

# Development and Regulation Committee

<b>10:30</b>	<b>Friday, 28 February 2014</b>	<b>Committee Room 1, County Hall, Chelmsford, Essex</b>
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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:**

Matthew Waldie, Committee Officer

**Telephone:** 01245 430565

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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	<b>Apologies and Substitution Notices</b> The Committee Officer to report receipt (if any)	
2	<b>Declarations of Interest</b> To note any declarations of interest to be made by Members	
3	<b>Minutes</b> To approve the minutes of the meeting held on 13 December 2013.	7 - 10
4	<b>Identification of Items Involving Public Speaking</b> To note where members of the public are speaking on an agenda item. These items may be brought forward on the agenda.	
5	<b>Minerals and Waste</b>	
5a	<b>Little Warley Hall Farm</b> The construction (retention) of a circular concrete storage tank, a de-odourising ring equipment container and associated hardstanding to facilitate the storage of abattoir wash water; together with the use of the existing agricultural access track to access the wash water tank (Retrospective).  Location: Little Warley Hall Farm, Ranks Green, Fairstead, Essex, CM3 2BG.  Ref: ESS/60/13/BTE <b>DR/03/14</b>	11 - 36
5b	<b>Driberg Way, Braintree</b> Change of use of the property to mixed uses comprising of a small scale waste transfer (Health Care Waste), storage and associated office use.  Location: Unit 2, Goldcrest Industrial Estate, Driberg Way, Braintree, Essex, CM7 1NB.  Ref: ESS/66/13/BTE <b>DR/04/14</b>	37 - 50

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|----------------------------|---|----------------|
| <b>5c</b>                  | <b>Terminus Drive, Pitsea</b><br>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. (Enforcement Item)<br><br>Location: Land to the south of Terminus Drive, Pitsea Hall Lane, Pitsea, SS16 4UH.<br><br>Ref: ESS/69/12/BAS<br><b>DR/05/14</b> | <b>51 - 56</b> |
| <b>6 Information Items</b> |   |                |
| <b>6a</b>                  | <b>Applications, Enforcement and Appeals Statistics</b><br>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.<br><b>DR/06/14</b>  | <b>57 - 60</b> |
| <b>7</b>                   | <b>Dates of Future Meetings</b><br>To note Committee meeting dates, up to April 2015.<br><b>DR/07/14</b>  | <b>61 - 62</b> |
| <b>8</b>                   | <b>Urgent Business</b><br>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.

**9            Dannatts Farm**

- Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;

**10          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.

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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.

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**MINUTES OF A MEETING OF THE DEVELOPMENT AND REGULATION  
COMMITTEE HELD AT COUNTY HALL, CHELMSFORD ON 13 DECEMBER  
2013**

**Present**

Cllr C Guglielmi (in the chair)	Cllr I Grundy
Cllr J Abbott	Cllr J Lodge
Cllr K Bobbin	Cllr M Mackrory
Cllr P Channer	Cllr J Reeves
Cllr M Ellis	Cllr C Seagers

**1. Apologies and Substitution Notices**

Apologies were received from Cllr R Boyce (substituted by Cllr Grundy), Cllr A Brown, Cllr Lady P Newton and Cllr S Walsh (substituted by Cllr Seagers).

**2. Declarations of Interest**

There were no declarations of interest.

**3. Minutes**

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

**4. Identification of Items Involving Public Speaking**

There were none identified.

**Minerals and Waste**

**5. Batemans Farm, Great Leighs**

The Committee considered report DR/60/13 by the Head of Planning, Environment and Economic Growth.

The Committee was advised that the proposal sought the continued use of the existing site for the importation, treatment, storing, processing of inert waste materials and secondary aggregates with the addition of the importation, treatment, storing, processing of 6000 tonnes per annum of hazardous and non-inert waste and four sealed storage containers.

Policies relevant to the application were detailed in the officer's report.

Details of Consultation and Representations received were set out in the officer's report.

The Committee noted the key issues that were:

- Need and Principle of Development;

- Hazardous Waste; and
- Impact upon Amenity.

In response to questions and concerns raised, Members were informed that:

- Although the proposed extra 6000 tonnes per annum would take the annual throughput of waste above the existing 25,000 tpa, there would be no increase in vehicle movement, which stood at 25 vehicles in, 25 out on weekdays, and 12 in and 12 out on Saturdays. Consequently, Highways did not have any concerns about these proposals
- The 25,000 tonnes limit was controlled by the Environment Agency permitting regime and the next permit banding was for developments handling waste up to 75,000 tonnes
- Although this site may be viewed as a non-preferred site, the site's lawful use was permitted by Braintree District Council in 2000 which was followed by a subsequent approval by the Waste Planning Authority in 2012 therefore, the fall-back position was that the applicant could operate a lawful inert waste recycling facility
- Should planning permission be granted The Environment Agency would be required to issue a bespoke permit for the handling of hazardous waste and the site would be monitored accordingly. Any action by the County Council tended to be reactive, ie responding to complaints, rather than maintaining a watch on the site
- With regard to some suggestions that toxic waste had been burnt on the site, the Planning Officer confirmed that during personal site visits this had not been witnessed. In addition, the responsibility for enforcement burning of waste materials lay with the Environmental Agency.

