BAS C2 and BAS E10, it is within a designated proposed employment area (policy BAS E2). Furthermore, because these policies are contained within out-of-date local plans, the policy drivers within the Framework must take precedence. In light of this, it is considered that the proposal (subject to appropriate conditions regarding screening on the southern boundary, material details and landscaping) would not affect the Green Belt, landscape or visual receptors (including Wat Tyler Country Park) significantly enough to warrant the refusal of planning permission when balanced against the economic benefits of this proposal.

E. IMPACTS ON ECOLOGY

One of the three main strands of sustainability (according to the Framework) is environmental sustainability, which considers that the planning system should contribute to and enhance the natural and local environment. As part of this, decision takers must protect and enhance valued landscapes, recognise the wider benefits of ecosystem services and minimise impact on biodiversity. The Framework also supports the effective use of land by reusing land that has previously been developed, provided that it is not of high environmental value.

Basildon Local Plan is silent in this case, as it contains no saved policies other than those of national importance. Similarly, WLP policy W10E only considers ecologically designated sites.

The proposal contained an extended phase 1 habitat survey and a Reptile Survey. In summary, both noted the site consisted of an expanse of bare/disturbed ground bordered by banks of tall grass and ruderal vegetation. It also identified two SSSIs, Wat Tyler Country Park and five Local Wildlife Sites within 500m of the site boundary of the site. It did not identify any areas of importance for protected/notable species or habitats. There was found to be a low population of slowworm and common lizard on the railway embankment due to the proximity of Vange Creek Marshes LoWS 20m to the south of the site. A translocation program was not considered necessary as this area is not proposed for development but did suggest that a temporary (heras fencing) barrier is installed along the length of the bank on the south of the site to prevent vehicle movements in areas of favourable reptile habitat and prior to operation installing reflective bollards.

Place Services (Ecology) has reviewed the submitted information and does not object subject to the imposition of a condition to ensure that development would be consistent with the Framework in protecting biodiversity, while being commensurate with the scale of the proposal. One condition has been recommended that would ensure the proposed hedge along the northern boundary would be composed of species identified in the ECC Tree Planting Palette. Due to the value of the surrounding land for 'Priority' bumblebee species, the hedge-mix should include a high percentage (over 40%) of 'flowering shrubs' such as common hawthorn, common cherry and/or blackthorn. Further planting along the southern boundary is encouraged and would need to be part of the consideration of the condition relating to the boundary treatment to be provided and agreed by the Waste Planning Authority and Network Rail prior to commencement of the construction of the waste reception building as discussed in the section above. This would provide greater protection to the reptiles located in the railway embankment, compared to the reflective bollards as suggested in the Reptile survey.

It is therefore, considered that subject to the imposition of a condition to ensure the correct mix of species to be planted within the hedgerow along the northern boundary, that the development is not contrary to the Framework and commensurate with the scale of the proposal.

F. IMPACTS ON LOCAL AND RESIDENTIAL AMENITY

The Framework aims to prevent unacceptable risks from pollution decisions should ensure that new development is appropriate for its location, in so doing consider whether the development would be an acceptable use of land. It does qualify this by stating that local authorities should consider that pollution regime control regimes will operate effectively. Planning considerations nonetheless need to consider impacts such a noise, light pollution and other adverse impacts on health and the quality of life, while recognising that development will often create some noise and impacts, which should not be unreasonably restricted. PPS10 concurs with the Framework in this respect WLP policy W10E (Development Management) states that waste management development will be permitted where satisfactory provision is made in respect of:

- The effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants (including, artificial lighting and vermin);
- The effect on historic and archaeological sites;
- The effect of the development on nature conservation;
- In the metropolitan Green Belt.

Policy W10F (Hours of Operation) within the WLP states that where appropriate the Waste Planning Authority will impose a condition restricting the hours of operation, as appropriate with regard to local amenity and the nature of the operation.

The proposal suggests that the hours of operation would be 07:00 to 17:00 (Monday to Friday), 07:00 to 13:00 (Saturdays) with no work taking place on Sundays and/or Bank Holidays. A condition will be applied, if the proposal is granted to restrict working hours to those stated above. It is also considered that these stated hours would be appropriate during the construction phase of the development.

During the consideration of this application, the applicants have occupied the site, in so doing, erected a grey palisade fence of 2 metres in height and installed a port-a-cabin site office and weighbridge, with some processing of wood. Following discussions between the applicant and the planning authority, it was considered that these operations did not need express planning permission (being 'permitted development'). Although, some of the permitted development rights are time limited it was not considered expedient to take action as the current planning application was being considered which could if permitted, regularise the current activities. As noted in section C above, it is requested that to reduce the visual impact of the fence that this is painted black or dark green.

Notwithstanding this, during the course of the determination of this application there have been a number of complaints with regard to vermin, noise, vibration and unsightliness of the site. However, during a number of unannounced visits it could not be determined that the proposal site was the cause of these complaints, or rather it was the neighbouring industrial operation to the east, (which is beyond the

boundary of this site in question) which have been undertaking significant works, which could give rise to such issues.

Noise and dust

To support the application, there has been a noise assessment and an addendum submitted to the Waste Planning Authority. The proposals include 2.85 metre high barrier on an appropriate section of the northern boundary. ECC's noise consultant has no objection and considers that the predicted noise levels, subject to construction of the noise barrier would not give rise to significant increase in noise levels above permitted guidelines. It was therefore recommended if the application were granted, three appropriate conditions could be attached. The conditions require a barrier of 2.85m to be constructed and noise monitoring measures to ensure the noise levels are within those predicted. If these predictions are exceeded other noise mitigation will need to be proposed and implemented prior to further usage. Finally, further details of the construction of the Waste Processing Building (in particular the sound reduction index of the building), should be submitted for approval prior to construction.

In addition, the applicant has submitted a dust assessment. This assessment details that all wastes will arrive at the site in sheeted containers and any issues can be managed by regular mechanical sweeping of the access road or spraying the access road with water, to prevent dust leaving the site. This water would be collected by way of an on-site drainage system to prevent risk of pollution. All waste would be deposited in to the waste collection building at the north of the site, which would be fitted with a mist spray dust suppression system and negative air pressure system to effectively contain dust and filter air leaving the facility. In addition, any crushing activities of oversize material would take place within the waste collection building, and fitted with direct water intake points to reduce potential dust emissions. Any material contained within the storage area outside the building would be dampened down prior to movement in dry conditions.

Basildon Borough Council and other representations object due to harm to residential amenity by reason of noise vibration and dust, while noting the site is approximately 70m from the dwellings to the north of the A13 flyover.

There has been no objection from ECC's consultant with regard to dust. Therefore, it is considered that, subject to permission being granted, an appropriate condition could ensure that dust on-site is controlled and monitored.

There have been representations noting that there would be an adverse impact on health and quality of life and an increase in vermin. In accordance with the Framework, local authorities must assume that pollution control regimes will operate efficiently as these are subject to Environmental Permitting Regulations 2010. The Environment Agency does not object to the proposal, but does specify that the operation would need to be permitted in line with the Environmental Permitting Regulations 2010. This is beyond the remit of the planning system, so the operator will need to discuss this further with the Environment Agency. The response has

been forwarded to the applicant to ensure the issues raised within the response are addressed.

It is considered that in accordance with the Framework, planning permission should not be refused, subject to the imposition of appropriate conditions to ensure noise and dust can be effectively mitigated and controlled to ensure compliance with policy W10E and BAS E10. In addition, conditions restricting the hours of operation will further protect amenity and in so doing comply with policy W10F and the Framework, which supports sustainable development where the adverse impacts do not significantly and demonstrably outweigh the benefits of proposals.

G. IMPACT ON THE HISTORIC ENVIRONMENT & VIABILITY OF CROMWELL MANOR

Impact on the Historic Environment

The Framework states that heritage assets are an irreplaceable (and therefore finite) resource and should be conserved in a manner appropriate to their significance and notes that any harm or loss should require clear and convincing justification. It requires applicants to describe the significance of heritage assets including any contribution made by their setting. Importantly it does note that when a proposal would lead to a less than substantial harm, this should be weighed against the public benefit of the proposal, including securing its optimum viable use. PPS 10 concurs with (but with less detail than) the Framework in this respect.

The Basildon Local Plan is silent on this issue, as it contains no saved policies other than those of national importance. Similarly, WLP policy W10E states that development would be permitted where satisfactory provision is made in respect of the resultant effects on the historic Environment.

The proposal is approximately 10 metres to the north of a Grade II Listed building, Cromwell Manor. Cromwell Manor (formally known as Pitsea Hall) is a Grade II Listed building which is south and separated from the proposal site by the Fenchurch street to Shoeburyness railway line with overhead power cables and level crossing sign also for Pitsea Hall Lane. It is likely to be a 16th century redevelopment of an earlier Norman manor, damaged by fire in the 1980s before full rebuilding and change of use from residential dwelling to restaurant in 1991. As such, any potential impacts on the setting of this historic asset must be considered in accordance with the NPPF (section 12). There has been no specific report considering the importance of this historic asset, although visual impacts from the location were considered in the landscape and visual impact assessment.

Basildon Borough Council and Place Service (Landscape) object as the proposals as submitted would not effectively screen Cromwell Manor from the development. Furthermore (and more specifically) Place Services (Historic Environment) object to the proposal on several grounds. These consist of as this would adversely impact on the setting of the Grade II asset, through amenity impacts (as discussed in section E) scale and cladding material of the building thus dominating all existing adjacent buildings. This in combination with the scale of the potential stockpiles would be of particular importance to Cromwell Manor as the objection considered

that the proposal would be seen as a backdrop in views of the façade of Cromwell Manor. It also notes that it would have an impact on foreground of views from the marshland footpath to the tower of St Michaels Church, which is also grade II listed. Importantly the representation does note that the existing surroundings do not make a positive contribution to its significance; however, these existing impacts would be exacerbated by this size, style and character of this proposal, particularly when considering cumulative impacts. It notes there is little intervening screening of the proposed site from Cromwell Manor other than the close boarded boundary fencing of Cromwell Manor and the railway infrastructure.

The owner of Cromwell Manor also objects on the grounds that no assessment has been provided of the significance of the Grade II listed building Cromwell Manor, which is contrary to the Framework. The objection considered the proposals would likely result in significant harm to Cromwell Manor and gardens due to the impacts on amenity (as considered in Section F), in their view negligible benefit and the impacts on the setting of Grade II Listed building from this development resulted in conflict with the Framework.

Despite the landscaping scheme and the noise assessment addendum (as discussed in Sections D and F respectively) submitted during determination period, the objector considers that there has not been consideration of the impact of the development on the external areas of the venue, used extensively for the core business (e.g. weddings).

These objections must be considered in context with the existing situation and local policy. Firstly, the gardens of Cromwell Manor where it is acknowledged that are frequently used for weddings and other functions are located to the south of the Manor itself, which would effectively screen the gardens from development. Other than the Manor itself, it is the car parking area that is approximately 10m to the south of the proposal site. Secondly, immediately to the north of Cromwell Manor & gardens (and between this venue and the proposal) is the Fenchurch Street to Shoeburyness railway line, which consists of dual track. In both directions, there are trains approximately 15 to 20 minutes during weekdays. This results in noise and vibration and is exacerbated by the fact that the venue is adjacent to the level crossing which (including warning acoustics and lights), which requires trains to either accelerate from or slow down for. Additionally there is an existing industrial use and building immediately to the north of the Manor. All of three considerations affect the setting of the listed building. Finally, as noted in section A the proposal is located within policy BAS E2, which promotes the area for employment uses (B1 – Business and B2 – General Industrial uses), which would enable development of this currently open area. In some cases due to this policy, B2 uses would not require planning permission on this site so would not be regulated through the planning system and therefore may affect more significantly than this proposal.

Furthermore, as described in section C, if permission were to be granted a condition could be implemented to require the applicant to provide details of a suitable boundary treatment to be provided and agreed by the Waste Planning Authority and Network Rail. This could be a pre- commencement condition, requiring the applicant to submit details and implement the agreed boundary

treatment prior to any construction of the waste reception building. Furthermore there are a number of conditions relating to amenity (discusses in section F). It is considered that the sum of these conditions would further reduce the impact on Cromwell Manor.

On balance with the Frameworks presumption in favour of sustainable development, and in the absence of an up to date local plan, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies. Therefore, it is considered that subject to the imposition of appropriate conditions regarding the southern boundary treatment, materials landscaping and amenity, the impacts on Cromwell Manor are not significant enough to warrant the refusal of planning permission, when considering the economic benefits of the development, in accordance with the Framework.

Viability of Cromwell Manor

In addition to the consideration of the impacts of development on the historic Environment, the Framework requires local authorities to consider the potential economic impacts of development.

The owner of Cromwell Manor and Place Service (Historic Environment) objections highlight how noise, vibration, light pollution, landscaping, design and the setting would potentially impact upon the viability of Cromwell Manor. It is used a function suite for weddings, funerals, private parties and corporate events. Place Services (Historic Environment) refers to national guidance, which may require authorities to consider the implications of cumulative change and the fact that developments that materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its on-going conservation. This consideration is echoed by the owner of Cromwell Manor.

With regards to national policy, section A concludes in that it has been satisfactorily demonstrated that there is an economic need for the relocation of the premises from Burnt Mills. This section also states that local policy supports development of this area for employment areas (policy BAS E2) and in all three options of the Basildon Preferred Approach documentation. It has been established that this sui generis proposal is akin to this type of development.

It has also been considered in sections D and F, that it has not been possible to substantiate that any of the complaints received regarding noise and vibration were actually caused by the permitted development operations on this site, or if it was the redevelopment of the premises between the proposal site and Pitsea Hall Lane. It was conclude in both of these sections that with appropriate conditions any impacts on amenity can be reduced and mitigated

Furthermore, it has been concluded above that in the absence of local planning policies and following pre-commencement conditions requiring mitigation for materials, landscaping and amenity, the southern boundary treatment and

materials, that adverse impacts would not significantly and demonstrably outweigh the benefits of this development, when assessed against the Framework policies.

It is therefore considered that the location is suitable for development as it is designated as a proposed employment area (policy BAS E2). This policy designation promotes this area for development of business and general industrial (which is akin to this sui-generis proposal) which would result in the loss of the currently open character. It has also been judged that due to the proximity of the dual track railway line and supporting infrastructure and existing industrial use to the north that potential impacts on Cromwell Manor would not significantly and demonstrably outweigh the benefits of this development. It is further considered that in line with the Framework and the presumption in favour of sustainable development that permission should not be refused, where there are no significant or demonstrably greater impacts of the development than the benefits. This is supported through the use of appropriate conditions regarding design, landscaping, minimising amenity impacts including lighting.

H. IMPACTS ON HYDROLOGY

WLP policy W4A (Flooding) states inter alia that development would only be permitted where there would not be an unacceptable risk of flooding or has an adverse effect on the water environment. This is supported by policy W4B (Surface & Groundwater) which states that development would only be permitted where there would not be an unacceptable risk to the quality of surface and ground water, or of impediment to ground water flow.

In support of the application a Flood Risk Assessment (FRA) has been prepared as the development would be on an area of greater than 1 hectare. This FRA states that the development is in flood zone 1 (the low risk zone), and states that the proposed development would be operated with minimal risk from flooding and not increase flood risk elsewhere. The Environment Agency has no objection to the proposals or conclusions stated within the FRA, but do note that the design of the final drainage scheme has not been finalised. Therefore, the EA do not object, subject to the imposition of a prior commencement condition. This would require a final scheme for the provision and implementation of surface water drainage and an assessment of the hydrological/hydrogeological context. This must be agreed in writing with the Waste Planning Authority, prior to the construction of the waste reception building.

It is therefore considered that subject to the imposition of an appropriate pre-commencement condition to approve in writing the final drainage scheme and hydrological/hydrogeological context that the development would comply with policies W4A, W4B and the Framework.

8. CONCLUSION

It is considered that the proposal should be considered favourably within the goals and objectives of the Framework, PPS10 and WLP. The Framework states “the planning system is to contribute to sustainable development” and requires

significant weight to be placed on the economic benefits of proposals, while protecting the environmental and social strands of sustainability.

The need and general suitability of the site comply with the Framework, PPS10 and WLP policies W3A and W7E, which requires waste to be moved up the hierarchy. The proposal is in conformity with W8B, through demonstration of a need to both relocate the business (this being the most suitable and feasible option, despite Basildon local policy BAS E6 directing untidy industry to the Burnt Mills Industrial Estate) and for increased non-organic waste treatment capacity. Additionally this site was an area of degraded and derelict land and designated as a proposed employment area policy BAS E2. Despite, the site being considered to be generally acceptable for such a proposal, further consideration of issues raised within the consultation, was required to ensure that this proposal would not create significant adverse harm to the local area, in accordance with the Framework.

The first of these considerations was highway impacts, which primarily focused on local infrastructure impacts and increased HGVs worsening congestion. However, following assessment by the Highway Authority and Highways Agency, it is considered that suitable conditions and an informative could be attached if planning permission were to be granted. These could ensure the proposal would not result in a significant and demonstrably negative impact, so it is considered to be in accordance with WLP policy W4C and Basildon policies BAS E2 and BAS E10. Similarly, impacts on ecology and hydrology could also be suitably mitigated by imposing appropriate conditions to ensure the proposal would comply with WLP policies W4A, W4B, W10E and the Framework, thus would be commensurate with the scale of the proposal.

Further concerns raised within the consultation period related to design, landscape and visual impacts. The issues primarily focused on the scale and colour of the building itself and that landscaping proposals do not adequately mitigate the impacts on the views from PRoWs and properties. The proposal would include the construction and operation of a large (13m high) building, which is required to be fit for purpose and functional. Due to the size, the proposal does not fully comply with WLP policy W10E and Basildon policies BAS C2 and BAS E10. However, this must be considered against the fact that it is located within a designated proposed employment area (policy BAS E2) which means the policy drivers within the Framework must take precedence. In light of this, it is considered that the proposal (subject to appropriate conditions regarding screening on the southern boundary, material details and landscaping) would not affect the landscape or visual receptors (including Wat Tyler Country Park) significantly enough to warrant the refusal of planning permission when balanced against the benefits.

Amenity impacts to the public using the adjacent to PRoW and local residences were raised as a concern during the consultation and also those specifically relating to the Grade II Cromwell Manor, which is used as a function suite, primarily for weddings. The objections in relation to the adverse amenity impacts on Cromwell Manor concluded that the proposal may make the business unviable, resulting in the degradation of the Listed Building, due to the costs of upkeep. The impacts of concern focused on the hours of operation, the impacts on the PRoW and the noise

and dust resulting from the proposal so compliance with policies W10E, W10F, W10G, BAS E10 and the Framework was considered. It must be noted that the proposal is located within a as a proposed employment area (policy BAS E2) and would not result in closure or diversion of the PRow. Indeed it seeks to improve the PRow by improving it at its eastern extremity (where it merges with Pitsea Hall Lane), as it is currently impacted upon by the existing industrial use by improving its demarcation and remove obstructions. With regards to the other issues of concern, the Framework embodies a presumption in favour of sustainable development and states “in the absence of an up to date local plan, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies”. On balance (and to be in accordance with the Framework), it is therefore considered that subject to the imposition of appropriate conditions, the impacts on general amenity to users of the PRow, local residences and specifically amenity of Cromwell Manor are not significant enough to warrant the refusal of planning permission.