The resolution was moved, seconded and following a vote of eight in favour and two against, it was **Resolved**

That:

Planning permission be granted subject to conditions covering the following matters:

1. COM2 Commencement;
2. COM3 Compliance with submitted details;
3. HOUR1 Hours of Working;
4. HIGH4 Prevention of Mud and Debris on Highway;
5. HIGH5 Vehicle Movements Limits;
6. HIGH6 Lorry Sheeting;
7. VIS2 Stockpile Heights;
8. VIS3 Machinery Operating at Ground Level;
9. LGHT1 Fixed Lighting Restrictions;
10. LAND1 Landscape Scheme submitted within 3 months;
11. LAND2 Replacement Landscaping;
12. WAST1 Waste Type Restriction;
13. WAST4 Waste Handled in Designated Areas.



## **Appeals Updates**

### **6. Codham Hall Farm, Great Warley**

The Committee considered report DR/61/13 by the Head of Planning, Environment and Economic Growth.

Members were informed that the appeal had been allowed by the Inspector.

The Committee **NOTED** the report.

### **7. Tyre UK, Benfleet**

The Committee considered report DR/62/13 by the Head of Planning, Environment and Economic Growth.

Members were informed that the appeal had been allowed by the Inspector.

The Committee **NOTED** the report.

### **8. Statistics**

The Committee considered report DR/63/13, Applications, Enforcement and Appeals Statistics, as at end of the previous month, by the Head of Planning, Environment and Economic Growth.

The Committee **NOTED** the report.

### **9. Date and Time of Next Meeting**

The Committee noted that the next meeting will be held on Friday 24 January 2014 at 10.30am in Committee Room 1.

There being no further business the meeting closed at 11.24 am.

Chairman



**DR/03/14**

Committee DEVELOPMENT & REGULATION

Date 28 February 2014

# **MINERALS AND WASTE DEVELOPMENT**

Proposal: **Circular tank, with an internal radius of 11.855m and depth of 4m; de-odourising ring; equipment container; and associated hardstanding to facilitate the storage of abattoir wash water. Together with the use of the existing agricultural access track to access the wash water tank (Retrospective)**

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

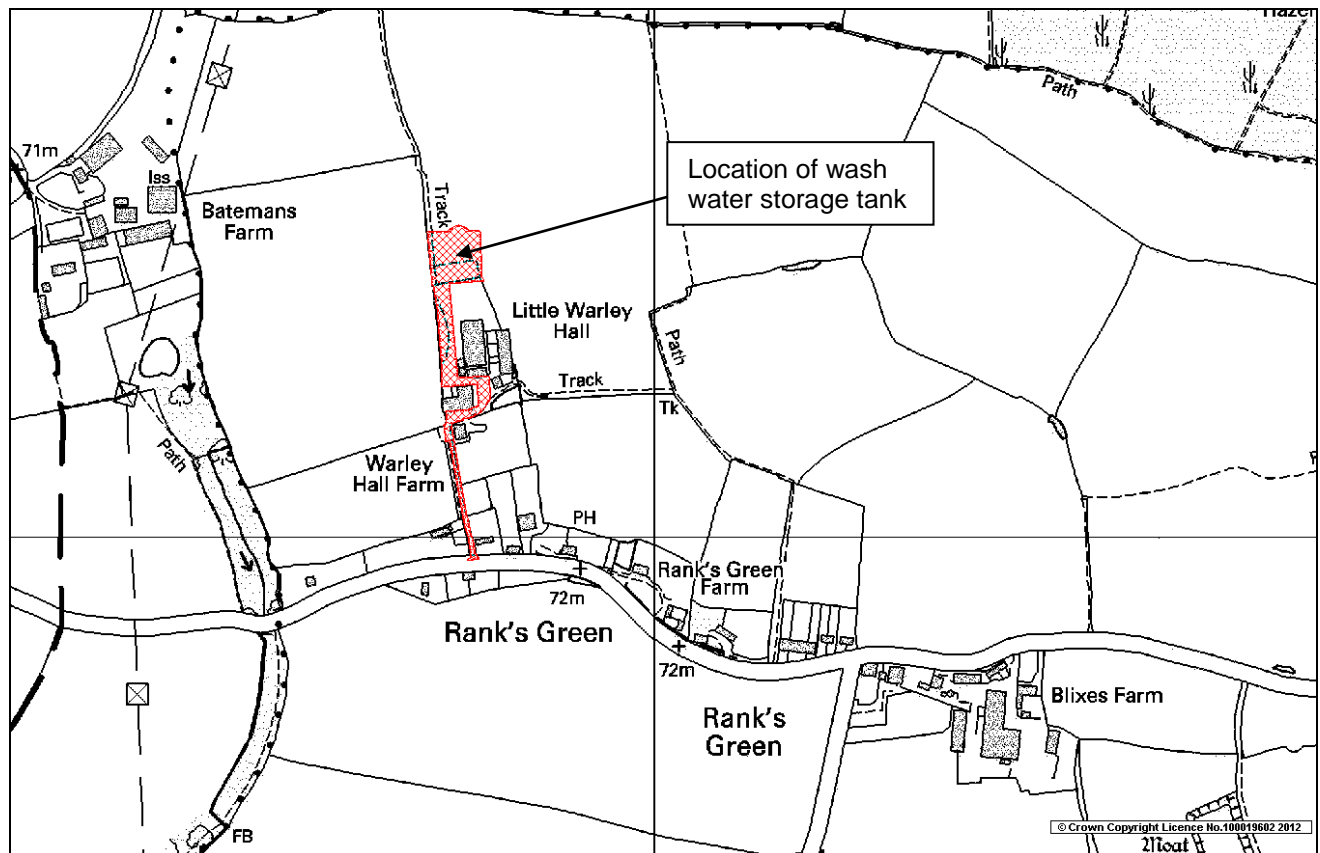
Reference: **ESS/60/13/BTE**

Applicant: **C Humphreys and Sons**

Report by Director for Operations, Environment and Economy

Enquiries to: Tom McCarthy Tel: 03330 136816

The full application can be viewed at [www.essex.gov.uk/viewplanning](http://www.essex.gov.uk/viewplanning)



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## **1. SITE & BACKGROUND**

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

Residential properties line the Lane from which the Farm is accessed. The closest residential property is approximately 150m south of the development (tank). The development site is not located directly within a sensitive area, as directed by the Town and Country Planning (Environmental Impact Assessment) Regulation 2011, however there are a number of Local Wildlife designations within the locality (within 2km).

This application is retrospective or an application seeking planning permission for development already carried out (Section 73A of the Town and Country Planning Act 1990). The application was previously submitted to Braintree District Council in August 2013 however during the course of determination it was decided that this application represented a County Matter application. The applicant therefore withdrew the application originally submitted to Braintree District Council (September 2013) and re-submitted it to Essex County Council (November 2013).

As background to the application and local concern, the Environment Agency between 20 December 2012 and 10 August 2013 received 47 reports relating to odour, dust and noise on their incident hotline. These reports mainly related to odour thought to be coming from a liquid waste storage tank at Little Warley Hall Farm (the tank subject of this application). The Environment Agency subsequently as such produced a report into the reported odours around Ranks Green with the aim being to assess the impact the site, regulated by the Environment Agency, has on the local community. The findings of the report are further discussed in this report.

## **2. PROPOSAL**

This application proposes the construction (retention) of a circular concrete storage tank, with an internal radius of 11.855m, to store abattoir wash water. The tank which stands 3m above ground and 1m being below ground would (4m deep in total), if filled to capacity (3.5m), would hold approximately 1,545,500 litres (339,962 gallons) of liquid.

The tank is a circular segmental structure comprising a number of identical concrete sections mechanically fixed together on a concrete base. The concrete surface is of a smooth finish and is light grey in colour. An area of crushed rubble hardsurfacing surrounds the tank and a shipping container, painted dark green is situated immediately to the west of the tank. This container is used by the applicant, in association with the tank, to store the deodorising equipment and the solution sprayed from this. The deodorising process is entirely automated and activates only when wind direction dictates this is required/necessary.

The applicant's wider business includes an abattoir at Blixes Farm, circa 500m

east of Little Warley Hall Farm. The waste service provider to that business: Albany Waste Services Ltd holds an Environmental Permit which allows the secure storage of specific wastes including untreated wash waters and sludges from washing and cleaning from abattoirs, poultry preparation plants, rendering plants or fish preparation plants only. The permit allows the storage of a maximum of 3000 tonnes (672,000 gallons) of such waste for a period of no longer than 12 months. The application details replicate the details of this with the applicant stating as part of the application that no more than 3000 tonnes of material (672,000 gallons) of waste would be stored on site in any year and that the material would not be stored for longer than 12 months.

Wash water, irrespective of the tank, is spread on the fields surrounding Rank's Green, by the applicant. This activity is permitted as part of the Environmental Permit issued by the Environment Agency by way of an approved deployment plan. This activity itself does not require express planning permission. The applicant has stated that using wash water reduces the need for the use of manufactured fertilizer, as wash water acts as a soil improver/nutrient. This activity (the spreading of the wash water), in its own right is therefore exempt from consideration as part of this application. The proposal is the installation of the tank for the storage of the wash water on site. The process of the spreading is not a consideration of this application. In respect of the tank, it is proposed that wash water would be delivered from Blixes Farm via tankers carrying 2600 gallons of water. It has been suggested that no more than twelve vehicle movements (six in and six out) would result from this activity per week.

### 3. POLICY CONSIDERATIONS

The following policies of the Essex and Southend Waste Local Plan 2001 (WLP) and Braintree District Council Local Development Framework Core Strategy 2011 (BCS) and Braintree District Local Plan Review 2005 (BLP) provide the development framework for this application. The following policies are of relevance to this application:

<u>Policy</u>	<u>WLP</u>	<u>BCS</u>	<u>BLP</u>
Sustainable Development, National Waste Hierarchy & Proximity Principle	W3A		
Highways	W4C		
Difficult and Special Wastes	W5A		
Alternative Sites	W8B		
Alternative Sites	W8C		
Planning Conditions and Obligations	W10A		
Material Considerations: Policy Compliance and Effects of the Development	W10E		
The Countryside		CS5	
Natural Environment and Biodiversity		CS8	
Industrial and Environmental Standards			RLP36
Development Likely to Give Rise to Pollution, or the Risk of Pollution			RLP62
Waste Reprocessing Facilities			RLP75
Landscape Features and Habitats			RLP80

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

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

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

With regard to updates/replacements or additions to the above, the Waste Development Document: Preferred Approach 2011 (now known as the Replacement Waste Local Plan (RWLP)) should be given little weight having not been 'published' for the purposes of the Framework. The Framework states (Annex 1 Paragraph 216):

From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

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

The RWLP has yet to reach 'submission stage' and as such it is too early in the development of the RWLP for it to hold any significant weight in decision making.