9. RECOMMENDATION

That planning permission be granted subject to conditions covering the following matters:-

1. COM1 – commencement of the development within 5 years from the date of this permission.
2. COM3 - Compliance with submitted details
3. COM2 – Notification of commencement within 7 days of implementation
4. WAST1 – Definition of waste materials to be imported
5. WAST5 – Restricting waste to areas as approved
6. HIGHWAYS - Bespoke
Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Waste Planning Authority shall be constructed and maintained free from obstruction within the site at all times for that sole purpose.
7. HIGHWAYS - Bespoke
Prior to occupation of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of associated materials and manoeuvring shall be provided clear of the highway and retained at all times for that sole purpose as approved in writing by the Local Planning Authority.
8. HIGH13 – surface materials of access
9. HIGH14 – Access gates
10. HIGHWAYS - Bespoke
The Public's rights and ease of access over the public footpath shall be maintained free and unobstructed at all times.
11. HIGH7 – erection of warning signage for PRow Vange 136
12. HIGHWAYS - Bespoke
Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.
13. HIGHWAYS - Bespoke
The powered two wheeler/cycle parking facilities as shown on the approved

plan are to be provided prior to the first occupation of the development and retained at all times.

14. HIGH5 – restriction to 100 HGV movements [50 in and 50 out] per day (Monday to Friday) 50 HGV movements [25 in and 25 out] per day (Saturdays)
15. HIGH1– improvement to Terminus Drive access
16. HIGH2 – All Access to be via Terminus Drive
17. DET1 – Requires submission of details regarding material, colours and finishes for the waste processing building and acoustic barrier
18. LAND1 – Requires submission details regarding a landscaping scheme
19. LAND2 – Requires replacement of trees/and shrubs (if necessary) within 5 years of commencement
20. DET5 – Requires submission of details regarding the southern boundary treatment
21. HOUR1 – Restricts construction times to 07:00 to 18:30 hours Monday to Friday and 07:00 to 13:00 hours Saturdays
22. HOUR5 - Restricts hours of operation times to 07:00 to 18:30 hours Monday to Friday and 07:00 to 13:00 hours Saturdays
23. NSE3 – Requires noise monitoring to be undertaken and submitted within one month of commencing operations to validate predictions.
If measured noise levels exceed those detailed proposed mitigation measures shall be submitted to and approved in writing by the Waste Planning Authority within 1 month of the monitoring being carried out.
24. NSE4 - Requires submission details regarding the sound proofing of the waste processing building
25. DUST1 – Implementation in accordance with approved dust suppression measures
26. LGHT1 - Requires submission details regarding any proposed lighting on site
27. ECO1- Implementation in accordance with approved Reptile Mitigation Measures
28. POLL1 - Requires submission details regarding surface water drainage and an assessment of the hydrological and hydrogeological context of the development.

INFORMATIVES

1. The Highways Agency requests that the applicant aims to minimise HGV movements at peak times to reduce severe congestion experienced on the A13.
2. Although only a 2 metre wide area is to be delineated as the PRoW public access rights to Footpath status will still subsist across the full width as shaded pink on KAB 11.
3. Network Rail requests the applicant should contact Asset Protection at AssetProtectionAnglia@networkrail.co.uk to determine the scope of entering an asset protection agreement.
4. The Environment Agency requests the applicant to discuss with the Environment Agency the requirements of the Environmental Permitting Regulations 2010.

BACKGROUND PAPERS

Consultation replies
Representations
Ref: P/DM/GemmaSkillern/ESS/69/12/BAS
LOCAL MEMBER NOTIFICATION
BASILDON – Pitsea

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 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. The application has been considered in line with the Equalities Act 2010 and suitably appraised with regard to relevant equality issues, implications and/or needs.

Statement of how the local authority has worked with the applicant in a positive and proactive manner:

In determining this planning application, the Waste Planning Authority has worked with the applicant in a positive and proactive manner by identifying matters of concern within the application (as originally submitted) and based on seeking solutions and acceptable amendments to the proposal to address those problems. This has been achieved by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary.

As a result, the Waste Planning Authority has been able to recommend granting planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the Framework, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012.

REF:	POLICY	CONSISTENCY WITH Framework AND PPS10
Essex & Southend-on-Sea Waste Local Plan (2001)		
<u>W3A</u>	<p><u>Waste Strategy</u> The WPAs will:</p> <p>In determining planning applications and in all consideration of waste management, proposals have regard to the following principles:</p> <ul style="list-style-type: none"> • Consistency with the goals and principles of sustainable development; • Whether the proposal represents the best practicable environmental option for the particular waste stream and at that location; • Whether the proposal would conflict with other options further up the waste hierarchy; • Conformity with the proximity principle. <p>In considering proposals for managing waste and in working with the WDAs, WCAs and industrial and commercial organisations, promote waste reduction, re-use of waste, waste recycling/composting, energy recovery from waste and waste disposal in that order of priority.</p> <p>Identify specific locations and areas of search for waste management facilities, planning criteria for the location of additional facilities, and existing and potential landfill sites, which together enable adequate provision to be made for Essex, Southend and regional waste management needs as defined in policies W3B and W3C.</p>	<p>Paragraph 6 of the Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development.</p> <p>PPS10 supersedes 'BPEO'.</p> <p>PPS10 advocates the movement of the management of waste up the waste hierarchy in order to break the link between economic growth and the environmental impact of waste.</p> <p>One of the key planning objectives is also to help secure the recovery or disposal of waste without endangering human health and without harming the environment, and enable waste to be disposed of in one of the nearest appropriate installations.</p> <p>Therefore, Policy W3A is considered consistent with the Framework and PPS10.</p>
<u>W3C</u>	<p><u>Need for Waste Development</u> Subject to policy W3B, in the case of landfill and to policy W5A in the case of special wastes, significant waste management developments (with a capacity over 25,000 tonnes per annum) will only be permitted when a need for the</p>	<p>Paragraph 3 of PPS 10 highlights the key planning objectives for all waste planning authorities (WPA). WPA's should, to the extent appropriate to their responsibilities, prepare and deliver planning</p>

REF:	POLICY	CONSISTENCY WITH Framework AND PPS10
	<p>facility (in accordance with the principles established in policy W3A) has been demonstrated for waste arising in Essex and Southend. In the case of non-landfill proposal with an annual capacity over 50,000 tonnes per annum, restrictions will be imposed, as part of any planning permission granted, to restrict the source of waste to that arising in the Plan area. Exceptions may be made in the following circumstances:</p> <ul style="list-style-type: none"> • Where the proposal would achieve other benefits that would outweigh any harm caused; • Where meeting a cross-boundary need would satisfy the proximity principle and be mutually acceptable to both WPA5; • In the case of landfill, where it is shown to be necessary to achieve satisfactory restoration. 	<p>strategies one of which is to help implement the national waste strategy, and supporting targets, are consistent with obligations required under European legislation and support and complement other guidance and legal controls such as those set out in the Waste Management Licensing Regulations 1994.</p> <p>Therefore, as Policy W3C is concerned with identifying the amount of waste treated and its source the policy is considered consistent with the requirements of PPS10.</p>
W4C	<p><u>Access</u></p> <ol style="list-style-type: none"> 1. Access for waste management sites will normally be by a short length of existing road to the main highway network consisting of regional routes and county/urban distributors identified in the Structure Plan, via a suitable existing junction, improved if required, to the satisfaction of the highway authority. 2. Exceptionally, proposals for new access direct to the main highway network may be accepted where no opportunity exists for using a suitable existing access or junction, and where it can be constructed in accordance with the County Council's highway standards. 3. Where access to the main highway network is not feasible, access onto another road before gaining access onto the network may be accepted if, in the opinion of the WPA having regard to the scale of development, the capacity of the road is adequate and there would be no undue impact on road safety or the environment. 	<p>Paragraph 21 (i) of PPS10 highlights that when assessing the suitability of development the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use modes other than road transport.</p> <p>Furthermore, Paragraph 34 of the Framework states that 'Decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised'.</p> <p>Policy W4C is in conformity with paragraph 34 in that it seeks to locate development within areas that can accommodate the level of traffic proposed.</p>

REF:	POLICY	CONSISTENCY WITH Framework AND PPS10
	4. Proposals for rail or water transport of waste will be encouraged, subject to compliance with other policies of this plan.	In addition, the policy seeks to assess the existing road networks, therefore being in accordance with the Framework and PPS10.
<u>W7E</u>	<p><u>Materials Recovery Facilities</u> To facilitate the efficient collection and recovery of materials from the waste stream, in accordance with policy W3A, the WPAs will seek to work with the WDAs/WCAs to facilitate the provision of:</p> <ul style="list-style-type: none"> • Development associated with the source separation of wastes; • Material recovery facilities (MRF's); • Waste recycling centres; • Civic amenity sites; • Bulking-up facilities and waste transfer stations. <p>Proposals for such development will be supported at the following locations:</p> <ul style="list-style-type: none"> • The waste management locations identified in Schedule 1 (subject to policy W8A); • Other locations (subject to policies W8B and W8C); • In association with other waste management development; • Small scale facilities may be permitted at current landfill sites, provided the development does not unduly prejudice the agreed restoration timescale for the site and the use ceases prior to the permitted completion date of the site (unless an extension of time to retain such facilities is permitted). <p>Provided the development complies with other relevant policies of this plan.</p>	See explanation notes for Policy W3C and W8B as these are relevant and demonstrate conformity with the Framework and PPS10.
<u>W8B</u>	<p><u>Non Preferred Locations</u> Waste management facilities (except landfill to which policies W9A and W9B apply) will be permitted at locations other than those identified in this plan, provided all of the criteria of policy W8A are</p>	Policy W8B is concerned with considering locations for sites that have not been identified within the Plan as preferred sites for waste related developments.

REF:	POLICY	CONSISTENCY WITH Framework AND PPS10
	<p>complied with where relevant, at the following types of location:</p> <ul style="list-style-type: none"> Existing general industrial areas; Areas allocated for general industrial use in an adopted local plan; Employment areas (existing or allocated) not falling into the above categories, or existing waste management sites, or areas of degraded, contaminated or derelict land where it is shown that the proposed facility would not be detrimental to the amenity of any nearby residential area. <p>Large-scale waste management development (of the order of 50,000 tonnes per annum capacity or more, combined in the case of an integrated facility) will not be permitted at such non-identified locations unless it is shown that the locations identified in Schedule 1 are less suitable or not available for the particular waste stream(s) which the proposal would serve.</p>	<p>By setting criteria for non-preferred sites, this policy allows for the protection of the natural environment in conformity with the third strand of the three dimensions of sustainable development.</p> <p>Additionally, in conformity with paragraph 17 of the Framework, the policy contributes to the conservation and enhancement of the natural environment. The Framework goes on to state that 'Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework.</p> <p>It is therefore considered that policy W8B is in conformity with the principles and requirements of the Framework.</p>
W10E	<p><u>Development Management</u></p> <p>Waste management development, including landfill, will be permitted where satisfactory provision is made in respect of the following criteria, provided the development complies with other policies of this plan:</p> <ol style="list-style-type: none"> The effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants (the factors listed in paragraph 10.12 will be taken into account); The effect of the development on the landscape and the countryside, particularly in the AONB, the community forest and areas with special landscape designations; The impact of road traffic generated by the development on 	<p>Policy W10E is in conformity with the Framework in that the policy is concerned with the protection of the environment and plays a pivotal role for the County Council in ensuring the protection and enhancement of the natural, built and historic environment.</p> <p>The policy therefore, is linked to the third dimension of sustainable development in the meaning of the Framework.</p>

REF:	POLICY	CONSISTENCY WITH Framework AND PPS10
	<p>the highway network (see also policy W4C);</p> <ol style="list-style-type: none"> 4. The availability of different transport modes; 5. The loss of land of agricultural grades 1, 2 or 3a; 6. The effect of the development on historic and archaeological sites; 7. The availability of adequate water supplies and the effect of the development on land drainage; 8. The effect of the development on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations; and 9. In the Metropolitan Green Belt, the effect of the development on the purposes of the Green Belt. 	
<u>W10F</u>	<p><u>Hours of Operation</u></p> <p>Where appropriate the WPA will impose a condition restricting hours of operation on waste management facilities having regard to local amenity and the nature of the operation.</p>	<p>Paragraph 123 of the Framework states that planning decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new developments, including by conditions. Furthermore, paragraph 203 states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.</p> <p>It is considered that as policy W10F is concerned with the protection of amenity, while seeking to impose conditions to minimise this adverse effects, policy W10F is in conformity with the requirements of the Framework.</p> <p>Also see above regarding PPS10 and conditions.</p>
<u>W10G</u>	<p><u>Public Rights of Way</u></p> <p>Applications for waste management</p>	<p>Paragraph 75 requires planning</p>

REF:	POLICY	CONSISTENCY WITH Framework AND PPS10
	facilities should include measures to safeguard and where practicable to improve the rights of way network, which shall be implemented prior to any development affecting public rights of way commencing.	<p>policies to protect and enhance public rights of way and access. As such, opportunities for improvement and incorporation of better facilities for users should be sought.</p> <p>It is therefore considered that Policy W10G which seeks to safeguard and improve the Public Rights of Way network is in conformity with the requirements of the Framework.</p>
Basildon District Local Plan Save Policies (1996)		
<u>BAS C2</u>	<u>Country Parks</u> The Council will not normally permit development, which may adversely and materially affect the conservation or landscape value of a Country Park.	<p>Country parks are considered to be significant places that contribute to the UKs accessible natural green space. These provide opportunities for recreation, tourism, health, education and improve the quality of life for their local communities.</p> <p>In this respect, it is considered that policy BAS C2, complies with all three strands of sustainability noted within the Framework and specifically paragraphs 109 and 123</p>
<u>BAS E2</u>	<u>Proposed Employment Area</u> 3.5 hectares (8.6 acres) of land is allocated for employment purposes in Terminus Drive, Pitsea, subject to the following criteria:- <ol style="list-style-type: none"> The proposal must be subject to a Traffic Impact Assessment. Any improvement to the local highway network required to enable the development to take place, will be expected to be provided by the developer; and The site shall provide for B1 and B2 uses. 	<p>Paragraph 6 states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 furthers this argument by noting planning has an economic role by in part ensuring that sufficient land of the right type is available in the right places.</p> <p>It is considered that policy BAS E2, which seeks to safeguard the Terminus Drive area for employment uses, is in conformity with the Framework.</p>
<u>BAS E6</u>	<u>Untidy Industry</u> The development or expansion of untidy	Refer to response for BAS E2.

REF:	POLICY	CONSISTENCY WITH Framework AND PPS10
	industry sites will be permitted in the Harvey Road and Archers Field area of the Burnt Mills Industrial estate, as identified on the Proposals Map. Untidy industry proposals in other locations within the existing industrial areas will be assessed on the basis of their likely effects on nearby uses. Outside of industrial areas untidy industry will not be allowed.	It is considered that policy BAS E2, which seeks to safeguard the Terminus Drive area for employment uses, is in conformity with the Framework.
<u>BAS E10</u>	<p><u>General Employment Policy</u> Proposals for industrial, business and office development (Use Classes B1 to B8) will be considered with regard to the following criteria:-</p> <ul style="list-style-type: none"> i. the surrounding roads must be adequate to accommodate the increase in vehicle traffic generated. A Traffic Impact Assessment may be required; ii. Developments should relate to the primary road network without using residential estate roads; iii. Adequate car parking should be provided in accordance with the Council's Car Parking Standards in Appendix Three; iv. Adequate servicing and turning areas should be provided on the site in accordance with the Council's Highway Standards; v. Provision for the landscaping and screening of buildings and storage areas with a landscaping strip abutting all highways will normally have a minimum width of 5 metres to be retained at all times; vi. The design, form, scale, and materials of the development will be expected to be appropriate and sympathetic to neighbouring developments, particularly adjacent to residential areas; and vii. Adequate controls should be installed to limit the emission of noise, pollutants, discharge and smells which could be associated with the proposed use. 	<p>Policy BAS E10 is in conformity with the Framework in that the policy is concerned with the protection of the road network, visual amenity, design, landscaping and protection of the environment and ensures the protection and enhancement of the natural, built and historic environment.</p> <p>The policy therefore, is linked to all three dimensions of sustainable development in the meaning of the Framework and therefore in conformity to it.</p>

DR/21/13

committee DEVELOPMENT & REGULATION

date 31 May 2013

MINERALS AND WASTE DEVELOPMENT

Proposal: **Retrospective planning application for the change of use of the site from storage land to the manufacture and storage of blocks using waste tyres as raw material and the storage and sale of waste tyre products and the use of existing offices**

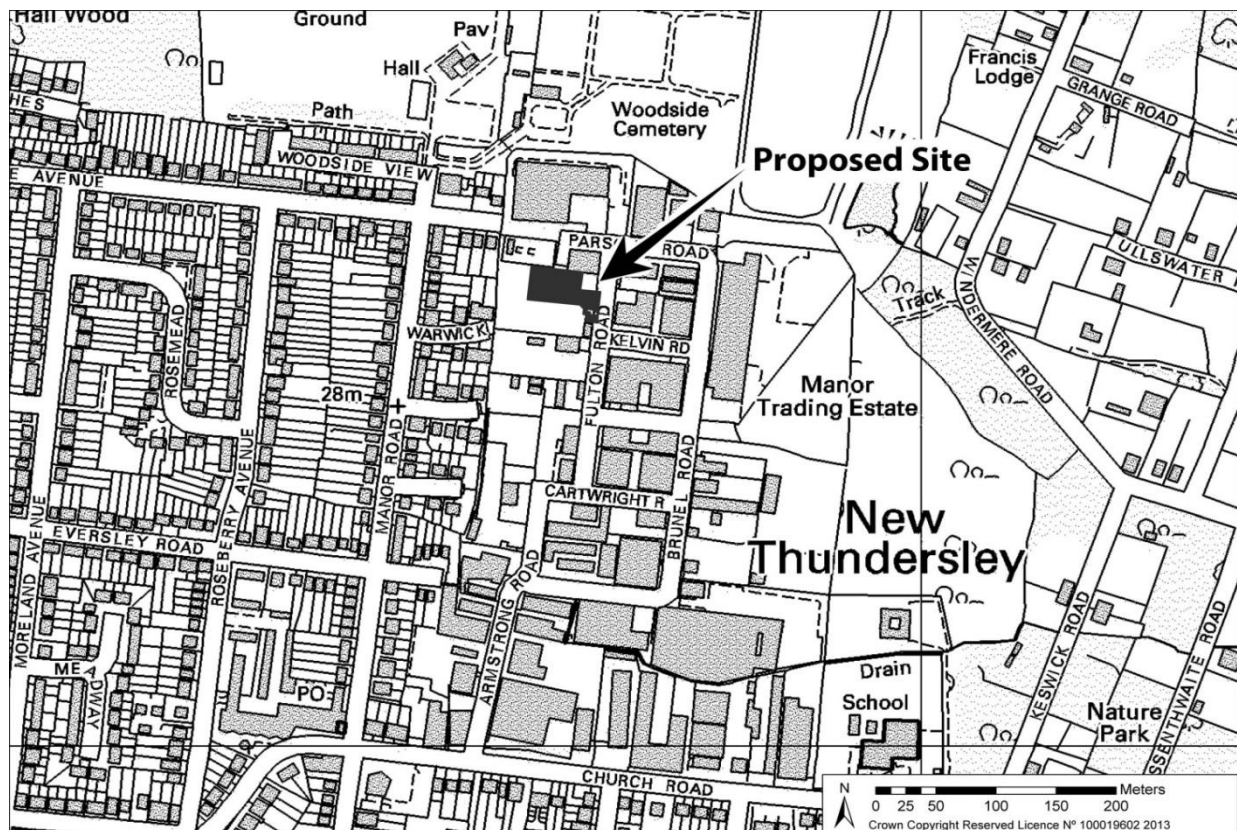
Location: **Unit 2, Level D, Fulton Road, Manor Trading Estate, Benfleet, Essex, SS7**

Ref: **ESS/76/12/CPT**

Applicant: **Tyre Reclaim Ltd.**

Report by Head of Planning, Environment and Economic Growth

Enquiries to: Glenn Shaw 01245 437117





1. BACKGROUND

The planning application for the above development was considered at the Development and Regulation Committee on Friday 19 April 2013. The officer report is attached at Appendix 1.