Braintree District Council has produced a Site Allocations and Development Management Plan which together with the BCS will allocate development sites and protect other areas in the District from development over the next fifteen years. A public engagement on the Pre-Submission draft of this Plan is scheduled to take place from between 17 February – 28 March 2014 with submission to the Planning Inspectorate anticipated in mid-2014. As a draft of this Plan has not formally been published/submitted to the Inspectorate it is considered that only little weight can be applied, especially as objections may be currently outstanding from consultation.

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

#### **4. CONSULTATIONS**

**BRAINTREE DISTRICT COUNCIL** – Concerns are raised in view of previous complaints received from local residents and the Parish Council when this application was originally proposed to be determined by Braintree District Council. Attention is duly drawn to these letters of representation received in respect of application reference: 13/0909/FUL.

**CHELMSFORD CITY COUNCIL** – No objection in principal to the development subject to no other consultees including the Environment Agency or Environmental Health raising an objection to the proposal.

**ENVIRONMENT AGENCY** – No objection however request the imposition of a condition requiring the applicant to submit a design for the capping of the abattoir wash water storage tank within three months of planning permission being granted, with a requirement that within a further three months the cap shall be fitted, as approved. The Environment Agency consider, in justification for the imposition of this condition, that the proposed odour control measures (the de-odourising ring) would be/is inadequate.

**NATURAL ENGLAND** – No objection. It is advised that the proposal is unlikely to affect any statutorily protected sites or landscapes.

**DEPARTMENT FOR ENVIRONMENT, FOOD & RURAL AFFAIRS** – No comments received.

**FOOD STANDARDS AGENCY** – Any comments received will be reported.

NATIONAL FARMERS' UNION – No comments received.

HEALTH & SAFETY EXECUTIVE – No comments received.

ANGLIAN WATER SERVICES – No comments received.

HIGHWAY AUTHORITY – No objection to the development in principle. The proposal does not involve any new trips on the highway network, but the redistribution of existing trips already on the network.

PLACE SERVICES (Landscape) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection subject to a condition requiring the submission of a landscape plan detailing the species, sizes and planting distances of tree and hedge species proposed. It shall also specify plant protection and maintenance for a five year period.

PLACE SERVICES (Historic Buildings) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection with regard to harm to the setting of the nearby listed buildings. The site is within open countryside located in an established modern farm complex. The proposed tank has the effect of extending the development area further into the open fields, but it would be well screened from view by proposed vegetation. There are several listed buildings around the site; Tudor Cottage at the entrance drive to Little Warley Hall Farm being the closest. It is considered unlikely that this property would however be affected (visually) by the development as the tank is far to the north of the farm and there are a number of modern industrial farm buildings between it and the cottage. Other listed buildings that may have a view of or be included in views of the area, such as Batemans Farm and Ranks Green Farm are quite remote from the site and are themselves either within farms with modern farm building or have planted boundaries that would shield the site from view. Agrees with the landscape officer's recommendation for the details of the proposed landscaping to be submitted and agreed by way of condition.

THE COUNCIL'S AIR QUALITY CONSULTANT – Both the storage of the waste water and the associated spreading on agricultural land is regulated by the Environment Agency. Within the report produced by the Environment Agency, following odour complaints, it was concluded that the operator was working within the conditions of their Permit. The Environment Agency has however recommended that the storage tank is covered with either a roof or floating cover to mitigate the potential of odour issues in the future. In consideration of this it is recommended that a roof or floating cover be constructed.

TERLING AND FAIRSTEAD PARISH COUNCIL – Object to the proposal on the basis that it is considered the tank is being used for industrial waste and the application criteria and supporting documentation is disingenuous to say it is mere wash water. Industrial waste is being transported on a regular basis past the houses in Ranks Green without regard to residents' loss of amenity which is not acceptable, even in a rural location. Strongly commend that the application be refused.



LOCAL MEMBER – BRAINTREE – Witham Northern – The Parish Council has repeatedly discussed odour issues potentially relating to site. Request therefore in view of the significant local interest that the application be heard by the Development & Regulation Committee.

## 5. REPRESENTATIONS

10 addresses were directly notified of the application. The application was also advertised in the local press and on site. 13 letters of representation have been received. These relate to planning issues covering the following matters:

### Observation

Odour concerns. Have lived in the village for our entire lives and have never had to endure such odours since this started in December 2012. The smell renders gardens unusable and results in windows having to be kept closed. The odour can be smelt as far as 1500 metres from the tank.

### Comment

See appraisal.

The de-odourising equipment which has been installed is totally inadequate and in itself produces a very unpleasant odour.

See appraisal.

The Environment Agency's odour assessment cites numerous other sources of odours. These have all been in existence for a number of years and have never caused odour nuisance as currently exhibited.

See appraisal.

The odour report/investigation undertaken by the Environment Agency neglects to take account of the odour diaries which residents have been keeping, as requested by the Environment Agency.

It is not considered appropriate for ECC to comment on this. For ECC's assessment on potential odour impact refer to the appraisal.

The waste generated at Blixes Farm abattoir would be best treated in a filtration plant, as used at other abattoirs with the reclaimed water being used to wash vehicles and equipment. The reason the tank is not sited at the abattoir is that the odour could offend customers using the retail butchers shop.

This application has to be considered on its own merits. Whilst there is a link with Blixes Farm abattoir and consideration as part of this application will be given to the suitability of the site (see appraisal for comment), the abattoir is a separate entity and outside the immediate scope of consideration for this application.

The abattoir has expanded over the last few years and as such so have the vehicle movements.

Dust nuisance generated from additional vehicle movements from Farm.

The only irrigation carried out previously with the wash water was on growing crops, straight from the bowser, irrespective of land conditions.

See appraisal. Although note above comment re: particular consideration of the abattoir at Blixes Farm.

See appraisal and other comments with regard to vehicle movements and the existing permission for wash water (animal by-product) to be exported from Blixes Farm abattoir.

The deployment of the abattoir wash water is an activity not requiring express planning permission. The deployment is not materially changing the use of the land (i.e. the agricultural use is not ceasing) and no operational development is required. The deployment of the wash water, in itself, is therefore outside the scope of consideration of this application. However, this (the deployment) is regulated by the Environment Agency.

In terms of abattoirs in general, the primary function of an abattoir is the slaughter of animals. Following this process animal by-products are stored on site prior to removal. Waste effluent from the cleaning of the site is separately as abattoir wash water. Any statutory nuisance from the abattoir, itself, would be regulated by Braintree District Council's Environmental Health team. The regulation of the animal by-products Regulations is split between Essex County Council Trading Standards and the Food Standards Agency. Animal by-product consignment notes detail the transfer of animal by-products collected from the abattoir and taken to other sites for treatment or disposal. Odours originating from this movement is regulated by the Animal Health and Veterinary Laboratories Agency (DEFRA) and enforced by Essex County Council Trading Standards. The Food Standards Agency ensures that the abattoir is compliant with the animal by-product regulations which include the

	auditing of the abattoirs management.
	See appraisal for further comment.
Confirmation has been sought from the Environment Agency that the contents of the tank is actually 'wash water' however a conclusive response has not been received.	Noted.
The supporting documentation to the application suggests that it does not matter where the waste comes from. Concern is raised about the source of material entering the tank and ultimately the actual type of waste i.e. is it just abattoir wash water?	See appraisal.
Essex County Council in the Screening Opinion issued (ref: ESS/60/13/BTE/SO2) have misinterpreted the proposed number of vehicle movements. Confirmation is sought that this does not change the conclusion.	A revised Screening Opinion has been issued by Essex County Council to rectify this error (ref: ESS/60/13/BTE/SO2). The conclusion was that EIA was not required.
Slurry only has a limited value in itself as a fertiliser and in view that wash water can be spread all year round it is considered wash water would have even less of a value. This is in reality dumping an industrial waste as cheaply as possible.	See appraisal.
If a roof, as advised by the Environment Agency, is installed how would gas be dispersed?	The condition as suggested by the Environment Agency suggests the applicant is to submit a design for the cap of the tank. It is considered the design put forward would consider if and how gas could be dispersed.
The permit held by Albany Waste Services Ltd states that the deployment activity should not be harmful to human health or the quality of the environment; or cause offence to human sense. The permit is not being complied with.	Comment relates to the deployment of wash water rather than the provision of a tank to store it, as this application proposes. Concerns are nevertheless noted.
Health implications.	See appraisal.

When the wash water is deployed, if it is not ploughed immediately, a huge number of birds are attracted.	Comment relates to the deployment of wash water rather than the provision of a tank to store it, as this application proposes. Concerns are nevertheless noted.
Whilst walking the dogs on public footpaths, animal remains have been picked up by the dogs. The wash water stored at Little Warley Hall Farm contains blood and animal tissue and is therefore not as per the DEFRA definition.	See appraisal.
Within the application there are a number of errors/omissions, for example there have been no statements supplied with regard to highways, landscape impact, the impact on waterways or an independent analysis of the contents of the tank.	The application was validated in accordance with guidance note 'Guidance on information requirements and validation' issued by the Department for Communities and Local Government; the Town & Country Planning (Development Management Procedure) (England) Order 2010 (as amended); and the Growth and Infrastructure Act 2013. See appraisal for comments with regard to areas of concern.
Enforcement action should have been pursued. A Stop Notice should be issued until sufficient information has been submitted to fully assess the application.	Noted.
This is industrial waste.	The application is being determined by Essex County Council, as the WPA, as it has been deemed this is a waste related development. A waste use/development is a sui-generis use as defined within the Town & Country Planning (Use Classes) Order 1987 (as amended). Sui-generis applications are considered on their own merits and therefore the actual clarification of the wash water is considered irrelevant. This is an application for the storage of a waste product to which the applicant has put forward a use for as an agricultural product.
There are clear dangers of using	Noted. See appraisal.

abattoir wash water as a fertiliser. Wash water, as detailed in Chapters 4-6 of the European Commission Directorate – General for the Environment (sec 4.2.3.) states wash water contains high levels of potassium, nitrogen and phosphorus. These elements can cause potential water pollution problems and the wastes also have a high tendency to have a high biochemical oxygen demand which can make the waste readily degradable by soil micro-organisms.