Members resolved to refuse the retrospective planning application for the change of use of the site from storage land to the manufacture and storage of blocks using waste tyres as raw material and the storage and sale of waste tyre products and the use of existing offices for the following suggested reasons:

- Omissions of Odour from the site
- Fire risk from the storage of tyre blocks and loose tyres.

Members also requested that it is consideration is given to the affect the development would have on potential flooding issues from the Manor Trading Estate and the impact on local amenity.

It was noted that as the development has already begun and accordingly the unauthorised development may require enforcement action to secure its removal.

In accordance with the Committee Protocol, a formal decision on the application was deferred until the May 2013 meeting of the Development and Regulation Committee. The deferral was to allow officers to provide appropriate reason for refusal based on planning policy and a consideration of whether it is expedient to undertake enforcement action to remedy the existing breach of planning control.

2. SITE

The site lies to the west of the Manor Trading Estate, Thundersley. Access to the site is off Fulton Road and all vehicles from the industrial estate have access to the A13 and A130.

The industrial estate accommodates a variety of industrial units including waste transfer operations on adjacent sites and is adjacent to residential areas.

Tyre UK operates in a small part of Unit 2, Level D, with the remainder of the site occupied by a builders yard which is used for storage. There is established planting on the western side of the site.

The properties on Warwick Close have gardens which back onto Unit 2. There is a 30 metre strip from the residential properties on Warwick Close to the start of applicant's boundary within Unit 2.

Robert Drake County Primary School is approximately 500 metres to the south east of the site.

The site occupies an area of 0.13 hectares.

The site is surrounded by secure palisade fencing on three sides and a concrete wall on the fourth.

The site is located approximately 1.5 kilometres west of an area of Thundersley Great Common, a designated SSSI.

A full description of the development is set out in the report at Appendix 1.

- 3.** Castle Point Local Plan (CPLP) adopted in November 1998. It was saved in its totality until 28th September 2007 policy EC3 (Residential Amenity) (a full appraisal of CPLP policy EC3 is contained in the original officers report at Appendix 1) states that inter-alia development proposals which would have a significant adverse effect upon the residential amenity of the surrounding area by reason of traffic, noise, fumes or other forms of disturbance will be refused. The Essex and Southend Waste Local Plan (adopted 2001) Policy W10E requires, inter alia, that the effect the development has on the amenity of neighbouring occupiers is take into account.

Given the resolution to refuse planning permission, as the proposed development poses a fire risk and odour omissions come from the site, the proposal is considered to conflict with fumes or other disturbances of policy EC3 of the Castle Point Local Plan (CPLP) adopted in November 1998. The plan was saved in its totality until 28th September 2007 and is in force in the area which the land to which this application relates.

The National Planning Policy Framework (the Framework), sets out requirements for the determination of planning applications and a material consideration. It is

important to note that Castle Point District Council adopted its Local Plan document post 2004. The Framework (paragraph 214) states from the date of publication (27 March 2012) for a 12-month period the determining planning authority can give full weight to the relevant policies of those plans even if there is a limited degree of conflict with the Framework. This 12-month grace period has expired meaning the Local Plan falls into interpretation under paragraph 215.

Paragraph 215 states, in summary, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The level of consistency of the policies contained within the Castle Point Local Plan adopted in November 1998 and the Waste Local Plan are set out in Appendix 1 of Committee report appended to this report. The NPPF (Framework) at paragraph 17 stipulates that planning policies should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

It is considered that CPLP policy EC3 (Residential Amenity) is in conformity with the Framework in that the policy is concerned with the protection of the environment and plays a pivotal role for the Castle Point Council in ensuring the protection and enhancement of the natural, built and historic environment. It is also considered that Policy W10E of the Waste Local Plan is also in conformity with the Framework. These policies are therefore primarily linked to the environmental dimension of sustainable development as set out in the Framework.

Given the resolution made at the April 2013 Committee meeting and that the development proposed is a retrospective change of use, it is necessary to consider whether enforcement action is required to remedy the breach of planning control.

As the site is located within an allocated industrial area any 'sui generis' uses would be considered on their individual merits. The change use of the land is for an unauthorised waste management facility which has commenced and given the committee resolution to refuse permission, is causing harm from odour emission and the potential fire risk the site poses. As such it is therefore considered that it would be expedient for the change of use to cease to protect the local amenity.

4. RECOMMENDATION

That planning permission be refused for the following reason:-

1. The proposed development would lead to an unacceptable odours and fire risk which would have a detrimental impact on the residential and local amenity contrary to policy EC3 of the Castle Point Local Plan (CPLP) (adopted November 1998) and Policy W10E of the Essex and Southend Waste Local Plan (adopted September 2001), and;
2. as the development is a retrospective change of use operating without the benefit of a planning permission, it is further recommended that enforcement action be taken requiring the cessation of the development to take place within a reasonable timescale to prevent further harm to the local amenity.

5. BACKGROUND PAPERS

Consultation replies

Representations

Ref: P/DC/Glenn Shaw ESS/76/12/CPT

6. LOCAL MEMBER – CASTLE POINT – Thundersley.

DR/14/13

committee DEVELOPMENT & REGULATION

date 19 April 2013

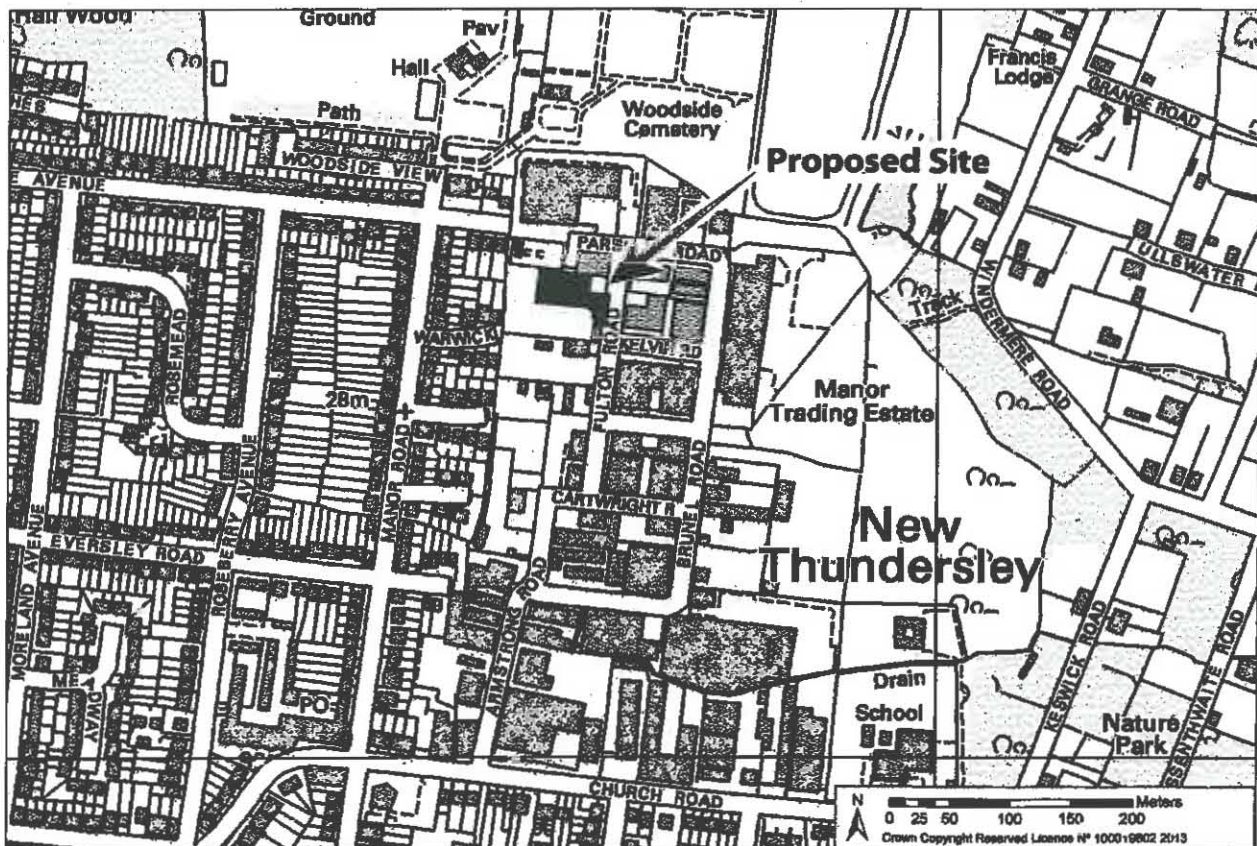
MINERALS AND WASTE DEVELOPMENT

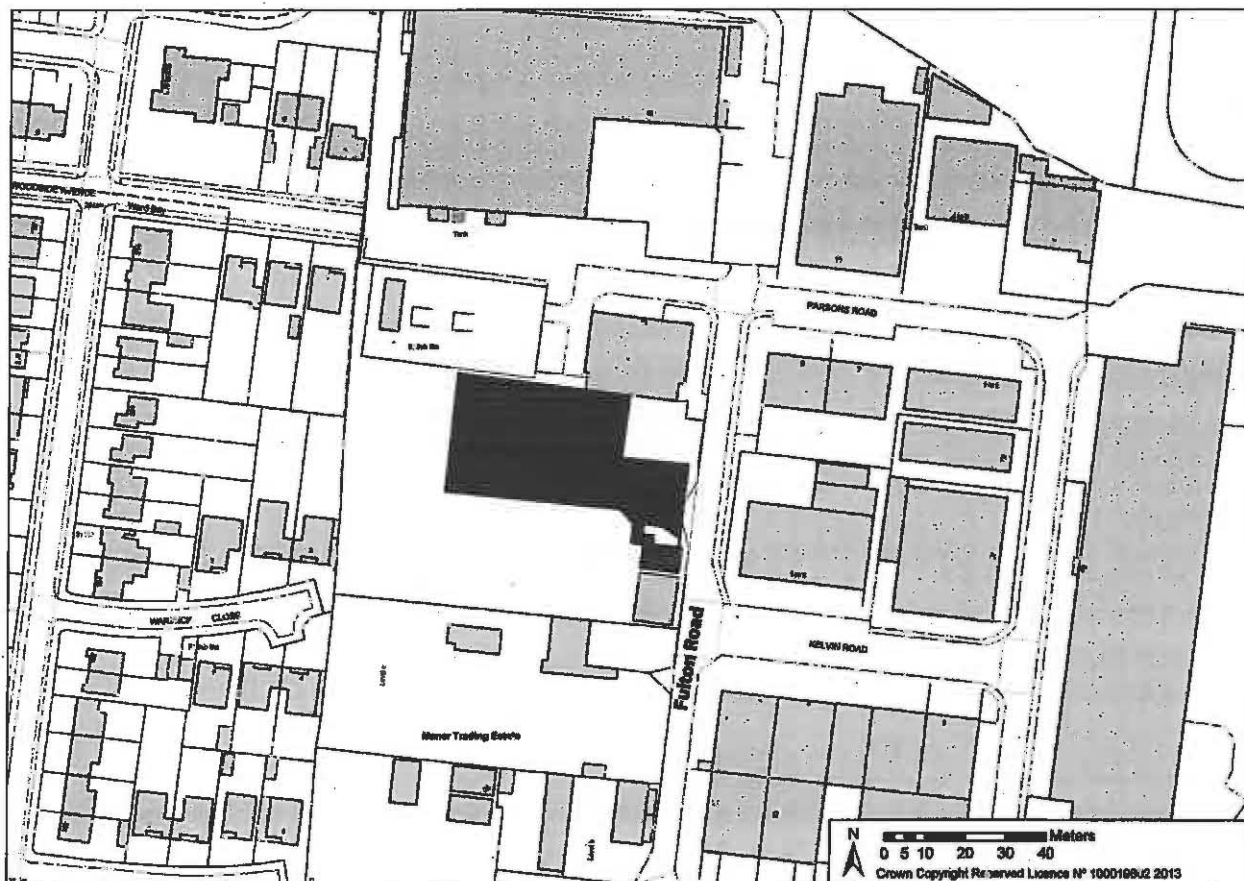
Proposal: Retrospective planning application for the change of use of the site from storage land to the manufacture and storage of blocks using waste tyres as raw material and the storage and sale of waste tyre products and the use of existing offices

Location: Unit 2, Level D, Fulton road, Manor Trading Estate, Benfleet, Essex, SS7
Ref: ESS/76/12/CPT

Report by Head of Planning, Environment and Economic Growth

Enquiries to: Glenn Shaw 01245 437117





1. BACKGROUND

In September 2010 planning permission ESS/28/10/CPT was granted at a site on Brunel Road, Manor Trading Estate for the change of use of site and buildings from "the sale of tyres and installation of equipment for the bailing and sale of waste tyre product" to a metal recycling site and end of life vehicle de-pollution facility. In June 2012, the facility was relocated to Unit 2, Level D, Fulton Road, Manor Trading Estate as the applicant downsized its operations.

The applicant is currently operating at the Fulton Road site, without the benefit of planning permission and hence, following officer advice, the current retrospective application was submitted.

2. SITE

The site lies to the west of the Manor Trading Estate, Thundersley. Access to the site is off Fulton Road and all vehicles from the industrial estate have access to the A13 and A130.

The industrial estate accommodates a variety of industrial units including waste transfer operations on adjacent sites and is adjacent to residential areas.

Tyre UK operates in a small part of Unit 2, Level D, with the remainder of the site occupied by a builders yard which is used for storage. There is established planting

on the western side of the site.

The properties on Warwick Close have gardens which back onto Unit 2. There is a 30 metre strip from the residential properties on Warwick Close to the start of applicant's boundary within Unit 2.

Robert Drake County Primary School is approximately 500 metres to the south east of the site.

The site occupies an area of 0.13 hectares.

The site is surrounded by secure palisade fencing on three sides and a concrete wall on the fourth.

The site is located approximately 1.5 kilometres west of an area of Thundersley Great Common, a designated SSSI.

3. PROPOSAL

This retrospective application proposes a change of use on part of the site to the manufacture and storage of blocks using waste tyres as raw material and the storage and sale of waste tyre products and the use of existing offices. Operations on site would include the storage of used tyres from cars, goods vehicles, agriculture and industrial vehicles. The tyres would then be compacted and baled to create 1 tonne blocks known as "Euro Blocks", the bales/blocks would then be stored on site prior to sale.

The proposed traffic movements include 2 – 3 transit vans per day (4 to 6 movements a day) and 4 x 7.5 tonne lorries per day (8 movements a day) and a 26 tonne HGV per month (2 movements per month). There are 3 parking spaces for staff on site and adequate room for parking of visiting transit vans. The applicant has stated there would be no need for parking of vehicles associated with the business outside the site.

The estimated throughput per annum is 3,500 tonnes.

Hours of operation would be 07:30 to 16:30 Monday to Friday only. The site would not be operating at weekends or Bank holidays.

4. POLICIES

The following policies of the Castle Point Local Plan (CPLP) adopted in November 1998. It was saved in its totality until 28th September 2007 and the Essex and Southend Waste Local Plan (WLP) 2001 provide the development framework for this application. The following policies are of relevance to this application:

	<u>CPLP</u>	<u>WLP</u>
Waste Strategy		W3A
Flooding		W4A
Highways		W4C

Materials Recovery Facilities		W7E
Preferred Sites		W8A
Alternate Sites		W8B
Development Control		W10E
Operational Hours		W10F
Design	ED2	
Residential Amenity	EC3	
Protection of Employment Areas	ED3	
Intensification of Access Use	T3	
Car Parking Standards	T8	

The National Planning Policy Framework (the Framework), sets out requirements for the determination of planning applications and a material consideration. It does not contain specific waste policies, since national waste planning policy will be set out in the future National Waste Management Plan. In the meantime, Planning Policy Statement 10: Planning for Sustainable Waste Management, remains a material consideration in planning decisions.

It is important to note that Castle Point District Council adopted its Local Plan document post 2004. The Framework (paragraph 214) states from the date of publication (27 March 2012) for a 12-month period the determining planning authority can give full weight to the relevant policies of those plans even if there is a limited degree of conflict with the Framework. This 12-month grace period has expired meaning the Local Plan falls into interpretation under paragraph 215.

Paragraph 215 states, in summary, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The level of consistency of the policies contained within the Castle Point Local Plan and Essex and Southend Waste Local Plan (2001) is set out in Appendix 1.

5. CONSULTATIONS

CASTLE POINT BOROUGH COUNCIL – Objects to the proposals and supports local residents concerns in respect of fire risks, hazards to health and noise generated by activity on site.

ENVIRONMENT AGENCY – No objection, however the operator has registered a Waste Exemption.

ESSEX COUNTY FIRE & RESCUE SERVICE – No objection but offers advice covering the following matters.

- Provision of additional water supply on site.
- Separate storage of loose tyres and blocks and keep to a manageable size.
- Fire breaks between the blocks.
- Secure fencing

PLACE SERVICES (Landscape) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection but would require the planting on the western side thickened.

HIGHWAY AUTHORITY – No objection.

FLOOD PARTNERSHIPS (Environment, Sustainability and Highways) – No objection but recommends sustainable drainage techniques.

WASTE MANAGEMENT - No objection

LOCAL MEMBER – CASTLE POINT – Thundersley – Any comments will be reported.

6. REPRESENTATIONS

274 properties were directly notified of the application. 17 letters of representation have been received. These relate to planning issues covering the following matters:

<u>Observation</u>	<u>Comment</u>
Potential increase in noise on the residential area, park and cemetery.	See appraisal
The potential fire risk through spontaneous combustion or vandalism and resulting impact from smoke.	See appraisal
Increase in traffic volumes and the effect on the roads which are already in a poor state of repair.	See appraisal
Air pollution and odours arising from the manufacturing process on the local area.	See appraisal
Flooding due to blocked or failing drains within the Manor Trading Estate.	See appraisal
The Robert Drake County Primary School is close to the proposed site and already suffers from noise and air pollution.	See appraisal
Visual impact of the tyre operation	See appraisal
Unable to find the application on the web.	Only the application summary and site notice are currently available on the web.

7. APPRAISAL

The key issues for consideration are:

- A Need
- B Highways and Vehicle Access
- C Visual Impact, Odours and Fumes
- D Noise
- E Fire Risk
- F Flooding

A NEED

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; the reduction of waste; re-use of waste; recycling/composting of waste and the recovering of energy from waste. It states that the disposal of waste should be the last resort. This principle is supported by WLP policy W3A (Waste Strategy) which pre dates PPS10.

CPLP policy ED3 (Protection of Employment Areas) states that within the Manor Trading Estate *"applications for development falling within Classes B1 B2 or B8 of the Town and Country Planning (Use Classes) Order 1987, or any subsequent amendment of that order will be permitted, subject to compliance with any other relevant policy of the local plan. Sui generis uses will be considered on their individual merits, having regard to the relevant objectives of the local plan and any other relevant policy of the plan. Uses falling outside those classes specified in this policy will be refused"*.

This retrospective application proposes to utilise waste tyres from a variety of sources and compress them to make 1 tonne block/bale. These blocks/bales are then used for a variety of civil engineering uses such as coastal erosion, permanent sub-base for landfill and construction sites and the construction of farm and animal housing and are also exported for use as fuel source in power stations. In relation to this, it is considered that as the proposal would be re-using a waste source and it is considered to be in compliance with the objectives of PPS 10 and WLP policy W3A as it pushes waste up the hierarchy and reduces the amount going to landfill.

WLP policy W7E (Materials Recovery Facilities) encourages *"...the facilitation of efficient collection and recovery of materials from the waste stream..."*. Policy W7E goes on to indicate that in relation to material recovery facilities, which are essentially recovery and bulking up facilities would be supported at locations that comply with the criteria in WLP policy W8A and W8B.

WLP policy W8B (Alternate Sites) identifies types of location other than those in Schedule 1 of the WLP at which waste management facilities would be permitted subject to the proposal being in line with relevant criteria of WLP policy W8A (Preferred Sites); these areas include existing general industrial areas. Policy W8A

requires that there is a need for the type of facility proposed; that the proposal has regard to the waste hierarchy; that the proposal complies with all other relevant policies; that adequate highways access is provided; and that the buildings are of a high standard.

Unit 2 Fulton Road is located in an employment area, as defined in the Castle Point Local Plan and the applicant previously operated at a different unit within the Manor Trading Estate, which is an industrial estate. There are a number of waste management operations located on the industrial estate. Within CPLP policy ED3 it is suggested that Land Use Class 'B', (which includes business, general industrial and storage and distribution) is generally more acceptable on the Manor Trading Estate and this proposal is considered to be similar to B2 General Industrial use.

The National Planning Policy Framework (NPPF) dated March 2012 is of relevance.

"An economic role requires by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation and by identifying and coordinating development requirements, including the provision of infrastructure and further states in the chapter Delivering Sustainable Development should support existing business sectors, taking account of whether they are expanding or contracting and where possible, identify and plan for new or emerging sectors likely to locate in their area."

The proposal would maintain the existing 6 permanent jobs and 3 part time jobs. It is considered that the proposal would comply with the economic dimension of sustainable development as supported by the NFFP.

Castle Point Borough Council has objected to the proposal.

As discussed above, it is considered that the proposals meet a need to provide an alternative to disposal of tyres and their re-use in bales in various ways meets the requirement to push waste management up the waste hierarchy. The facility is located within an industrial estate on a site identified in Castle Point Local Development plan as an employment area. The facility would maintain existing jobs and therefore considered to be in compliance with WLP policies W3A, W7E, W8A, W8B and CPLP policies ED3, PPS10 and the NPPF.

While the principle of the development would seem to be in accordance with local plan policies and is considered acceptable, it is nonetheless necessary to consider the environmental impacts of the proposals as set out below.

B HIGHWAYS & VEHICLE ACCESS

CPLP policy EC2 (Design) details that proposals should have regard to:

"i. The scale, density, siting, design, layout and external materials of any development, which shall be appropriate to its setting and which should not harm the character of its surroundings;

- ii. The appearance and treatment of spaces around buildings which shall be enhanced by appropriate hard and soft landscaping;*
- iii. The need to ensure that all modes of movement are made safe and convenient."*

CPLP policy EC3 (Residential Amenity) states that inter-alia development proposals which would have a significant adverse effect upon the residential amenity of the surrounding area by reason of traffic, noise, fumes or other forms of disturbance will be refused.

CPLP policy T2 - intensification of access use

Proposals which would result in the intensification of the use of existing accesses or the creation of new accesses onto any trunk, principal or other classified road will, in appropriate cases, require the submission of a traffic impact study demonstrating the ability of the highway network to accommodate the proposed development.

Where such demonstration cannot be shown, or where there is a policy objection from the highway authority, permission will be refused.

When considering applications that would affect these roads the council will consult the highway authority and will take the advice received into account when determining applications for planning permission.

CPLP policy T8 - car parking standards

The council will apply, with specified exceptions¹, the revised standards for car parking in Essex, published by the Essex county council.

WLP W4C (Access).

Access for waste management sites will normally be by a short length of existing road to the main highway network consisting of regional routes and county/urban distributors identified in the structure plan, via a suitable existing junction, improved if required, to the satisfaction of the highway authority.

The type baling facility would generate both LGV and HGV movements, however these would be limited in view of the small scale of the operation a total of approx. 10 movements a day. On the previous site the scale was larger with 20 movements a day and did not result in complaints or problems with respect to traffic volumes.

Representation has been received that the roads within the estate are in a poor state of repair and this proposal would further add to the congestion on the site and add more to traffic outside the Robert Drake County Primary School located on Church Road.

The Highway Authority and Castle Point Borough Council have not objected on highway safety or capacity grounds and the applicant has stated that the responsibility for the repair of the roads on Manor trading Estate lies with the owner of the Trading Estate.

CPLP T8 Car parking standards states, in summary, that Essex Planning Officers Association (EPOA) Vehicle Parking Standards will apply. The current Parking

Standards Design and Good Practice adopted September 2009 states that for B2 General Industrial there should be 1 space per 50 sqm. The site is approx. 1,300sqm, suggesting a large number of spaces would 26 spaces are required, however, the applicant has stated due to the nature of the business only 3 car parking spaces and 6 spaces for light good vehicles are required. The applicant has stated that there are 3 existing car parking spaces to be retained and within the operating area there are spaces available to accommodate the 6 light good vehicles and there would be no need for parking on Fulton Road.

In conclusion the number of vehicle movements associated with this proposed operation have decreased and the previous larger facility operated without complaint, taking into account that the facility is on the industrial area design for businesses requiring LGV and HGV vehicles, this proposal would be in accordance with CPLP policies EC2, EC3, T2 and T8 and WLP policies W4C and W10E.

C VISUAL IMPACT, ODOURS AND FUMES

CPLP policy EC3 (Residential Amenity) states *that inter-alia development proposals which would have a significant adverse effect upon the residential amenity of the surrounding area by reason of traffic, noise, fumes or other forms of disturbance will be refused.*

WLP policy 10E details the necessary provisions in respect of the application that should be satisfied. *Criteria point 1 indicates, inter-alia that every application must take account, and mitigate against if necessary, the effects of the proposal in relation to amenity for neighbouring occupiers including noise, smell and dust.*

Visual Impact

The properties on Warwick Close have gardens which back onto Unit 2. There is a 30 metre strip from the residential properties on Warwick Close to the start of applicant's boundary within Unit 2 and Robert Drake Primary School is located approximately 500 metres to the south east of the site.

1 letter of representation has been received regarding the visual impact of the manufacture and storage of the tyres and blocks.

The applicant has responded by stating that there is thick landscaping on the western boundary which minimises the views from the residential properties and there is a 30 metre strip between the boundary of the site and the perimeter boundary and the applicant's site has a combination of wall and fencing around the perimeter adding additional screening to the site. It is proposed that the blocks would be stacked to a height of 1.8 metres high. If planning permission were granted an appropriate condition could be attached limiting the height of the stacked blocks to 1.8 metres, such that the bales would not be visible from outside the site.

Places Services (Landscape) has not objected to the proposal but has recommended that the existing landscaping on the western boundary needs

thickening. The applicant has responded that the existing landscaping is not within his control and therefore additional planting could not be secured.

Subject to the proposed condition with respect to bale heights, it is considered that would not be a significant visual impact from the proposals, such that they accord with CPLP policy EC3 and WLP policy W10E.

Odours and Fumes

Castle Point Borough Council and representees have objected to the proposal as the storage of the waste tyres and manufacture of the blocks would produce fumes and odours. The applicant has responded stating that the waste tyres are not known to produce odour or fumes and the baling process does not change the nature of the tyres. In addition contaminated, burnt or dirty tyres are not accepted at the site. The applicant also states that as this is retrospective application no representations have been received regarding odours or fumes, since commencement of operation in June 2012.

The Environment Agency has not objected to this proposal.

It is considered that this proposal would not give rise to odour of fumes and therefore accord with CPLP policy EC3 and WLP policy W10E.

D

NOISE

CPLP policy EC3 (Residential Amenity) states *that inter-alia development proposals which would have a significant adverse effect upon the residential amenity of the surrounding area will be refused.*

WLP policy 10E details the necessary provisions in respect of the application that should be satisfied.

Criteria point 1 indicates, inter-alia, that every application must take account, and mitigate against if necessary, the effects of the proposal in relation to amenity for neighbouring occupiers including noise, smell and dust.

Castle Point Borough Council and representees have objected to the proposal stating the development will increase the noise levels from the trading estate.

The applicant has submitted that the compactor for compressing the tyres is run on electricity and is very quiet. The applicant has also stated that the stacked blocks also act as a partial noise barrier. The applicant has also stated that 1 letter of complaint has been received regarding noise from the site at 07:00. The applicant has stated that operations on site do not begin before 07:30 and this noise was generated may have been from the adjacent builders' yard. It would not be appropriate to impose hours of operation as on an industrial estate hours of operation would not have been imposed on other businesses. No lighting is proposed such that operations could not continue after dark in any event and a condition could be imposed, if planning permission were granted, preventing the installation of lighting without details having been previously submitted and

approved.

Considering the industrial nature of the surroundings units and the general level of noise on the industrial estate, it is considered that any noise generated by this proposal would not significantly increase the noise emitted from the trading estate.

It is considered that this proposal accords with CPLP policy EC3 and WLP policy W10E and the NPPF.

E FIRE RISK

CPLP policy EC3 (Residential Amenity) states that *inter-alia development proposals which would have a significant adverse effect upon the residential amenity of the surrounding area by reason of traffic, noise, fumes or other forms of disturbance will be refused.*

WLP policy W10E details the necessary provisions in respect of the application that should be satisfied. *Criteria point 1 indicates, inter-alia that every application must take account, and mitigate against if necessary, the effects of the proposal in relation to amenity for neighbouring occupiers including noise, smell and dust.*

Castle Point Borough Council and representees have objected to as the proposal give rise to a potential fire risk and the blocks could spontaneously combust which would create fumes.

The applicant has submitted a fire risk assessment. The applicant has submitted that tyre blocks and loose tyres do not spontaneously catch fire and the site is appropriately fenced to prevent unauthorised access. The tyre blocks were thoroughly tested by HR Wallingford for the DTI & Environment Agency where it was found that it takes a very high and constant heat to set the blocks alight. It was seen that the blocks would only smoulder or burn on the outer edges due to the lack of oxygen. The fire risk assessment concluded that in the unlikely event that the tyres were set alight by the time it takes for the edges to start to burn, there would be sufficient time for the fire brigade to attend and control and contain the fire.

Essex County Fire & Rescue Service was consulted and noted there was good road access, however did suggest:

- Provision of additional water supply on site.
- Separate storage of loose tyres and blocks and keep to a manageable size.
- Fire breaks between the blocks.
- Secure fencing

The applicant has confirmed, following a visit by a Fire Officer and the advice from Essex County Fire & Rescue Service, that the following have now been installed:

- a 30 mm automatic hose reel;
- fire bell;
- fire extinguishers with mobile sand box;

- out of hours contact numbers and fire safety training for employees.

The applicant has also stated that 85% of all tyres delivered are baled that day and loose tyres are stored away from the blocks. The applicant also goes onto to state that the Fire Officer confirmed that there is a very low risk of fire to the site other than from malicious arson.

The Environment Agency and Essex County Fire & Rescue Service have not objected to this proposal.

It is considered that the applicant has taken reasonable steps to reduce and mitigate the fire hazards on site and as such the proposal is considered to accord with CPLP policy EC3 and WLP policy W10E.

F FLOODING

W4A waste management development will only be permitted where:

- *There would not be an unacceptable risk of flooding on site or elsewhere as a result of impediment to the flow or storage of surface water;*
- *There would not be an adverse effect on the water environment as a result of surface water runoff;*
- *Existing and proposed flood defences are protected and there is no interference with the ability of responsible bodies to carry out flood defence works and maintenance.*

Representees who live to the south of the trading estate have objected to the proposal as their properties have been flooded because the drains and road surface on the estate are in a very poor condition and an increase in traffic would only make matters worse.

Essex County Council is the Lead Local Flood Authority (LLFA) and is undertaking a series of Surface Water Management Plans (SWMP) throughout the county and these plans classify local catchment as Critical Drainage Areas (CDAs). Manor Trading Estate has been identified as a CDA in the South Essex SWMP. LLFA consider that this proposal would not increase the existing level of flood risk.

The Environment Agency and the Lead Local Flood Authority have not objected to this proposal on drainage or flooding grounds.

It is considered that this proposal would reduce the volume of traffic entering the site and would not increase the existing level of flood risk due to poor road surfaces and drains within the estate and that the proposal accords with WLP policy W4A.

8. CONCLUSION

It is considered that there is a justified need for this proposal as it would re-use and recycle a waste source and push the waste stream up the waste hierarchy in accordance with PPS10 and maintain existing employment in accordance with the environmental and economic dimensions of Sustainable development as supported by the NPPF.

The applicant has also operated on another part of the site, without complaint and it is considered subject to appropriate conditions to ensure the proposals continue at the scale proposed, the development would not give rise to significant environmental effects and as such is considered Sustainable Development in accordance with the NPPF and is accordance with WLP policies W3A, W4A, W4C, W7E, W8A, W8B, W10E, W10F and CPLP policies ED2, ED3, EC3, T2 and T8.

9. RECOMMENDED

That planning permission be **granted** subject to the following conditions:

1. COM3 – Compliance with submitted details
2. Stockpile heights at 1.8m maximum
3. Light 1- Fixed Lighting Restriction
4. Light 2 - Use of Lighting Restriction

BACKGROUND PAPERS

Consultation replies

Representations

Ref: P/DC/Glenn Shaw ESS/76/12/CPT

LOCAL MEMBER NOTIFICATION

CASTLE POINT – Thundersley

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

It is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required in respect of this application.

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.

WORKING WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER

In determining this planning application, the Local Planning Authority had pre-application discussions with the applicant and has worked 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 NPPF, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012.

Consideration of Consistency of Policies with NPPF

The Essex & Southend Waste Local Plan Adopted September 2001

Policy Ref No	Policy Title	Policy Wording	Consistency with the Framework and PPS10
W3A	Sustainable Development, National Waste Hierarchy & Proximity Principle	<p>The WPAs will:</p> <ol style="list-style-type: none"> 1. In determining planning applications and in all consideration of waste management, proposals have regard to the following principles: <ul style="list-style-type: none"> • Consistency with the goals and principles of sustainable development; • Whether the proposal represents the best practicable environmental option for the particular waste stream and at that location; • Whether the proposal would conflict with other options further up the waste hierarchy; • Conformity with the proximity principle. 2. In considering proposals for managing waste and in working with the WDAs, WCAs and industrial and commercial organisations, promote waste reduction, re-use of waste, waste recycling/composting, energy recovery from waste and waste 	<p>Paragraph 6 of the Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development.</p> <p>PPS10 supersedes 'BPEO'.</p> <p>PPS10 advocates the movement of the management of waste up the waste hierarchy in order to break the link between economic growth and the environmental impact of waste.</p> <p>One of the key planning objectives is also to help secure the recovery or disposal of waste without endangering human health and without harming the environment, and enable waste to be disposed of in one of the nearest appropriate installations.</p> <p>See reasoning for Policy W8A.</p> <p>Therefore, Policy W3A is considered to be consistent with the Framework and PPS10.</p>

		<p>disposal in that order of priority.</p> <p>3. Identify specific locations and areas of search for waste management facilities, planning criteria for the location of additional facilities, and existing and potential landfill sites, which together enable adequate provision to be made for Essex, Southend and regional waste management needs as defined in policies W3B and W3C.</p>	
W4A	Flooding & protection of the water environment	<p>Waste management development will only be permitted where:</p> <ul style="list-style-type: none"> • There would not be an unacceptable risk of flooding on site or elsewhere as a result of impediment to the flow or storage of surface water; • There would not be an adverse effect on the water environment as a result of surface water run-off; • Existing and proposed flood defences are protected and there is no interference with the ability of responsible bodies to carry out flood defence works and maintenance. 	<p>Paragraph 99 of the Framework states that 'Local Plans should take account of climate change over the longer term, including factors such as flood risk, coastal change, water supply and changes to biodiversity and landscape. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure'. In addition Annex E of PPS10 highlights at section a. protection of water resources that 'Considerations will include the proximity of vulnerable surface and groundwater. For landfill or land-raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The</p>

			<p>suitability of locations subject to flooding will also need particular care'.</p> <p>Therefore, as policy W4A seeks to only permit development that would not have an adverse impact upon the local environment through flooding and seeks developments to make adequate provision for surface water run-off the policy is in conformity with PPS10 and the Framework.</p>
W4C	Highway/Transport Access	<ol style="list-style-type: none"> 1. Access for waste management sites will normally be by a short length of existing road to the main highway network consisting of regional routes and county/urban distributors identified in the Structure Plan, via a suitable existing junction, improved if required, to the satisfaction of the highway authority. 2. Exceptionally, proposals for new access direct to the main highway network may be accepted where no opportunity exists for using a suitable existing access or junction, and where it can be constructed in accordance with the County Council's highway standards. 3. Where access to the main highway network is not 	<p>Paragraph 21 (i) of PPS10 highlights that when assessing the suitability of development the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use modes other than road transport.</p> <p>Furthermore, Paragraph 34 of the Framework states that 'Decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised'.</p> <p>Policy W4C is in conformity with paragraph 34 in that it seeks to locate development within areas that can accommodate the level of traffic proposed. In addition the policy seeks to assess the existing road networks therefore, being in accordance with the Framework and PPS10.</p>

		<p>feasible, access onto another road before gaining access onto the network may be accepted if, in the opinion of the WPA having regard to the scale of development, the capacity of the road is adequate and there would be no undue impact on road safety or the environment.</p> <p>4. Proposals for rail or water transport of waste will be encouraged, subject to compliance with other policies of this plan.</p>	
W7E	MRF's, waste recycling centres, CAWTS	<p>To facilitate the efficient collection and recovery of materials from the waste stream, in accordance with policy W3A, the WPAs will seek to work with the WDAs/WCAs to facilitate the provision of:</p> <ul style="list-style-type: none"> • Development associated with the source separation of wastes; • Material recovery facilities (MRF's); • Waste recycling centres; • Civic amenity sites; • Bulking-up facilities and waste transfer stations. <p>Proposals for such development will be supported at the following locations:</p>	See explanation notes for Policy W3C, W8A and W8B as these are relevant and demonstrate conformity with the Framework and PPS10.