The nearest residential properties are within 100m of the tank and it is considered that this is a clear breach of planning legislation for storage of industrial waste.	See appraisal.
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The need/justification for the abattoir wash water storage tank at Little Warley Hall Farm is questioned.	See appraisal.
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In the event that it is deemed appropriate to grant planning permission, conditions with regard to the requirement of a lid/roof to the tank; what can be stored in the tank and limits on when and from where wash water can be delivered to the site are suggested. Times and conditions with regard to deployment are also suggested.	See appraisal.
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The odour report, produced by the Environment Agency, submitted as part of the application, does not address the real problem which is the odour coming from the storage tank.	See appraisal.
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The odour has resulted in us (a local business) having to send staff home early because the smell was unbearable.	See appraisal.
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A copy of a memorandum from Braintree Environmental Services to the Planning Section, dated 27 August 2013, has been enclosed to a	See appraisal.
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neighbours' representation. This details that the Environmental Health Officer at the end of 2012 whilst investigating the site, following complaint, witnessed a strong unpleasant odour affecting the residential area of Ranks Green. It is concluded that had best practicable means been considered...then an alternative site further from residential property should have been identified as the best environmental option.

Concerns are expressed about potential expansion plans or future additional tanks.

Every planning application has to be considered as applied for and on its individual merits.

Concerns about the impact on house prices and saleability of property in the area.

Property prices in their own right are not a material planning consideration.

This development is purely financially motivated.

See appraisal.

This is a change of use application and the application in turn as such needs to also include the land to which the wash water is deployed as the spreading of waste.

See Proposal section of this report.

The size of the tank is excessive.

See appraisal.

This location is completely inappropriate for this type of development (waste use).

See appraisal.

Recommended that the planning application is held in abeyance or its withdrawal required until appropriate and sufficient supporting assessments and credible mitigation strategies have been submitted; the tank has been categorised as an industrial building; the wash water classed as an industrial waste; and that the land to which the wash water is spread is included within the red line area.

Noted.

In addition to the above, some of the representations enclosed odour diaries detailing wind directions and levels of nuisance/impact since installation of the tank in August 2012.

## 6. APPRAISAL

The main issues for consideration are:

A – Need & Site Suitability

B - Proposed Operations

C - Impact on Landscape & Amenity

D - Human Rights

In respect of Environmental Impact Assessment, a Screening Opinion (reference: ESS/60/13/BTE/SO) was issued by the WPA in December 2013, following submission of the application. The Opinion concluded that in context of the site locality; the suggested source, maximum storage capacity and use of the wash water; and the likely impacts from the storage in its self that the development would not have an impact of more than local importance and therefore, on balance, an Environment Impact Assessment (EIA) would not be required.

During the determination process of this application an error was noted in the discussion of the Screening Opinion issued (Characteristics of potential impacts) with regard to vehicle movements. A further Screening Opinion re-assessing the application and potential impacts in view of the above was issued by the WPA in February 2014. The Opinion remained that an EIA would not be/is not required.

### A NEED & SITE SUITABILITY

The applicant has stated water is a valuable commodity and re-using wash, from the nearby abattoir, is inherently sustainable as it reduces the burden on water demand. The applicant has suggested that one of the benefits of using wash water for irrigation is that it contains nutrients which reduce the amount of fertiliser required, when crops are first planted. Ploughing in the wash water prior to sowing crops is beneficial to plant growth and materially reduces the amount of manufactured fertiliser that is required to supplement crop production/growth.

The applicant blends his own animal feed, mixing maize grown on site as a component of this. Maize is a nutrient hungry crop and having a supply of wash water available to irrigate the land prior to planting it has been suggested is of benefit to the applicant in ensuring a good return of maize. Without the ability to store the wash water deployed on site, it has been detailed that soil compaction or waterlogging can occur if the weather or soil conditions, when deployed is scheduled, are not appropriate. The tank would allow deployment to occur when conditions are right on the farm and weather conditions favourable (wind direction included) rather than being controlled by the availability of wash water from the abattoir. The applicant has stated that should deployment be programmed and occur when conditions are not necessarily good, compaction and/or waterlogging can occur and this could result in the loss of the holding's Single Farm Payment which is essential in terms of viability. Whilst in such a circumstance it would be easy for the neutral to argue deployment should be delayed, in context of factors outside the applicant's immediate control (availability of wash water), and the need for irrigation this may not be possible. The applicant therefore considers the provision of the storage tank provides flexibility for the holding whilst furthermore

allowing the potential amenity effects of the spreading to be minimised.

Whilst not necessarily a material consideration of this proposal, as explained within the Proposal section of this report, it is nevertheless considered worthwhile to note the operations at Blixes Farm (the abattoir where the wash water would be sourced from). Enquires have been made by the WPA however, understandably, the applicant's agent is unaware of the total amount of wash water produced at Blixes Farm. This it has been suggested is dependent on the throughput of animals at the abattoir. This is a separate issue which would have been considered when the abattoir was originally approved however, importantly it must be remembered that the wash water is a by-product of the abattoir. Without the storage tank, the wash water is still going to have to be transported from the site whether this is to land from deployment or to a storage or secondary processing facility. The provision of the tank on its own is not explicitly generating additional vehicle movements from Blixes Farm and the abattoir.