		<ul style="list-style-type: none"> • The waste management locations identified in Schedule 1 (subject to policy W8A); • Other locations (subject to policies W8B and W8C); • In association with other waste management development; • Small scale facilities may be permitted at current landfill sites, provided the development does not unduly prejudice the agreed restoration timescale for the site and the use ceases prior to the permitted completion date of the site (unless an extension of time to retain such facilities is permitted). <p>Provided the development complies with other relevant policies of this plan.</p>	
W8A	WM facilities – schedule 1	<p>Waste management facilities will be permitted at the locations shown in Schedule 1 provided all of the following criteria, where relevant, are complied with:</p> <ul style="list-style-type: none"> • There is a need for the facility to manage waste arising in Essex and Southend (subject to policy W3C); • The proposal represents the Best 	<p>PPS10 at paragraph 17 identifies that 'Waste planning authorities should identify in development plan documents sites and areas suitable for new or enhanced waste management facilities for the waste management needs of their areas. Waste planning authorities should in particular:</p> <p>– allocate sites to support the pattern of waste management facilities set out in the RSS in accordance with the broad</p>

		<p>Practicable Environmental Option (BPEO) for the particular waste stream, having regard to any alternative options further up the waste hierarchy;</p> <ul style="list-style-type: none"> • The development complies with other relevant policies of this Plan, including the policy/ies in Chapter 7 for the type(s) of facility proposed; • Adequate road access is provided in accordance with policy W4C. Access by rail or water will be supported if practicable; • Buildings and structures are of a high standard of design, with landscaping and screening provided as necessary; and • Integrated schemes for recycling, composting, materials recovery and energy recovery from waste will be supported, where this is shown to provide benefits in the management of waste which would not otherwise be obtained. 	<p>locations identified in the RSS; and,</p> <ul style="list-style-type: none"> – allocate sites and areas suitable for new or enhanced waste management facilities to support the apportionment set out in the RSS. <p>The WPA has identified sites within the Waste Local Plan under policy W8A which seek to support the pattern of waste management and that are suitable for new or enhanced waste management facilities.</p> <p>BPEO has been superseded by PPS10.</p> <p>Therefore, the policy is in conformity with the requirements of the PPS10.</p>
W8B	Non schedule 1 WM facilities	Waste management facilities (except landfill to which policies W9A and W9B apply) will be permitted at locations other	Policy W8B is concerned with identifying locations for sites that have not been identified within the Plan as preferred sites of waste related

		<p>than those identified in this plan, provided all of the criteria of policy W8A are complied with where relevant, at the following types of location:</p> <ul style="list-style-type: none"> • Existing general industrial areas; • Areas allocated for general industrial use in an adopted local plan; • Employment areas (existing or allocated) not falling into the above categories, or existing waste management sites, or areas of degraded, contaminated or derelict land where it is shown that the proposed facility would not be detrimental to the amenity of any nearby residential area. <p>Large-scale waste management development (of the order of 50,000 tonnes per annum capacity or more, combined in the case of an integrated facility) will not be permitted at such non-identified locations unless it is shown that the locations identified in Schedule 1 are less suitable or not available for the particular waste stream(s) which the proposal would serve.</p>	<p>developments. By setting a criteria for non-preferred sites this allows for the protection of the natural environment in conformity with the third strand of the three dimensions of sustainable development. Additionally, in conformity with paragraph 17 of the Framework, the policy contributes to the conservation and enhancement of the natural environment. The Framework goes on to state that 'Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework.</p>
W10E	Development Control	Waste management development, including landfill, will be permitted	Policy W10E is in conformity with the Framework in that the policy is concerned with the

		<p>where satisfactory provision is made in respect of the following criteria, provided the development complies with other policies of this plan:</p> <ol style="list-style-type: none"> 1. The effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants (the factors listed in paragraph 10.12 will be taken into account); 2. The effect of the development on the landscape and the countryside, particularly in the AONB, the community forest and areas with special landscape designations; 3. The impact of road traffic generated by the development on the highway network (see also policy W4C); 4. The availability of different transport modes; 5. The loss of land of agricultural grades 1, 2 or 3a; 6. The effect of the development on historic and archaeological sites; 7. The availability of adequate water supplies and the effect of the 	<p>protection of the environment and plays a pivotal role for the County Council in ensuring the protection and enhancement of the natural, built and historic environment. The policy therefore, is linked to the third dimension of sustainable development in the meaning of the Framework.</p>
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		<p>development on land drainage;</p> <p>8. The effect of the development on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations; and</p> <p>9. 9. In the Metropolitan Green Belt, the effect of the development on the purposes of the Green Belt.</p>	
W10F	Hours of operation	<p>Where appropriate the WPA will impose a condition restricting hours of operation on waste management facilities having regard to local amenity and the nature of the operation.</p>	<p>In addition Paragraph 123 of the Framework states that planning decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new developments, including through the use of conditions. Furthermore, paragraph 203 states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.</p> <p>It is considered that as policy W10F is concerned with the protection of amenity and seeks to impose conditions to minimise this policy W10F is in conformity with the requirements of the Framework.</p> <p>Also see above regarding PPS10 and conditions.</p>

CASTLE POINT LOCAL PLAN POLICIES adopted September 2007

ED3	Protection of Employment Areas	<p>Within the Manor Trading Estate "applications for development falling within Classes B1 B2 or B8 of the Town and Country Planning (Use Classes) Order 1987, or any subsequent amendment of that order will be permitted, subject to compliance with any other relevant policy of the local plan. Sui generis uses will be considered on their individual merits, having regard to the relevant objectives of the local plan and any other relevant policy of the plan. Uses falling outside those classes specified in this policy will be refused".</p>	<p>The NPPF at paragraph 17 stipulates that planning policies should proactively drive and support sustainable economic development to deliver business and industrial units that the country needs. Plans should allocate sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities</p> <p>The NPPF at Paragraph 17 also states that policies should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings</p> <p>The CPLP under policy ED3 allocates sufficient land which is suitable for industrial development.</p>
EC2	Design	<p>"i. The scale, density, siting, design, layout and external materials of any development, which shall be appropriate to its setting and which should not harm the character of its surroundings; ii. The appearance and treatment of spaces around buildings which shall be enhanced by appropriate hard and soft landscaping; iii. The need to ensure that all modes of movement are made safe and convenient."</p>	<p>The NPPF at paragraph 17 stipulates that planning policies should proactively drive and support sustainable economic development to deliver business and industrial units that the country needs. Plans should allocate sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities</p> <p>The NPPF at Paragraph 17 also states that policies should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings</p> <p>The CPLP under policy ED3 allocates sufficient land which is suitable for industrial development and the policy also seeks to strike a balance</p>

			between growth and safeguarding existing amenity
EC3	Residential amenity	Development proposals which would have a significant adverse effect upon the residential amenity of the surrounding area will be refused.	See policy notes for EC2
T2	Intensification of access use	Proposals which would result in the intensification of the use of existing accesses or the creation of new accesses onto any trunk, principal or other classified road will, in appropriate cases, require the submission of a traffic impact study demonstrating the ability of the highway network to accommodate the proposed development. Where such demonstration cannot be shown, or where there is a policy objection from the highway authority, permission will be refused. When considering applications that would affect these roads the council will consult the highway authority and will take the advice received into account when determining applications for planning permission.	See policy notes for EC2 as these are relevant and demonstrate conformity with the NPPF.
T8	Car parking Standards	The council will apply, with specified exceptions ¹ , the revised standards for car parking in Essex, published by the Essex county council.	See policy notes for EC2 as these are relevant and demonstrate conformity with the NPPF.

committee DEVELOPMENT & REGULATION

date 31 May 2013

REVISION OF DEVELOPMENT AND REGULATION COMMITTEE PROTOCOL

Report by Head of Planning, Environment and Economic Growth

Enquiries to: Richard Greaves Tel: 01245 437508

1. PURPOSE OF REPORT

The purpose of this report is to seek the Committee's endorsement of a revised Committee Protocol. The Protocol has been updated in light of new Government guidance, especially in respect of issues surrounding the issues of 'pre-disposition, 'pre-determination' of planning applications.

2. BACKGROUND

The Development and Regulation Committee Protocol was last formally revised in December 2010 (Minute 186).

The revised Protocol, as now attached at the Appendix and dated May 2013, reflects the latest changes planning guidance following the introduction of the Localism Act in 2011 and recent case-law. It also reflects the effect of more recent guidance on members' interests.

The new amendments and additions are highlighted for ease of reference on pages 2-7 of the revised Protocol (ie the last paragraph of section 2 on 'Basic Principles', and the whole of section 4 on 'Declaration of Disclosable Pecuniary Interests and Predetermination/ Bias') .

The Committee's approved public speaking arrangements are set out in a separate document.

RECOMMENDED

That the Committee endorse the revised Development and Regulation Committee Protocol (dated May 2013) as attached at the Appendix to this report.

BACKGROUND PAPERS

'Probity in Planning' - LGA 2009
The D&R Committee Protocol 2010

DEVELOPMENT & REGULATION COMMITTEE PROTOCOL



Essex County Council

Development and Regulation Committee

Revised DRAFT May 2013

Protocol

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This Protocol has been prepared in order to set out clearly the way in which the Development and Regulation Committee will conduct its business in relation to its consideration of planning applications.

1. Summary

- No Member shall be appointed to the Development and Regulation Committee without having agreed to undertake a period of training in planning procedures as specified by the Authority.
- Members and officers shall avoid indicating the likely decision on an application or otherwise committing the Authority during contact with applicants and objectors.
- Members will make oral declarations at a Development and Regulation Committee of significant contact with applicants and objectors, in addition to the usual disclosure of personal and prejudicial interests.
- All applications considered by the Development and Regulation Committee shall be the subject of full, written reports from officers incorporating firm recommendations.
- The reasons given by the Development and Regulation Committee for refusing or granting an application shall be set out in the minutes, especially where these are contrary to officer advice or the development plan.

2. Basic Principles

“Planning decisions are not based on an exact science. Rather, they rely on informed judgement within a firm policy context. Decisions can be highly controversial as they affect the daily lives of everyone. This is heightened by the openness of the system (it actually invites public opinion before taking decisions) and the legal nature of the development plan and decision notices. It is important, therefore, that the process is characterised by open and transparent decision-making.

One of the key purposes of the planning system is to manage development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way....” (*Probity in Planning: The Role of Councillors and Officers’ May 2009 (Revised guidance note on good planning practice for councillors and officer dealing with planning matters).LGA*).

The basis of the planning system is the consideration of private proposals against wider public interests.

The successful operation of the planning system relies on ensuring that officers and Members act in a way that is not only fair but is clearly seen to be so.

Members have a special duty to their constituents, but their over-riding duty is to the whole community of Essex. They should vote in the interests of the whole county in relation to planning matters. However, there is no reason why a local Member should not participate in the decision making process for a particular planning application, provided that he/she has abided by the Protocol.

Planning applications submitted by the County Council for its own development will be treated in the same way as those for private developers, both in terms of procedures and the assessment of material planning considerations.

The Public Sector Equality Duty applies to all planning decisions. A local authority must, when making a decision, have due regard to the need to eliminate unlawful discrimination, harassment, victimisation; advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it. The duty should be explicitly taken into account in determining planning applications and deciding on enforcement action.

3. Member Training

It is fundamental that Members involved in planning should receive appropriate training.

No Member should be appointed to the Development and Regulation Committee without having agreed to undertake training in planning procedures relating to County Matters as specified by the Authority. Such training will also be required for preferred substitutes.

4. Declaration of Disclosable Pecuniary Interests and Predetermination/Bias

When considering a planning matter it is important to have in mind whether a Councillor has an interest in it and the consequences of that interest for how that Councillor then acts in relation to the matter. There were significant changes in this area as a result of the Localism Act 2011.

Disclosable Pecuniary Interests

All Councillors are required to complete a disclosure of interests form. If a Councillor has a disclosable pecuniary interest (DPI) the Councillor should disclose the interest at the meeting and, if it is not already registered, advise the monitoring officer about it within 28 days.

If a Councillor has a DPI and that interest relates to a matter being considered at a meeting of the committee the Councillor should not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting, or take any steps, or any further steps, in relation to the matter.

It is a criminal offence if a Councillor fails without reasonable excuse, to register or declare DPIs, or takes part in council business at meetings.

DPIs are defined as an interest of the Councillor, or their spouse or civil partner or someone they are living with as a spouse or civil partner and is within the following categories:

Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M [i.e. the member] in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

DPIs and membership of other authorities

Where Councillors are also members of other local authorities, that interest is a DPI and should be registered and declared at the meeting. However, it does not necessarily preclude the Councillor from participation in the Development and Regulation Committee, as this will only be the case where membership of another authority 'relates to a matter being considered' at that Committee.

Whether or not this will apply will be a matter of judgment in each case. The most significant factor to take into account is the effect of the decision. If the decision affects a small number of individuals, or is relevant to the county as a whole, membership of another authority is unlikely to stop the Councillor taking part in the discussion and voting at the Development and Regulation Committee.

However, where the decision is specific to the function of the other body represented by the Councillor or is has a specific impact on a geographical area (such as a ward or parish) represented by that Councillor, or the people who live there, then the interest is likely to require specific disclosure and the Councillor should not speak or vote on the proposal. They do not also have to withdraw, but may prefer to do so for the sake of appearance. If a Member decides to stay, they should explain that they do not intend to speak and vote because they have (or could reasonably be perceived as having) judged the matter elsewhere, so that this may be recorded in the minutes.

Councillors should be able to take part in any discussion on a proposal when acting as part of a consultee body (ie where they are also a Councillor of a District/Borough/City Council as well as being a County Council, Town or Parish Council Councillor), provided that the proposal does not substantially affect the well-being or financial standing of the consultee body and it is made clear during the discussion at the consultee body that they:

- express their view on the limited information before them only
- reserve judgment and the independence to make up their own mind on each separate proposal when it comes before the Development and Regulation Committee, based on their overriding duty to the whole community, not just to the people in their ward, and when they hear all of the relevant information
- do not in any way commit as to how they or others may vote when the proposal comes before the Development and Regulation Committee

Interests other than DPIs

As well as these statutory obligations, Councillors should be aware of their duty to comply with the Code of Conduct for all Councillors adopted by Essex County Council under the Localism Act whenever they conduct the business of the authority or act as a representative of the Authority. This Code can be found in the Council's Constitution and includes the following advice on Other Pecuniary Interests and Personal Interests.

Other Pecuniary Interests

(i) Any contract for goods, services or works between you or a Relevant Person (or a body in which the relevant person has a beneficial interest) and the Authority which has been fully discharged within the last 2 years.

(ii) Any tender bid quotation or expression of interest submitted by you or a Relevant Person (or a body in which the relevant person has a beneficial interest) to the Authority within the last 2 years.

Personal Interests

This is where a matter is considered and;

(i) it relates to or is likely to affect any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council; or;

(ii) It relates to or is likely to affect any body exercising functions of a public nature; directed to charitable purposes; or one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); of which you are a member or in a position of general control or management, or;

(iii) a decision in relation to that matter might reasonably be regarded as affecting your wellbeing or the wellbeing or financial position of a friend, relative or close associate to a greater extent than the majority of other council tax payers or inhabitants of the electoral division, affected by the decision.

These interests should also be registered and kept up to date. They should also be disclosed at the meeting of the Development and Regulation Committee where they are relevant to a matter being considered.

Bias

Separate from the requirements of the Localism Act, planning decisions are at risk if they are successfully challenged on the basis that the decision was motivated by actual bias or where there is an appearance of bias. The test is “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the decision maker was biased. Examples of where decisions have been ruled to be biased include:

- A family relationship or close friendship between the decision-maker and the beneficiary of the decision
- A connection between the member of the committee and an external consultant
- Planning committee members who had season tickets for a football club and did not disclose this when deciding an application by the club

Predetermination

There is a great deal of overlap between bias and predetermination but it can be a ground for challenging planning decisions separate from those already mentioned. The effect of unlawful pre-determination by a Councillor is that the decision of the Committee will be open to legal challenge and to allegations of maladministration.

It exists if it appears that a Councillor has already **finally** made up their mind about a planning matter prior to the Committee meeting; in other words they have a closed mind and are no longer willing genuinely to be influenced by the information and opinions given at Committee.

Pre-determination can be inferred from an unequivocal written or oral statement made by a member of a Committee which is to take the decision on a matter. It can also be inferred in other ways e.g. a Councillor has campaigned on the matter e.g. a Councillor has been placed under an obligation as to how they should vote on the matter.

However, a Councillor can legitimately already have expressed an initial view on the matter providing this is not expressed to be a final one. For example, a Councillor may have been lobbied by the public and he/she feels that it is appropriate and necessary to express their present thinking on a planning application (see section on Lobbying of Councillors). The Councillor in this situation will not have appeared to predetermine the application providing it is

clear that the view expressed is not a final one. The Courts recognise that Councillors are representatives of the community and in that role it is sometimes necessary to give a provisional view or to be “predisposed” to a particular view. In such situations a Councillor should think carefully how they express their view so as not to give the impression that they have already finally “made up their mind” on the matter.

Predetermination and the Localism Act

The position in relation to pre-determination has recently been clarified and confirmed by the Localism Act which provides that “A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because;

(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take”.

The explanatory notes to the Act go on to say “*if a Councillor has given a view on an issue, this does not show that the Councillor has a closed mind on that issue, so that if a Councillor has campaigned on an issue or made public statements about their approach to an item of Council business, he or she will be able to participate in discussion of an issue in the Council and to vote on it if it arises in an item of Council business requiring a decision.*”

Where a Councillor is also a District/Borough/City Councillor or Town/Parish Councillor he/she can vote on the application at the consultative stage with the District or Town/Parish Council without having been seen as predetermining the matter, providing the impression is given that this is not his/her final view. In many cases the Councillor is simply expressing a view on the limited information available at the consultation stage and is only predisposed to the view expressed. This also applies to the situation when a Councillor is on a body that is consulted on a planning application.

If a Councillor believes that they have predetermined a matter, or could be seen by the public to have done so, then they should declare that they have a predetermined view so that this can be minuted. They should take no part in the determination process (ie debate or vote on the issue). Failure to do follow these requirements could result in a claim of maladministration or even the initiation of High Court Proceedings against the Council to quash the decision.

If any Councillor is concerned about whether they may have predetermined an issue they should contact the Monitoring Officer for further advice.

5. Lobbying of Councillors

Lobbying is a normal and perfectly proper part of the political process: those who may be affected by a decision of the Committee may seek to influence it through an approach to their elected representative or to a Committee Member. However, such lobbying can, unless care and common sense are exercised by

all the parties concerned, lead to the impartiality and integrity of a Committee Member being called into question.

Committee Members ideally not express their view on any planning application prior to its consideration at Committee. This helps to show the public that there is little doubt that the decision made by the Committee has been determined fairly on the information provided to the Committee. There may however be circumstances when a Committee Member considers that it is appropriate to express an initial view (predisposition) prior to the Committee meeting; in such circumstances it is essential that the Member makes it clear that he/she is only expressing an initial view and that a final decision will be made at the Committee when all information will be available. For further information on predetermination Councillors should consider the section on Predetermination or Bias.

A Councillor who represents the electoral division that is affected by a decision of the Committee may be in a difficult position if it is a controversial matter. Often such a Councillor finds that he/she is subject to intense and passionate lobbying. Where a Committee Member feels that it is appropriate to express an initial view it is more likely that the lobbyists could misunderstand the view expressed and are more likely to consider making a complaint or even commencing legal proceedings. For this reason a Committee Member should make it very clear that his/her view is only provisional and that his/her mind is not closed to new information that is provided at Committee.

If a Committee Member feels obliged to express a final view or join in a campaign for or against the proposal then they should declare that they have predetermined the issue and not debate or vote on the issue. However, he/she may attend and speak at a Committee meeting as a local Member before the case is debated.

All Councillors are reminded that if they do not wish to represent the views of a lobbyist they can always remind the individual that the public may speak to the Committee as described in the section on public speaking or submit their representations in writing.

Committee Members must not organise support or opposition for a proposal or lobby other Councillors (other than when addressing the Committee). Such actions can easily be misunderstood by parties to the application and the general public. More importantly the Committee Member might be accused of having predetermined the matter.

6. Pre-Application/Post Submission Discussions, and Attendance at Public Meetings

Constructive pre-application discussions between potential applicants and planning officers have long been recognised as good practice, helping to ensure all relevant considerations are addressed when an application is submitted. As there is a strong need to allow and encourage Councillors to be champions of their local communities, there has followed a realisation that Councillor

engagement in pre-application discussions on major development is increasingly necessary to allow Councillors to fulfil this role.

A Councillor's engagement in pre-application discussions is not intended to bring forward his/her views on the proposal – whether or not in a position to give a preliminary view on a proposal. However, Committee Members should not express a view which may pre-determine their position at the Committee meeting. If a Committee Member decides to express anything but a preliminary view, or at this stage decides to give support to a view on behalf of their community or division in support of their 'community champion' role, then this pre-determined position will require the Committee Member to stand aside from the determination process of any subsequent planning application. If a Committee Member wishes to make it clear that any views expressed at those of his/her constituents are not necessarily their own, then this is acceptable provided that it cannot be claimed that the Member has pre-determined the matter.

As good practice, it will often be possible for local Councillors, who do not sit on the Committee, to express their initial views on behalf of their communities, whilst Development and Regulation Committee Members restrict themselves to questions or clarification, unless such Members wish to become pre-disposed and subsequently decide to remove themselves from the Committee and decision making process.

To minimise the risks of challenges based on suspicion that Councillors may have prejudiced their positions by being involved in pre-application discussions, transparent processes have merit. Whether or not discussions are held in private, a note of those present, the issues discussed and any actions will be placed on a public file by the case officer. This helps protect the Councillor and the Authority by detailing what issues were discussed and that no pre-determination arose. Often open public meetings, with the developer present, will assist in making the pre-application process transparent. The following protocols for pre-application discussions should apply:

- Councillors may be invited to any pre-application forum or public/developer presentations to the Council on major applications (to ensure transparency of process and minimise private briefings).
- The Chairman or Case Officer explains the role of Councillors present at any pre-application discussion and this will be recorded in a note of the meeting.
- A Committee Member's role in pre-application discussions is to learn about the emerging proposal, identify issues to be dealt with in any further submissions, but not to express a view on the proposal as to pre-determine their view on any formal application.
- Officers will note those present, the issues identified at the pre-application discussion meeting or forum, and take appropriate follow up action

recording the outcome of the meeting to the developer and place on the case file.

- Any Development and Regulation Committee Member who elects to support a view for or against the development being discussed in pursuit of their community champion role will have pre-determined their position to the extent they should not take part in the determination process (debate or vote). Such a Member will be free to present their views, on behalf of his/her constituents to the Committee, but should not debate or vote on the application.

7. Officer Reports to Committee

All applications considered by the Development and Regulation Committee shall be the subject of full, written reports from officers incorporating firm recommendations. The reports will consider national and development plan policies and guidance, representations made by statutory consultees, local residents and other interested parties, as well as any other material considerations. The report will contain all the relevant material known at the time the report is despatched to Members and updating information will be provided to Committee Members only if there have been any significant developments or changes to the report.

Once the Committee papers for a meeting have been published, any subsequent information that is received containing material planning considerations will be presented in an addendum and/or reported orally by officers to the Development and Regulation Committee at its meeting.

Proposals for the County Council's own development, which fall to be determined by the Development and Regulation Committee, will be treated in the same way as any application submitted by a private developer. The requirements of the Town and Country Planning and other Acts, regulations and Government guidance will be followed in the usual way. Decisions will be made strictly on planning merits without regard to any financial or other gain or loss that might accrue to the Council if the development is permitted. The County Council recognises that its own planning applications must not only be treated no differently from any other but should be seen not to be treated differently.

Similarly the Committee will not take into account any implications for the County Council financial or other gain or loss that might arise from any applications for minerals and waste development.

Committee papers will normally be available at least seven working days prior to the meeting. The papers will also be published on the County Council's website www.essexcc.gov.uk.

8. Substitute Members, and Attendance of Non-Members at Meetings

The Council's rules on these issues are set out in the Council Procedure Rules.

The rules governing Substitute Members provide that a Committee Member shall, if he/she wishes another Member of the political group to which he/she belongs to attend a meeting of that Committee in his/her place, give the Committee Administrator written notice not later than 9.30 a.m. on the day on which the meeting is to be held that he/she is unable to attend and that the substitute Member named in the notice will attend in his/her place. A substitution notice may be given on behalf of a Committee Member by the leader of a political group or by the group spokesman of the Committee.

The effect of a substitution notice shall be that the Member named in the notice shall cease to be a Member of the Committee for the duration of that meeting and that the substitute Member shall be a full Member of the Committee for the same period.

A substitution notice may be revoked at any time preceding the deadline for the giving of such notice.

In the case of the Development and Regulation Committee there is a system of preferred substitutes, whereby each political group has nominated several Members who are to be used as substitutes in the first instance.

The scheme of preferred substitutes has been developed in response to the need for Member Training in the issues that the Committee consider.

Any County Councillor shall be able to attend any Committee meeting of which he or she is not a member and, if invited to do so by the Chairman of the meeting, may speak at the Committee meeting, but not take part in a discussion nor any vote. It must be stressed that a Member of the Council who is not a Member of the Committee may not speak unless that Member has obtained the agreement of the Chairman. Any County Councillor who is not a Member of the Development and Regulation Committee and wishes to address the Committee on an application at one of its meetings is limited to speaking for no more than three minutes subject to the discretion of the Chairman.

9. Public Speaking at Committee

Arrangements have been developed to enable applicants or their agent, objectors and other interested parties to address the Committee, and are detailed in a separate document entitled 'Public Speaking at the Development and Regulation Committee'.

Generally only one prospective speaker will be allowed to speak from each of the following categories:-

District/Borough Council (to speak on behalf of the relevant Parish Council unless that Parish Council's view is different, in which case the Parish Council may also speak).

Objector

Applicant

Supporter

Anyone wishing to speak at a meeting shall give two working days notice to the Committee Administrator and, subject to confirmation that they may address the Committee, shall then submit a supporting paper outlining the main points of the presentation also at least two working days prior to the meeting. This is to enable the points they wish to raise to be fully considered at the meeting. Presentations will be limited to 3 minutes each.

The time limits and number of speakers may be extended particularly for major strategic applications at the discretion of the Chairman of the Committee.

Under normal circumstances public speaking will only be permitted when a planning application is considered for the first time by the Committee. Therefore if the application is deferred a further presentation to the Committee will not be permitted unless new and significant factors have arisen. A County Councillor who has declared a prejudicial interest in an application will be afforded the same speaking rights as a member of the public.

10. Determination of Applications

Section 38(6) of the Planning & Compulsory Purchase Act 2004, states that *“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”*.

The County Council recognises that planning decisions are often matters of fine judgement where the balancing of considerations is difficult. The officer's report will normally rely heavily on planning policy and Members of the Committee may wish to exercise their discretion to permit an application as an exception to policy or may not agree with the recommendation. In such cases the procedural requirement is that they should formally move a motion to take the place of the officer's recommendation.

A Member of the Committee may only vote upon a recommendation if he or she has been present for the full debate on the application.

Where the Development and Regulation Committee is minded to determine an application contrary to the Officer's recommendation (whether for approval or refusal), the onus is upon the Committee to identify its reasons for the decision, which should be based on material planning considerations. The final decision on the application will usually be deferred until the next meeting of the Committee (provided it does not prevent a final decision within a reasonable timescale) to ensure that Officers can provide appropriate advice as to the clarity and reasonableness of the reasons put forward for approval (including recommending suitable planning conditions) or refusal of the application.

There will be full and accurate minuting of resolutions with a careful record being kept of the debate when a resolution is proposed which is contrary to an officer recommendation. In such cases the Chairman will summarise, or cause to be

summarised, the salient points of the debate, and ensure the text of the proposition is clearly understood before putting the matter to the vote.

11. Chairman

From time to time it may be appropriate for the Chairman to use his or her discretion in the consideration of an application to enable the Committee to conduct its business in a proper manner for instance to permit or not permit further speakers on an item and in seeking the Committee's agreement to an adjournment of a meeting or deferral of the item until, for example, a site visit has taken place.

12. Committee Site Visits

Formal site visits will only be held where there is a clearly identified benefit to be gained from holding one i.e. where a proposal is contentious or particularly complex, and the impact is difficult to visualise or assess from the submitted information and plans contained in the information before the Committee. Site visits can cause delay and additional costs and should only be used where the expected benefit is substantial.

The Committee must be mindful that site visits should be organised carefully to ensure that the purpose, format and conduct are clearly established at the outset and subsequently adhered to.

All Members of the Committee will be invited to attend the site visit, together with the local Member(s). No other parties will normally be invited to take part in the site visit.

All Members attending site visits should be accompanied by an officer. If access to private land is necessary, officers will secure the prior agreement of the land owner/operator/applicant who will be advised that lobbying Members of the Committee is unacceptable.

The purpose of the site visit is to view the site. Therefore any issues that are not consistent with Members familiarising themselves with the site should be prevented. The site visit shall consist simply of an inspection by the Committee with officer assistance. Members may raise questions but answers will be reported to the formal meeting of the Committee, and be discussed in public.

The role of the local Councillor shall be limited only to pointing out parts of the site he/she thinks are relevant to the Committee Members becoming familiar with the site and its setting. The local Councillor shall not make representations on the application at the site meeting.

The Committee Officer will arrange for transport for the site visit for all Members and officers from County Hall. Any Member wishing to meet the Committee locally must liaise with the Committee Officer to make appropriate arrangements to be picked up at a suitable location. However a Member should not meet the

Committee at the application site unaccompanied by an officer. Members of the Committee should be especially careful when arriving at the site alone, as this may present an opportunity for lobbyists to attempt to influence the Member informally.

The Committee cannot determine the application on a site visit. The visit should at all time be run similar to the strict lines of a Planning Inspector's site inspection – i.e. not allowing arguments and views to be expressed on site.

13. Officers

Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to officers through a decision of the Council or its Executive or a Committee. A successful relationship between Councillors and officers can only be based upon mutual trust and understanding of each others' positions. This relationship and the trust which underpins it must never be abused or compromised.

Officers involved in the processing and determination of planning matters must act impartially and in accordance with the Council's appropriate Codes of Conduct and any professional code of conduct (primarily the Royal Town Planning Institute's Code of Professional Conduct). As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

Councillors should not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority. Officers are part of a management structure and Councillors should only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.

Councillors should not put pressure on officers to put forward a particular recommendation on a planning application. However this does not prevent the Councillor from asking questions or submitting views to the Planning Officer, which may be incorporated into any committee report.

14. Reviewing Decisions

As a commitment to ongoing best practice Members of the Committee will from time-to-time be asked to revisit a sample of implemented planning permissions to assess the quality of the decisions. These reviews will play a valuable part in Member training as well as help the Committee improve the quality and consistency of decision making, strengthen the public confidence in the planning system and help with reviews of planning policy.

15. Possible Consequences of a Breach of the Protocol

As this Protocol has been approved by the Development and Regulation Committee it is binding on all Councillors. Moreover, it is a statement by the Council about the proper way Councillors should conduct themselves as Members of the Committee. Therefore any contravention of it could be seen as a basis for a complaint to the Local Government Ombudsman on the grounds that maladministration has occurred that has caused injustice; the maladministration being a failure to make a determination in accordance with the Committee's own Protocol.

This document has been produced jointly by the Minerals and Waste Planning Team, and Governance Team, Legal Services, Essex County Council.

committee DEVELOPMENT & REGULATION

date 31 May 2013

MINERALS, WASTE and COUNTY COUNCIL DEVELOPMENT**Local Enforcement and Site Monitoring Plan**

Report by Head of Environment, Planning and Economic Growth

Enquiries to: Richard Greaves Tel: 01245 437508

1. PURPOSE OF REPORT

The report seeks the Committee's endorsement of a Local Enforcement and Site Monitoring Plan ('the Plan'), as advised to be prepared by the National Planning Policy Framework. The Plan incorporates and updates previous versions of the Council's enforcement protocols and concordat as adds the chargeable and non-chargeable site monitoring procedures (previously endorsed by the Committee in October 2012).

2. LOCAL ENFORCEMENT AND SITE MONITORING PLAN

Paragraph 207 of the National Planning Policy Framework (NPPF) states:

"Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local Planning Authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."

In accordance with the NPPF the Essex Local Enforcement and Site Monitoring Plan ('the Plan') sets out what enforcement and site monitoring service businesses and individuals can expect from Essex County Council as Mineral, Waste and County Planning Authority.

A copy of the Plan is set out at Appendix 1 of this report, however in summary the Plan set out the planning authority's processes dealing with:

- The county council's monitoring and enforcement function;

- Taking formal enforcement action ;
- Resources allocated to enforcement and monitoring;
- Dealing with complaints;
- The appropriate course of action;
- The human rights act 1998;
- Chargeable minerals and landfill monitoring visits, and;
- Non-chargeable waste management site monitoring visits.

3. RECOMMENDATION

That the Committee endorse the Local Enforcement and Site Monitoring Plan.

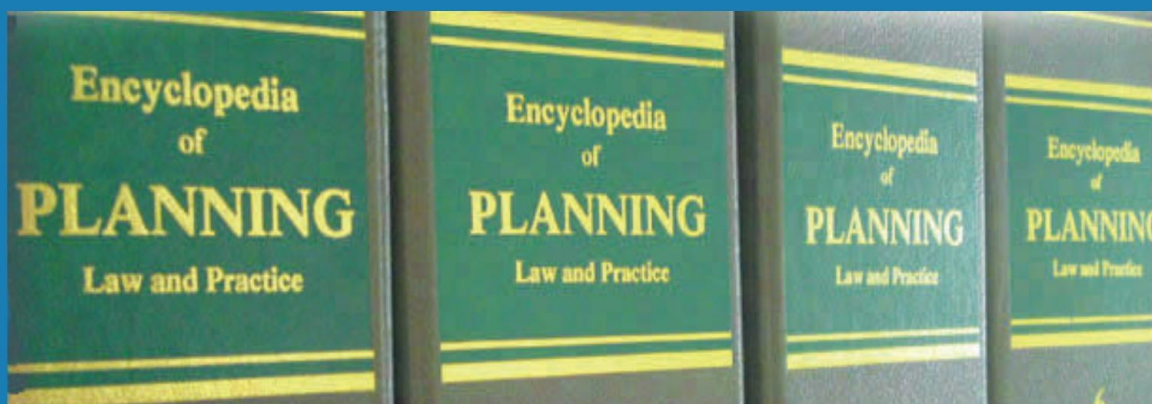
BACKGROUND PAPERS

- The Enforcement Code of Practice adopted in 1997
- Planning Service Group Development Control Remedial Action Protocol for Dealing with Breaches in Planning Control relating to Development Undertaken by the County Council under Regulation 3 of the Town and Country Planning General Regulations 1992
- POS M&W Implementation Planning Advisory Group - Guidance on Best Practice for Chargeable Site Monitoring, April 2012
- Environment Agency - Environmental Permitting Regulations Operational Risk Appraisal Scheme (Opra for EPR) Version 3.7, April 2012

LOCAL MEMBER NOTIFICATION

Countywide

Local Enforcement and Site Monitoring Plan



Essex County Council

May 2013



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1. INTRODUCTION

Paragraph 207 of the National Planning Policy Framework (NPPF) states:

“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local Planning Authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.”

In accordance with the NPPF the Essex Local Enforcement and Site Monitoring Plan ('the Plan') sets out what enforcement and site monitoring service businesses and individuals can expect from Essex County Council as Mineral, Waste and County Planning Authority.

2. THE COUNTY COUNCIL'S MONITORING AND ENFORCEMENT FUNCTION

For all operational minerals and waste sites with planning permissions granted by the County Council, officers undertake routine monitoring to ensure compliance with conditions imposed as part of such permissions. Where there are breaches of planning control from unauthorised mineral or waste development or from non-compliance with planning conditions, the County Council has the discretionary power to take enforcement action as appropriate.

For dealing with breaches of planning control identified for County Council development (Regulation 3 development) the County Council, as County Planning Authority, has developed an internal protocol that is included as part of this Plan (see Appendix 1).

3. TAKING FORMAL ENFORCEMENT ACTION

The Enforcement Powers available to the authority are set out at Appendix 2:

The County Council has the overall responsibility for taking enforcement action relating to 'County matters'¹. This is a discretionary power as the Town and Country Planning Act 1990 does not impose a general duty to ensure compliance with

¹ 'County Matters' are defined in Schedule 1 of the Town and Country Planning Act 1990: <http://www.legislation.gov.uk/ukpga/1990/8/schedule/1> and the Town and Country Planning (Prescription of County Matters) (England) Regulations 2003: <http://www.legislation.gov.uk/uksi/2003/1033/contents/made>

planning control. Because of the discretionary nature of enforcement, there is a need for procedures to be adopted and followed to ensure that the authority's approach is consistent and accountable when deciding what action should be taken.

A flow chart is attached at Appendix 3 to this Plan outlining the general progression of enforcement investigation.

Initial Investigation

The investigating officer will, under normal circumstances, visit the site in question to determine whether a breach of planning control has taken place. Checks will normally be made whether planning permission exists, whether the development has permitted development rights² or benefits from a lawful use. When necessary, City/District/Borough Councils will be consulted to determine whether any locally granted permission exists.

Follow-up Action

Upon concluding there has been a breach of planning control, the investigating officer needs to consider the harm being caused and make a judgment as to whether or not planning permission is required and if so whether it is likely to be granted for the development in question.

If it is not immediately expedient to take enforcement action, as the harm being caused is limited, negotiation will normally be the first step to addressing the situation. Where a landowner or operator is willing to comply with the recommendations of the investigating officer and the investigating officer is confident that such recommendations are likely to be implemented swiftly, the need for formal enforcement action may be avoided.

If remedial action to address the breach of planning control needs to be taken, the investigating officer will write to all parties involved setting out what is required to correct the situation and advising of the consequences that would result from failure to carry this out.

A timescale will always be set for the completion of the works. Confirmation will then be sought from the parties in question indicating that they are willing to carry out these works in the time period. If the works do not progress, or a commitment is not received to carry out the necessary remedial works, the investigating officer will then consider taking formal enforcement action.

In certain circumstances, it may be appropriate to seek a retrospective planning application where the investigating officer is of the view that planning permission may be granted and such a permission would enable the County Council to control the development through the imposition of conditions. In these situations, those responsible for the unauthorised development will be invited to make a planning application. If such an application is not forthcoming within a reasonable timescale, the County Council may then decide to take formal enforcement action to remedy the breach.

² In accordance with the Town and Country Planning General Permitted Development Order 1995 (as amended)

Enforcement Action

The investigating officer will make a judgement as to whether it is expedient to take formal enforcement action in particular whether the development unacceptably affects public amenity or the existing use of land and it is in the public interest to do so. A recommendation will be made that enforcement action is taken, primarily based on the conflict with planning policy and the harm being caused. Formal enforcement action, in certain circumstances, may well be the only effective way in which to remedy the breach of planning control.

There are a range of notices available to the County Council³ when considering taking formal enforcement action and the decision as to what route to take will be made in liaison with the council's Legal Service. Enforcement action will always be commensurate with the breach of planning control to which it relates (for example, it would be usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to amenity in the locality of the site).

Contravening Enforcement Action

Where a breach of planning control continues after an enforcement notice has taken effect, the County Council may take appropriate action against the person committing or responsible for the breach of planning control. This may involve prosecution proceedings in the Magistrates Court or Crown Court as well as taking out an injunction against the perpetrator if necessary.

4. RESOURCES ALLOCATED TO ENFORCEMENT AND MONITORING

Enforcement and monitoring of sites is labour intensive and in practice often involves a large proportion of officers' time, especially in complex cases where there might be a significant impact on amenity or highway safety or when frequent monitoring is required.

Most planning officers contribute to the overall enforcement and monitoring function, in addition to their normal casework. However, the team employs one specific Enforcement Officer who is responsible for recording and dealing with all complaints/referrals received, in accordance with this Plan and is normally the first point of contact for enforcement cases.