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

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

Planning Policy Statement 10 (PPS 10) (Planning for Sustainable Waste Management) encourages waste to be managed as per the principles set out in the waste hierarchy. The waste hierarchy promotes, in this order; prevention of waste; re-use of waste; recycling of waste and then any other recovery. It states that the disposal of waste is the least desirable solution and only suitable when none of the above is appropriate. Whilst there has been some discussion as to if this development represents a waste development, when viewed in isolation (i.e. the abattoir separate from the deployment of the wash water) it is clear that the wash water is a waste (by-product) produced at the abattoir. Irrespective that the wash water has a secondary 'use' it is disposed of from the abattoir as a waste product (i.e. of no benefit to the operation of an abattoir). The WPA is unaware as to if there is a market for wash water (i.e. a market willing to pay for it) or if it is just disposed of for cost. This is nevertheless, in this case, considered irrelevant because of the tangible link (same ownership) between Little Warley Hall Farm and the abattoir at Blixes Farm. The proposal, in pure land use terms, is the provision of a tank to store waste (abattoir wash water). It is therefore considered the main consideration of the application is if this site is actually suitable for such a development and/or if the provision/facility would cause undue impact on the locality rendering it unsustainable. In relation to this, and WLP policy W3A, as the proposal is in essence facilitating the re-use of a waste product it is considered that the proposal in principle does comply with the objectives of PPS 10 and WLP policy W3A. That being said it should be noted that the tank in itself does not offer specifically support this as the re-use is in effect the actual spreading. The benefits of a holding supply, as suggested by the applicant, detailed above are



nevertheless noted in this regard.

WLP policies W8B and W8C and the locational criteria within Appendix E of PPS 10 detail a list of criterion to which, if met, such (waste management) development would be supported at. WLP policies W8B and W8C both identify types of location other than those in Schedule 1 of the WLP at which waste management facilities would be permitted. WLP policy W8B is generally targeted towards facilities with a capacity over 25,000 tonnes per annum and suggests that areas suitable for such development include employment areas (existing or allocated) or existing waste management sites where the proposed facility would not be detrimental to the amenity of any nearby residential area. WLP policy W8C which is directed towards sites with a capacity below 25,000 tonnes per annum suggests that such development would also be acceptable in more urban locations where they serve the local community, subject to the protection of residential amenity, and in rural locations where they would be located within existing buildings not requiring significant adaption, not prejudice the openness or character of the locality and not, in the case of farm buildings or hardstandings, result in the re-placement of buildings purely for operational reasons/requirements.

BLP policy RLP75 furthermore, with regard to waste reprocessing facilities, states that development proposals involving waste recovery (such as recycling, waste transfer stations and composting) will be permitted in employment policy areas, subject to: i) there being no unacceptable adverse impact on adjoining uses by reasons of noise, smell, dust or other airborne pollutants and ii) there being no adverse impact on the surrounding road network in terms of road safety or capacity.

In respect of the above policy stance, specifically looking at land use, the site (and surrounding area) is un-allocated white land in the Proposals Map (2011) accompanying the BCS. Ranks Green is considered stereotypical of a small rural village with sporadic housing lining the country Lane through the village. The proposed annual throughput of wash water to be stored on site is 3000 tonnes (672,000 gallons). With regard to facilities within a capacity below 25,000 tonnes per annum, WLP policy W8C details that rural locations may be appropriate providing they are located within existing buildings and do not prejudice the openness or character of the locality. Whilst this facility does not make use of an existing building or structure, it is considered that the tank in appearance is general akin to that expected and accepted on an agricultural holding. A further discussion with regard to the impact the development would have on landscape and amenity is nevertheless considered later in this report.

## **B PROPOSED OPERATIONS**

The supporting text to WLP policy W5C acknowledges that much of the 250 million tonnes of agricultural waste produced in the UK per annum<sup>1</sup> is dealt with by the industry itself mostly by spreading the material on agricultural land as a soil improver. In this regard, WLP policy W5A states that proposals for facilities to reduce the quantity of and to manage difficult and special wastes, using appropriate technologies, will be judged on their merits, against the criteria and

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<sup>1</sup> Accurate at the time of publication of the WLP (2001)

policies stated in the development plan, and having regard to alternative provision with the eastern or south east regions. Wash water is considered a special waste, in the meaning of WLP policy W5A, as facilities for handling and storing this type of waste are quite specialised and reliant on a particular source (i.e. an abattoir in close proximity). Research, undertaken by Essex County Council, into water usage in meat processing has suggested that slaughter and evisceration processes account for almost half the estimated 1,000 litres of water used per carcass. The remaining water usage for a typical plant is principally for cleaning and plant operation, irrespective of throughput<sup>2</sup>.

Wash water or 'dirty water' is defined by DEFRA within the publication Nitrate Vulnerable Zones Fact Sheet 1: Slurry and Dirty (Version 2.1, May 2011) as lightly-contaminated runoff from lightly-fouled concrete yards or from dairy/parlour that is collected separately from slurry. Dirty water is not referred to in the Nitrate Pollution Prevention Regulations 2008. Under these Regulations an organic manure means any nitrogen fertiliser derived from animal, plant or human sources, including livestock manure. Slurry and dirty water fall within this category. Both slurry and dirty water have a high readily available nitrogen content, so the rules for organic manure on storage and the closed periods should apply. However, compared with slurry, dirty water has a low total nitrogen content that limits its impact on nitrate leaching. Taking this into account, DEFRA and the Environment Agency have agreed to exclude dirty water from the need for long-term storage. This means it can be applied to land during the closed periods – provided it is managed and spread safely, so that it does not enter surface water.