5. DEALING WITH COMPLAINTS

- a) Acknowledgement of complaints: a complaint will be acknowledged within 2 working days of the Council receiving a complaint;

³ See Appendix 2

- b) Checking the facts: this may include a site inspection and checking records;
- c) If no breach is found: The complainant(s) and, if necessary, the company involved will be informed within 14 working days of the date of the acknowledgement;
- d) If a breach is found but is not a 'County Matter': the relevant District/Borough Council/Environment Agency will be informed of the complaint within 14 working days of the date of the acknowledgement, whilst informing the complainant(s) and, if necessary, the company involved within the same period;
- e) A breach is found that is a County Matter: the necessary course of action will be considered in accordance with this Plan and all parties will be informed within 14 working days of the acknowledgement.

Note: As stated, formal enforcement action may not always be expedient or appropriate. Where the County Council is the responsible planning authority, any decision not to take enforcement action following a breach of planning control will normally be made by the Development and Regulation Committee. Where complaints appear to be repeatedly unfounded and/or vexatious the complainant will be directed to the County Council's formal complaints procedure for a resolution.

The standards of service are set out at Appendix 4.

6. THE APPROPRIATE COURSE OF ACTION

WHERE DEVELOPMENT IS CARRIED OUT WITHOUT PERMISSION

It is not an offence to carry out development without first obtaining any planning permission required for it. Where the assessment indicates it is likely that unconditional planning permission would be granted for development which has already taken place, a retrospective planning application should be submitted (together with the appropriate application fee). It may also be appropriate to consider whether any other body (eg the highway, local planning, environmental health authority or Environment Agency) is better able to take remedial action.

While it is clearly unsatisfactory for anyone to carry out development without first obtaining the required planning permission, an enforcement notice will not normally be issued solely to "regularise" development which is acceptable on its planning merits, but for which permission has not been sought. In such circumstances, a planning contravention notice will be considered to establish what has taken place on the land and persuade the owner or occupier to seek permission for it, if permission is required. The owner or occupier of the land may be told that, without a specific planning permission, they may be at a disadvantage if they subsequently wish to dispose of their interest in the land and has no evidence of any permission having been granted for development comprising an important part of the valuation.

WHERE UNAUTHORISED DEVELOPMENT CAN BE MADE ACCEPTABLE BY THE IMPOSITION OF CONDITIONS

Where the development has been carried out without the requisite planning permission, but the development could be made acceptable by the imposition of planning conditions (for example, to control the hours, or mode, of operation; or to carry out a landscaping scheme), the authority may invite the owner or occupier of the land to submit an application, and pay the appropriate application fee, voluntarily.

It may be pointed out to the person concerned that the authority does not wish the business, or other activity, to cease; but has a public duty to safeguard amenity by ensuring that development is carried out, or continued, within acceptable limits, having regard to local circumstances and the relevant planning policies.

If, after a formal invitation to do so, the owner or occupier of the land refuses to submit a planning application, the council will consider whether to issue an enforcement notice to remedy any 'injury to amenity' which has been caused by the breach.

WHERE THE UNAUTHORISED DEVELOPMENT IS UNACCEPTABLE ON THE SITE BUT RELOCATION IS FEASIBLE

It is not the authority's responsibility to seek out and suggest to the owner or occupier of land on which unauthorised development has taken place an alternative site, to which the activity might be satisfactorily relocated.

If an alternative site has been suggested, officers will make it clear to the owner or occupier of the site where unauthorised development has taken place that they are expected to relocate to the alternative site. A reasonable time-limit, within which relocation should be completed, will be expected. What is reasonable will depend on the particular circumstances, including the nature and extent of the unauthorised development; the time needed to negotiate for, and secure an interest in, the alternative site; and the need to avoid unacceptable disruption during the relocation process. If a timetable for relocation is ignored, it will usually be expedient for the authority to issue an enforcement notice.

WHERE THE UNAUTHORISED DEVELOPMENT IS UNACCEPTABLE AND RELOCATION IS NOT FEASIBLE

Where unacceptable unauthorised development has been carried out, and there is no realistic prospect of its being relocated to a more suitable site, the owner or occupier of the land will be informed that the authority are not prepared to allow the operation or activity to continue at its present level of activity, or (if this is the case) at all. If the development nevertheless provides valued local employment, the owner or occupier will be advised how long the authority is prepared to allow before the

operation or activity must stop, or be reduced to an acceptable level of intensity. If agreement can be reached between the operator and the County Council about the period to be allowed for the operation or activity to cease, or be reduced to an acceptable level, and the person concerned honours the agreement, formal enforcement action may be avoided.

If no agreement can be reached, the issue of an enforcement notice will usually be justified, allowing a realistic compliance period for the unauthorised operation or activity to cease, or its scale to be acceptably reduced. Any difficulty with relocation will not normally be a sufficient reason for delaying formal enforcement action to remedy unacceptable unauthorised development.

WHERE THE UNAUTHORISED DEVELOPMENT IS UNACCEPTABLE AND IMMEDIATE REMEDIAL ACTION IS REQUIRED

Where, in the council's view, unauthorised development has been carried out and it is considered that:

1. the breach of control took place in full knowledge that planning permission was needed (whether or not advice to this effect was given by officers to the person responsible);
2. the person responsible for the breach will not submit a planning application for it (despite being advised to do so); and;
3. the breach is causing serious harm to public amenity;

the County Council will normally take vigorous enforcement action (including, if appropriate, the service of a stop notice) to remedy the breach urgently, or prevent further serious harm to public amenity.

Prioritising Cases

In order to make the best use of time and resources there is a need to prioritise cases according to the urgency of response that is required and without losing sight of the 'lesser' breaches. This enables staff to concentrate on the more harmful cases. Notwithstanding the appropriate course of action described above, as each case is logged in, it will be considered as a priority under the following headings:

1. Safety Hazards: whether the development is causing or could cause a hazard.
2. Existing Enforcement Action: whether existing enforcement action is being taken or whether the matter has been drawn to the attention of the operator on previous occasions.
3. Severity of Breach/Proportionality: whether, for instance, the degree of harm caused to residents, the highway network, the landscape or the countryside is significant or not.
4. Past History of Operator: whether the operator has previously shown disregard for planning legislation and is therefore likely not to respond to reasonable requests to curtail activities.
5. Time Periods: whether the periods of time for taking enforcement action are running out.
6. Political Dimension: whether there is significant public interest in action being taken.

A list of enforcement priority categories is attached at Appendix 5.

Informing the Local County Council Member

Where enforcement action is considered, the County Council Member will be kept informed.

Informing the Development and Regulation Committee

Where the Committee itself has not authorised enforcement action to be taken (i.e. the action is authorised under officer delegated powers), the matter will be reported to Members at the next available Committee meeting.

Any recommendation not to take enforcement action will normally be referred to the Committee for a decision.

7. THE HUMAN RIGHTS ACT 1998

The enactment of the Human Rights Act reinforces the need for openness and consistency as the decision to take, or not to take action may adversely affect someone's rights under the Act.

The County Council will seek to uphold an individual's rights as set out in the European Convention on Human Rights. Where interference is permitted with an individual's rights by that Convention the Council will seek to ensure that any action it does take which affects a person's rights is:

1. Proportionate to the breach of planning control it seeks to address and;
2. In accordance with the exceptions set out in the article which permit interference with that right.

Where there is a clear breach of planning control the Council's delay in taking enforcement action, or its decision not to take action, may adversely affect the rights of third parties who have been affected by the breach of planning control. When reaching its decision on whether or not to take action and, if so, on what action to take, the Council will consider the effect on the rights of these third parties as well as on the rights of the person committing the breach of planning control.

Appendix 6 lists the above-mentioned rights conveyed under The Human Rights Act 1998, and gives an interpretation of how they may affect enforcement issues.

8. CHARGEABLE MINERAL AND LANDFILL SITE MONITORING VISITS

Mineral and landfill sites involve continuous activity sometimes over many years. Planning permissions are subject to technical planning conditions to help mitigate the environmental impact of mineral and waste working.

In 2006 regulations came into force in England to allow the Council to charge a fee to mineral and waste operators to visit a site and carry out a site visit to monitor compliance with the planning permissions.

The purpose of a monitoring site visit is to check compliance with operating conditions attached to mineral and landfill planning permissions, any related planning obligations relevant for a site and the need to ensure that no unauthorised development is taking place.

Officers and operators to work together constructively to review compliance with permissions in the light of the stage of development reached and possible changing operational circumstances and needs. In this way problems can be avoided and formal enforcement action is less likely to be necessary.

Objective of site monitoring: To charge a fee for a formal monitoring visit to mining

and landfill sites to check compliance with the planning permissions and any related planning obligations or legal agreements.

Explanation of site monitoring: The Government considers that charging a fee for site monitoring is a positive process that will have several positive outcomes. The main benefits are improving communications and relations between operators and the planning authorities and local communities close to mining or landfill operations. The monitoring will encourage good practice in site operation and management and therefore reduce the need for enforcement or other action. This is very much a proactive exercise rather than a reactive way of working. By working in this way the number of potential complaints received from local residents to the planning authorities should be reduced.

The Essex Approach:

If an active site has a very poor history of compliance and has received several justified complaints and the operator shows no sign of improving and working according to the planning permissions then it is very likely that the maximum number of 8 visits per year would be required for this site. Further visits may also be warranted but these cannot be charged for.

If the operator starts to comply with conditions and fewer complaints are received about the site the following year the number of visits could be reduced to 4 and then if the trend continues the following year 2 visits may be all that is required.

Inactive sites receive the maximum allowance of one chargeable monitoring visit per year.

If after taking all of this into account an operator considers that it has been subjected to an excessive number of visits then they are entitled to approach the planning authority to request that the number of annual visits is reduced.

- All waste disposal sites (namely landfill sites) and mineral sites under the remit of the County Council will be visited by an officer with suitable experience;
- The frequency of these visits will vary depending on whether the site is dormant, inactive or active;
- All sites will be visited in the financial year.

Fees and Invoicing: As described, the Regulations have set the fees for monitoring visits. A fee shall be paid to the authority in respect of a site visit to an active site⁴ and in respect of a visit to an inactive site⁵. The operator of the site is responsible

⁴ £331.00 per visit to an active site at April 2013

⁵ £110.00 per visit to an inactive site at April 2013

for the payment of the fee. If there are multiple operators within a site the operator in overall control is expected to pay the fee. If multiple operators cannot be identified or where an operator is not currently present at a site then the site owner(s) are required to pay the fee.

The authority agrees the invoicing arrangements with the individual operators. The fee is only to be charged after the monitoring site visit has taken place and the monitoring report sent to the operator. A period of payment in accordance with the County Council's invoicing procedures is agreed and any failure to pay is referred through the Council's debt recovery procedure.

Prior to site monitoring visits:

1. A letter is sent to the operator to explain the site monitoring fee process and procedure;
2. The planning authority compile a file which contains a complete planning history of the site and a list all the current and previous planning permissions, any related planning obligations or legal agreements and the site monitoring reports.
3. A date and time for site visit is scheduled with the operator. This usually is between 7 to 10 working days prior to the visit. This does not apply for unannounced or enforcement visits.

At the Chargeable Site Monitoring Visit:

1. A systematic review of all the conditions attached to current planning permissions and any related planning obligations or legal agreements that are associated with the operation is carried out;
2. Recognition of any good practice is noted;
3. Boundary Limits are checked;
4. Discussion is held with the operator to reach agreement on any course of action and timescales to redress any non-compliance with conditions attached to the current planning permission;
5. Notes of the visit are made on the Chargeable Site Monitoring Visit form;
6. Photographs are taken of the site.

After the site monitoring visit:

1. A report is written of the site monitoring visit, sent to the operator and published on-line within 21 days of the visit;
2. An invoice for the monitoring fee is raised and is sent out on quarterly;
3. On receipt of the site operator's reply, if appropriate, the planning authority makes any amendments to the monitoring report.
4. The operator is then be expected to carry out any actions agreed at the site meeting and identified in the report in order to comply with the relevant planning permissions/conditions/obligations/legal agreements and to do so within the agreed timescales to avoid potential enforcement action against a breach of planning control.

9. NON-CHARGEABLE WASTE MANAGEMENT SITE MONITORING VISITS

In 2011 The Waste (England and Wales) Regulations 2011 came into force. Regulation 19 specifically requires that the (waste) planning authority must ensure that appropriate periodic inspections of those establishments or undertakings (carrying out the disposal or recovery of waste) are made.

Currently the County Council has limited resources available to monitor all the waste sites on a frequent basis; however the Waste Regulations only require 'periodic inspection'. Given this, it is considered that the most appropriate method of

monitoring waste sites in Essex is through a 'risk-based' approach that would set the frequency of visits based on The Environment Agency's categorisation of sites based on potential environmental risk (OPRA – operational risk appraisal) and previous record of complaints/planning enforcement.

If the site is a high risk, for example (code 'D') and has been subject to planning enforcement action and/or had planning complaints, then the frequency of visits is recommended to be at least every 6 months. If a site is low risk and the WPA has not received complaints or taken previous action then a monitoring visit every 2 years takes place.

The following table provides examples of how the visit schedule works in practice.

Activity	OPRA code	Complaints?	Visit Frequency
A09 - Hazardous waste transfer station	D	Yes	6 months
		No	12 months
A10 - In-house storage facility	B	Yes	12 months
		No	24 months
A11 - Household, commercial and industrial waste transfer station	C	Yes	6 months
		No	12 months
A12 - Clinical waste transfer station	D	Yes	6 months
		No	12 months
A13 - Household waste amenity site not taking hazardous waste	B	Yes	12 months
		No	24 months
A13a - Household waste amenity site taking hazardous waste	C	Yes	12 months
		No	24 months
A14 - Transfer station taking non-biodegradable wastes	B	yes	12 Months
		no	24 months
A15 - Material recycling facility	A	Yes	12 months
		No	24 Months
A16 - Physical treatment of non-hazardous waste facility	A	Yes	12 months
		No	24 months
A16a – Physical treatment of hazardous waste	D	Yes	6 months
		No	12 months
A17 - Physico-chemical treatment	E	Yes	6 months

facility			
		No	12 months
A18 - Incinerator (other than pet crematorium)	D	Yes	12 months
		No	24 months
A19 - Metal recycling site (vehicle dismantler)	C	Yes	6 months
		No	12 months
A19a - End of life vehicles <2500 tonne per year	B	Yes	6 months
		No	12 Months
A20 - Metal recycling site (MRS) (mixed)	C	Yes	6 months
		No	12 Months
A21 - Chemical treatment facility	E	Yes	6 months
		No	12 months
A22 - Composting facility	C	Yes	6 months
		No	12 months
A23 - Biological treatment facility	C	Yes	6 months
		No	12 months
A24 - Mobile plant	B	Yes	12 months
		No	24 months
A25 - Deposit of waste to land as a recovery operation	B	Yes	12 months
		No	24 months
A27 - Incinerator (pet crematorium)	A	Yes	12 months
		No	24 months
A29 - Gas engine for burning of landfill or other bio-gas	B	Yes	12 months
		No	24 months

Protocol for Dealing with Breaches in Planning Control relating to Development Undertaken by the County Council under Regulation 3 of the Town and Country Planning General Regulations 1992

Introduction

This document sets out how the County Planning Authority (CPA) would regulate any breaches of planning control relating to development undertaken by County service providers under Regulation 3 of the Town and Country Planning General Regulations 1992.

Where development is approved the CPA is obliged to ensure that all planning conditions attached to planning permissions are complied with in full. In addition, the CPA is obliged to investigate any allegation that a County Council development is taking or has taken place without the pre-requisite deemed planning permission.

The Town and Country Planning Act 1990 imposes a general but not mandatory duty to ensure compliance with planning control.

Accordingly, because there is an element of discretion as to whether or not it might be expedient to take appropriate action, there is a need for procedures to be adopted and followed to ensure that the CPA's approach is consistent and effective when deciding what action should be taken.

This protocol for Regulation 3 planning matters establishes formal procedures to enable the CPA, both the Development and Regulation Committee (the Committee) and officers acting under delegated powers to be consistent and effective in their approach. Additionally, promoting service providers would understand that should there be any breaches of planning control the CPA would take action under the terms of the protocol to remedy them.

The protocol would make the processes involved transparent, and would, if followed in full, avoid the need for ombudsman or City/District/Borough Council intervention.

Breaches of Planning Control

Breaches of planning control are likely to be brought to the attention of the CPA either by routine site monitoring inspections or following a complaint from a member of the public or other third party.

All complaints received from the general public would be logged on the complaints

database and acknowledged within 2 working days. The complainant should, if the complaint is accepted, be able to expect a response within 14 working days setting out how the County Council intends to deal with the problem. The matter would then be dealt with, in the first instance, in the same manner as for non-County Council development, ie in accordance with the Local Enforcement Plan.

Site Monitoring and Gathering of Information

The CPA has the responsibility for determining all Regulation 3 development the County Council wishes to carry out. Officers acting for the CPA may need to investigate alleged breaches of control once informed about them. In addition, in respect of planning permissions, officers may undertake routine monitoring to ensure planning conditions are met. County Council officers and contractors working with or for the County Council shall enable site inspections to take place and assist in providing any necessary information.

Regulation of Breaches

The Planning Manager has delegated powers to initiate enforcement action, although matters will be referred upwards to the Committee if a Member decision is considered preferential. For clarity, where a local resident or firm brings a confirmed breach of planning control to the attention of the CPA and in the officer's opinion it would not be expedient to seek remedial action, then this would always be referred to the Committee for a final decision.

Remedial Action Procedure

Initial Action: The investigating officer will, under normal circumstances, visit the site in question to determine whether or not a breach of planning control has taken place. Reference will need to be made to extant planning permissions (where they exist) and to the General Permitted Development Order 1995 to ascertain if permitted development rights exist. When necessary, District/Borough Councils will be consulted to determine if they have granted planning permission.

If no breach of planning control were found the complainant would be informed accordingly. Additionally, the local member would be informed of the complaint and the outcome of the investigation.

Follow-up Action: Upon concluding there has been a breach of planning control, negotiation would be the first step in addressing the situation. The investigating officer will discuss the situation with the relevant officer(s) acting for the promoting service provider and try to reach an agreed settlement including a timescale to carry out any remedial works, make any rectifying application, etc. Where the promoting department is willing to comply with an agreed way forward and agreed time periods, this will usually result in no further action being required.

Where remedial action is agreed to address the breach of planning control, the investigating officer will write to all parties involved setting out what has been agreed to correct the situation, including timescales.

The service provider should respond in writing stating that they are willing to carry out these works and in the time period.

If the works do not progress, or a commitment is not received to carry out the necessary remedial works, the investigating officer will then consider taking a more formal approach to resolving the situation.

At all times, any complainant and local Member would be kept informed.

Committee Involvement: Should the necessary action not be agreed, or the agreed action not be undertaken in full, then the matter would be brought to the attention of the Development and Regulation Committee for resolution.

If the Committee consider that remedial action is not necessary then no further enforcement action is required. The complainant and the local Member would be informed accordingly.

If the Committee determine that the breach of planning control does justify remedial action, then it would also determine any necessary action to overcome the breach, and refer the matter to the relevant Cabinet Member for action. The complainant and the local Member would be informed accordingly.

Cabinet Member Involvement

Service providers may wish to involve the relevant Cabinet Members throughout the whole process. However, Cabinet Members will be brought formally into the process at the stage of the Committee to determine what action needs to be taken.

Should the Cabinet Member determine that it would be appropriate to take the action recommended by the Committee, then this should proceed.

Should the Cabinet Member determine that different or no action is required, then the Committee, any complainant and the local Member will be informed.

Final Resolution

If the Committee accept this determination, then accordingly the matter will be resolved, subject to the completion of any agreed action. If the Committee consider this would not resolve the issue satisfactorily, then the matter would be referred to Full Council for a decision which shall be final.

Powers Available to the County Council in Undertaking its Enforcement Function

The three types of breach that may be likely to occur during development are:

1. Breach of conditions attached to an extant planning permission;
2. The carrying out of development where there is no planning permission and such a planning permission is unlikely to be granted;
3. The carrying out of development where there is no planning permission but permission is likely to be granted retrospectively.

Potential breaches of planning control, as outlined above, are likely to be brought to the attention of the County Council through either routine site monitoring inspections, or as a complaint from a member of the public or other third parties.

There are a number of powers available to the County Council when it considers investigating unauthorised development and taking enforcement action. These are described in order to explain the extent of the County Council's powers and to identify which course of action is likely to be most appropriate.

Right to Enter Land

All officers, or other persons duly authorised in writing by the County Council, may at any reasonable hour enter any land to ascertain whether there has been a breach of planning control in accordance with the Town and Country Planning Act 1990.

Any person that wilfully obstructs an authorised person in carrying out these duties is committing an offence, punishable on summary conviction to a fine not exceeding level 3 on the standard scale.

Requisition for Information

Where the County Council considers it has sufficient information regarding activities on land use but requires further details on the ownership of the land, a Requisition for Information may be issued.

The issuing of a Requisition for Information is optional and does not have any bearing on other action taken by the local planning authority.

Planning Contravention Notice

A Planning Contravention Notice (PCN) may be issued in order to ask specific questions in relation to an alleged breach in planning control. This enables a decision to be made regarding whether or not formal enforcement action is necessary or should be taken. There is a legal requirement to respond to a PCN within 21 days of the date of the notice, unless a longer period of time is specified in the notice.

The issuing of a PCN is optional and does not have any bearing on other action taken by the local planning authority. It is especially useful when trying to identify all parties who have an interest in land or have been involved in a suspected breach of planning control. The PCN also provides for a formal meeting between the planning authority and the recipient of the notice, whenever appropriate. This may help to clarify any misunderstandings and assist in resolving the situation.

Non-compliance with completing the requirements of a PCN is an offence punishable on summary conviction to a fine not exceeding level 3 on the standard scale. Knowingly providing false or misleading information in response to a PCN, is an offence punishable on summary conviction to a fine not exceeding level 5 on the standard scale.

Enforcement Notice

The authority can issue an enforcement notice where there has been an identified breach of planning control and where it is considered expedient to do so. The enforcement notice will define the breach and set out prescriptive steps for compliance, with specific timescales, for remedying the breach.

A notice can be served in respect of operational development, a material change of use of land, or where there has been a breach of a condition attached to an extant planning permission. Such a notice must be served on the owners, occupiers and all other parties with an interest in the land that is affected by the notice.

An enforcement notice must come into effect not less than 28 days after its date of issue. There is a right to appeal to the Secretary of State, and such an appeal must be made before the notice comes into effect. Where an appeal is submitted, the requirements of the notice are held in abeyance until the appeal has been decided.

Failure to comply with the requirements of an enforcement notice is a criminal offence which is liable on summary conviction to a fine per offence, or on conviction on indictment to an unlimited fine.

Stop Notice

A stop notice must be issued either with or before the enforcement notice comes into effect. A stop notice cannot be issued on its own. The service of a stop notice is essential where the local planning authority considers it expedient to stop an

activity before the associated enforcement notice comes into effect. A stop notice would not normally come into effect until 3 days after service unless special considerations are attached indicating that it should come into effect earlier.

There is no right of appeal against a stop notice. An appeal against an enforcement notice will hold the requirements of the enforcement notice in abeyance, but the requirements of the stop notice to cease a particular activity remain effective.

As a stop notice prevents an activity from continuing, there is a right to claim compensation against the local planning authority if the notice has not been served properly.

Non-compliance with the requirements of a stop notice is an offence, punishable by a fine on summary conviction and, on conviction on indictment, to an unlimited fine.

Temporary Stop Notice

The authority may issue a temporary stop notice (TSN) where there has been an identified breach of planning control and when it is expedient that the activity, or any part of the activity that amounts to the breach, should cease immediately.

Unlike a 'stop notice', a 'temporary stop notice' can be served on its own; there is no requirement for it to be served with an enforcement notice. There is no right of appeal against the service of such a notice, although it can be challenged by way of applying to the High Court for a judicial review.

The notice has effect immediately but ceases to have effect after 28 days, unless it is withdrawn earlier. This allows a period of time (up to the maximum of 28 days) for the local planning authority to decide whether further enforcement action is appropriate and what that action should be, without the breach intensifying by being allowed to continue.

As a temporary stop notice prevents an activity from continuing, there is a right to claim compensation against the local planning authority if the notice has not been served properly.

There is risk of immediate prosecution for failing to comply with a temporary stop notice, for which a fine is payable on summary conviction for the first offence, and for any subsequent offence, or on conviction on indictment to an unlimited fine.

Breach of Condition Notice

A breach of condition notice (BCN) may be issued where there has been a breach of condition that is attached to an extant planning permission. There is no right of appeal against the service of such a notice, although it can be challenged by way of applying to the High Court for a judicial review.

The BCN will set out the necessary remedial action to ensure compliance with the condition(s) being breached, with a minimum period of 28 days for compliance.

The penalty for non-compliance with a BCN is an offence punishable on summary conviction to a fine not exceeding level 3 on the standard scale.

Injunction

Where the authority deems it expedient to restrain any actual or anticipated breach of planning control it may apply to either the High Court or the County Court for an injunction. Such an application can be made whether or not the local planning authority has exercised, or proposes to exercise, any of its other powers to enforce planning control.

The taking of such action would be necessary where other enforcement powers are unlikely to stop unauthorised activities.

Failure to comply with the terms of an injunction is contempt of court. The court has the discretion to imprison anyone found to be in contempt, or to administer an unlimited fine.

Direct Action by the County Council

In order to secure compliance with an enforcement notice the Planning Acts empower local planning authorities to take direct action in default by the owner or occupier of the land. Where any steps required by an enforcement notice to be taken are not taken within the period for compliance with the notice, the local planning authority may:

1. Enter the land and take the steps an;
2. Recover from the person who is the owner of the land any expenses reasonably incurred by them in doing so.

Planning legislation also creates an offence of wilful obstruction. Any person who wilfully obstructs any person who is exercising the local planning authority's power to take direct action may be guilty of an offence. The offence is triable in the Magistrates Court, and punishable by a fine.

The Town and Country Planning Act 1990 enables local planning authorities to recover from a person who is then the owner of the land any expenses reasonably incurred by them in taking any direct action to carry out the steps required by an enforcement notice.

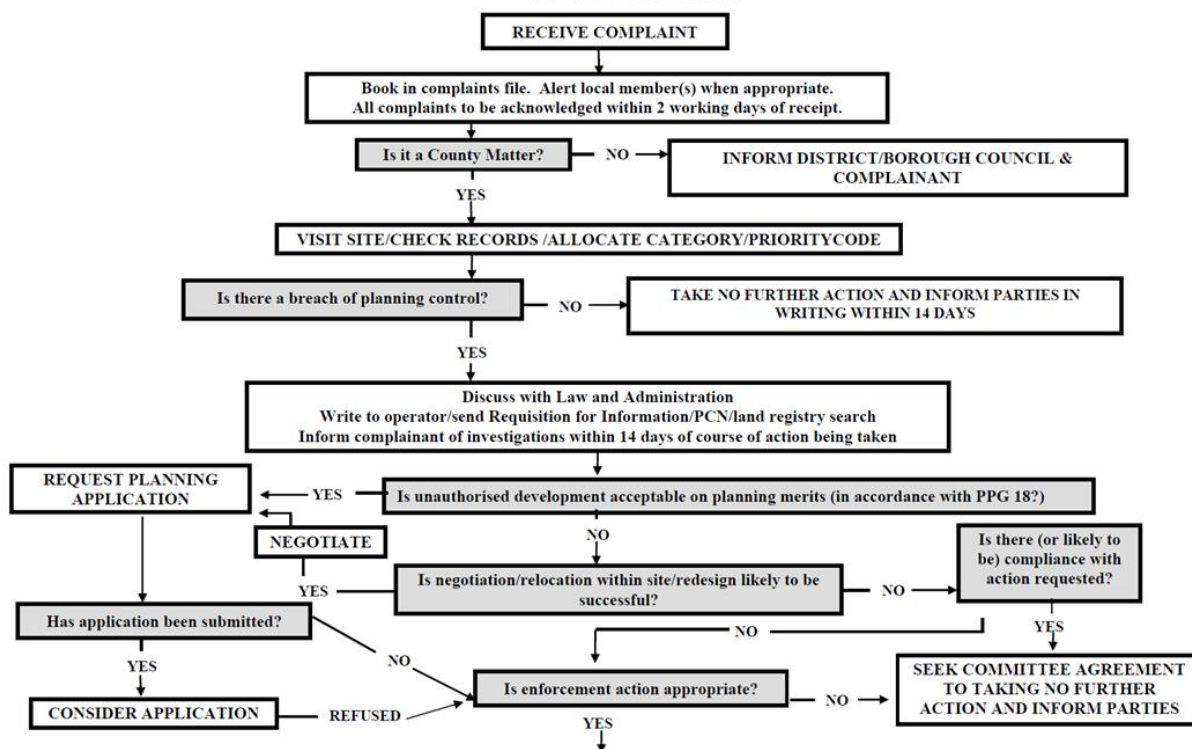
By virtue of regulation 14(2) of the Town and Country Planning General Regulations 1992, the local planning authority's expenses in taking default action become a legal charge on the land to which the enforcement notice relates until the expenses are

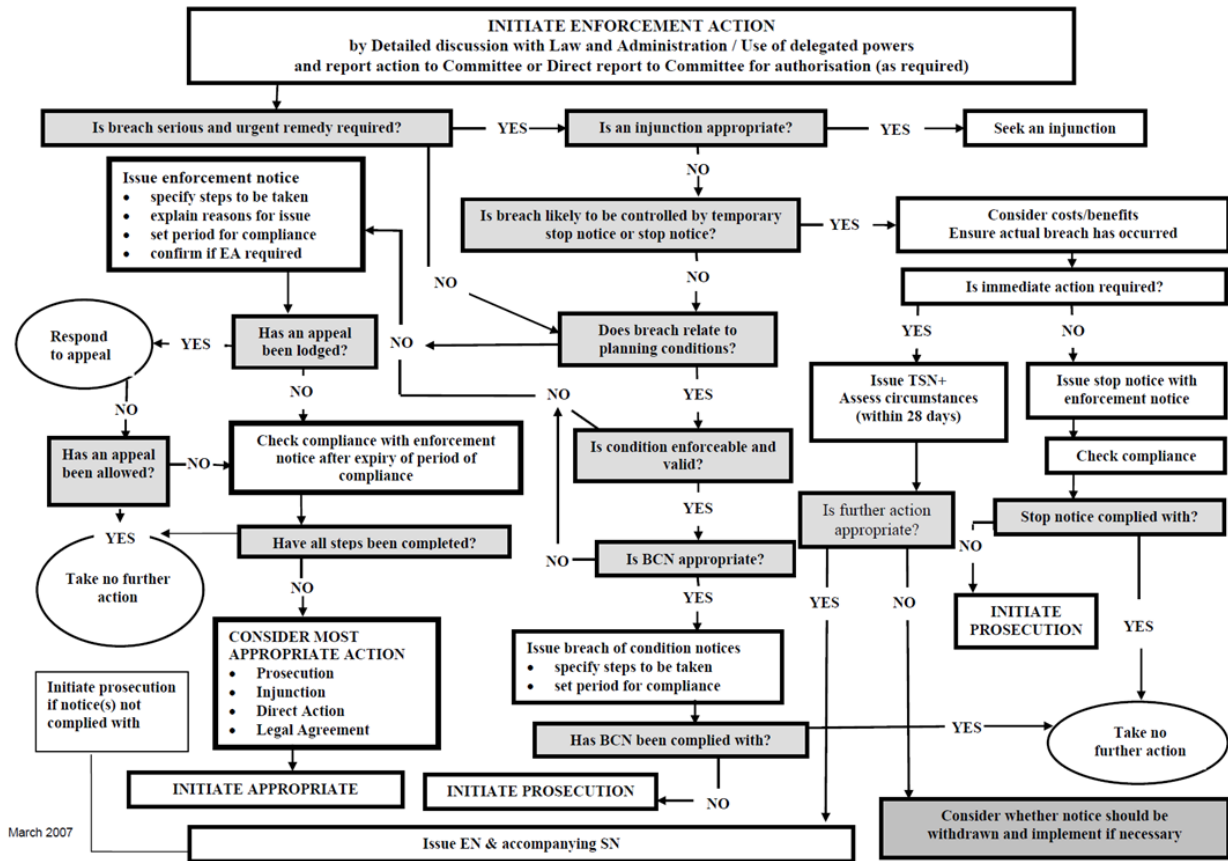
fully recovered. This charge is binding on successive owners of the enforcement notice land.

The decision by the County Council to take direct action may be challenged by an application to the High Court for a Judicial Review, of the Council's decision.

ENFORCEMENT PROCEDURES FLOW CHART

Appendix





Standard of Service

Openness

1. We will advise any complainant and anyone carrying out unauthorised development as to the code that applies;
2. We will keep as much as possible in the public domain whilst protecting the confidentiality of the complainant and any sensitive business information;
3. We will report on a quarterly basis to the Council's Development and Regulation Committee the latest situation on all ongoing enforcement cases;
4. We will meet with company staff when requested both before and during any enforcement action to seek an agreed solution.

Helpfulness

1. We will keep any complainant advised as to the stage reached in any enforcement action.
2. We have a specific enforcement officer to whom all initial contact can be made. However, the team's officers can answer general enquiries.
3. All letters and telephone calls will be answered promptly and all responses will leave a contact name and telephone number.

Complaints about the Service

The County Council has clear and specific procedures, which are published as part of all policy standard documents. If we cannot resolve your complaint, you will be advised on how to take this further.

Proportionality

1. We will deal with each case on a priority basis, following an initial investigation following a complaint received.
2. Depending on the scale of the breach of planning control, we will always seek co-operation to resolve problems and use formal enforcement powers only as a last resort.

Consistency

1. Adhering to Enforcement Policy will ensure this;
2. We will attend Essex Enforcement Officers' Liaison Group meetings and remain in close contact with our opposite numbers in the City/District/Borough Councils to ensure a consistent approach;
3. We will attend regular liaison meetings with the Environment Agency;
4. We will share information with these other enforcing agencies, subject to confidentiality;
5. Where discretion is applied against standards, this will be the responsibility of the team's manager whose responsibility is to ensure that it happens in a fair, equitable and consistent way.

Procedures

1. Advice following an investigation will be put clearly and simply in writing. All letters/electronic mail and notices to unauthorised developers will explain the breach, the requirements of the authority to put the matter right including time scales and remind the developer of the powers the authority has to take formal action. Letters will also give contact names and telephone numbers to ensure developers are given as much information as is possible to help and advise.
2. The rights of appeal of the developer against any formal notice will be clearly explained;
3. Before any formal enforcement action is undertaken, operators will be invited to discuss their problems with the officer, unless immediate action against the breach of planning control is necessary;
4. Any threat of formal action will be followed up with such action swiftly if there is inadequate evidence of steps being taken to resolve the problems.

Enforcement Categories

Category 1: Safety Hazards	Priority
Life threatening	A
Hazard being caused	B
Potential hazard	C
Limited or no safety aspects	D

Category 2: Existing Enforcement Action	Priority
Notice in force	A
Notice issued	B
Action threatened	C
No present action	D

Category 3: Severity of Breach/Proportionality	Priority
This is left as a matter of judgment to the case officer and the Planning Manager but should be based on scale of site, scale of breach, precedent, local amenity, intensity of activity, balance under Articles 6, 8, 14 and First Protocol of The Human Rights Convention.	A
	B
	C
	D

Category 4: Political Dimension/Public Enquiries	Priority
High political profile	A
High public profile	B
Public interest	C
No public interest	D

Category 5: Past History of Operator	Priority
Total disregard	A
Previous problems of significance	B
Some previous, low-key history	C
No previous history	D

Category 6: Time Table (i.e. estimated period left before enforcement action can no longer be taken and lawful use/development rights exist)	Priority
3 months left	A
6 months left	B
1 year left	C
Greater than 1 year	D

Interpretation and scoring:

1. Each 'Category' is given equal weight.
2. 'A' is the highest importance - 'D' is the lowest.

Interpretation of how the Human Rights Act may affect Enforcement Issues

Article 6: Right to a fair trial

Any person(s) issued with an enforcement notice has the right to appeal to the First Secretary of State and eventually the Courts. This ensures that there is no breach of an individual's right to a fair trial against the decision of the enforcement-taking authority to take action. Any person affected by an unauthorised development should expect a service within a reasonable time period by the authority, which following Planning Enforcement Policy should ensure that there was no breach of human rights or Ombudsman intervention.

Article 8: Right to respect for private and family life

Both parties to any dispute could claim that their rights under this article were being adversely affected by a decision of the enforcement-taking authority. Therefore, it is important that whether action is taken under delegated powers or following a Committee resolution, the impact on the parties' rights under this article is, and is actually seen to be, taken into account. The decision should be based on the balance between the respective harms to private and family life of both sides whilst seeking to minimise any interference at all. Any interference that does occur with this right must also be seen to be proportionate to the need to restrain the breach of planning control that is being committed.

Accordingly, to ensure that this factor is given sufficient weight in reaching any decision whether or not to take enforcement action, it is considered that it should be specifically referred to under the severity of breach/proportionality section in the enforcement priority categories.

Article 14: Prohibition of discrimination

Compliance with the Planning Enforcement Policy should not result in any discrimination.

Article 1 of the First Protocol: Protection of property

The right to peaceful enjoyment of possessions is a matter of balance between those in breach and those affected by the breach.

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the

conditions provided for by law and by the general principles of international law.

Committee DEVELOPMENT & REGULATION

date 24th May 2013**INFORMATION ITEM****Applications, Enforcement and Appeals Statistics**

Report by Head of Planning, Environment & Economic Growth
Sustainable, Environment and Enterprise

Enquiries to Tim Simpson – tel: 01245 437031

or email: tim.simpson2@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/Tim Simpson/

MEMBER NOTIFICATION

Countywide.

SCHEDULE**Minerals and Waste Planning Applications**

No. Pending at the end of previous month

20

No. Decisions issued in the month

5

No. Decisions issued this financial year

5

Overall % age in 13 weeks this financial year

100%

% age in 13 weeks this financial year (NI 157a criteria, Target 60%)	100%
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Nº Delegated Decisions issued in the month	5
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Nº Section 106 Agreements Pending	1*
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County Council Applications

Nº. Pending at the end of previous month	5
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Nº. Decisions issued in the month	3
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Nº. Decisions issued this financial year	3
--	---

Nº of Major Applications determined (13 weeks allowed)	0
--	---

Nº of Major Applications determined within the 13 weeks allowed	0
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Nº Delegated Decisions issued in the month	3
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% age in 8 weeks this financial year (Target 70%)	100%
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All Applications

Nº. Delegated Decisions issued last month	8
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Nº. Committee determined applications issued last month	0
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Nº. of Submission of Details dealt with this financial year	23
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Nº. of Submission of Details Pending	121
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Nº. of referrals to Secretary of State under delegated powers	0
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Appeals

Nº. of appeals outstanding at end of last month	3
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Enforcement

Nº. of active cases at end of last quarter	23
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Nº. of cases cleared last quarter	11
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Nº. of enforcement notices issued last month	0
Nº. of breach of condition notices issued last month	0
Nº. of planning contravention notices issued last month	0
Nº. of Temporary Stop Notices Issued last month	0
Nº. of Stop Notices Issued last month	0