The wash water proposed to be stored in the tank is the residue liquid from the wash down process at Blixes Farm abattoir. After animals are killed in the slaughterhouse the floor is initially cleaned manually with mop and shovel with the product collected stored in a Category 1 waste bin for disposal. The floors are then hosed down with pressure washers with water draining to a channel covered by a via 4-6mm grate. The water which is collected in this channel is 'wash water' as described by this application. The water contains blood, small traces of flesh and faeces but only of a size small enough to pass through the drain grate (i.e. less than 4mm in size). The channel of wash water leads to a tank where it is stored before being loading by vacuum into a tanker for onward transportation. Should planning permission be granted, the applicant is willing to accept a condition restricting the contents of the tank to that described with the application details, paraphrased above.

In terms of process, wash water would be delivered to the site from Blixes Farm via tankers carrying 2600 gallons of water. It has been suggested that no more than twelve vehicle movements would result from this activity per week (six in and six out). The applicant is willing to accept a condition as such and a condition restricting deliveries from just Blixes Farm however is unable to provide a more detailed assessment/breakdown of vehicle movements as the tank would not always be full. In practice, it is anticipated, that wash water would be deployed twice a year (after the main crop is taken off the land in July/August and after the

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<sup>2</sup> Planning for Sustainable Use of Water in Abattoirs, Guenter Hauber-Davison, Water Group Australia  
<http://www.watergroup.com.au/store/system/articles/products/127/OpinionFeature%20HauberDavisonWater%20Abattoirs.pdf>

maize crop in October). On the basis of a maximum of twelve weekly vehicle movements it would not be possible to fill the tank to capacity between July and October and conversely from October the tank could in theory be filled in approximately five and a half months (mid-March). This would in effect mean there would be a period (three and a half months), once the tank is full, when there would be no deliveries to the tank. This is however dependant on the amount and availability of wash water from the abattoir.

With regard to the above, as previously outlined, the use/spreading of wash water on this site is an existing practice. The vehicle movements therefore associated already occur and would continue to do so, even without the provision of the storage tank. This is important to consider as the tank in its own right is not explicitly generating additional vehicle movements from Blixes Farm. If the wash water was stored and spread directly from the abattoir then yes, these movements are additional, however there is no such provision at the abattoir and currently the wash water is transported by approved contractor.

In relation to this WLP policy W4C states access for waste management sites will normally be by a short length of existing road to the main highway network. Exceptionally, proposals for new access direct to the main highway network may be accepted where no opportunity existing for using a suitable existing access or junction, and where it can be constructed in accordance with the Council's highway standards. 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. The Highway Authority has not raised an objection to the proposal because it would not involve any new trips on the highway network, but the redistribution of existing trips already on the network. No concerns have been raised about the junction with Little Warley Hall Farm and as the wash water would likely be delivered, although this has not formally been expressed, by tractor with a tanker trailer it is further considered that there is likely to be a change in character of vehicles visiting the farm. Subject to appropriate site management in respect of the haul road, in context of the limited amount of vehicle movements per week, it is therefore considered the application complies with WLP policy W4C.

As outlined above, the Highway Authority has not requested any conditions be imposed, should planning permission be granted. The suitability of condition restricting the number of vehicle movements, to that detailed within the application, is considered further in this report.

## C IMPACT ON LANDSCAPE AND AMENITY

The Framework at Paragraph 122 details that local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.

WLP policy W10E details a list of criterion to which satisfactory provision must be

made, within the proposal, to demonstrate that no significant impacts are likely to result from implementation. Included in this list of criterion is the effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants; the effect of the development on the landscape and the countryside; and the impact of road traffic generated by the development. The locational criteria of Annex E of PPS 10 furthermore details a list of considerations and potential adverse impacts waste related developments can have including, as detailed in WLP policy W10E, visual intrusion; traffic and access; air emissions; odours; vermin and birds; noise and vibration; and potential land use conflict.

Looking initially at the design of the storage tank and the potential impact on the landscape, BCS policy CS5 details that development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. Furthermore, in relation to landscape and agricultural, BCS policy CS8 states that development should protect the best and most versatile agricultural land. Development must have regard to the character of the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape.

BLP policy RLP90 states that a high standard of layout and design in all developments will be expected. Planning permission will only be granted where the following criteria are met (only criteria related to this proposal have been detailed): the scale, density, height and massing of buildings reflect or enhance local distinctiveness; there shall be no undue or unacceptable impact on the amenity of any nearby residential properties; designs shall recognise and reflect local distinctiveness, and be sensitive to the need to conserve local features of architectural, historic and landscape importance; the layout, height, mass and overall elevational design of buildings and development shall be in harmony with the character and appearance of the surrounding area, including their form, scale and impact on the skyline in the locality; and landscape design shall promote and enhance local biodiversity.

The design of the storage tank, as considered by Braintree District Council, is utilitarian. The development itself does not have a positive impact on the landscape setting. That being said, the development being characteristic of an agriculturally related provision does not conversely significantly detract from the landscape setting and is not out of keeping with the surrounding area. Located to the north of the farm holding, the storage tank would be visible from areas to the north, east and west and from the public footpath network around the adjoining fields. These views would however be screened by the proposed landscaping around the tank and hardstanding. In respect of this, the Council's landscape consultant has raised no objection to the proposal, in principle, recommending a condition requiring the submission of a landscape plan detailing the species, sizes and planting distances of tree and hedge species proposed. This condition has been suggested to ensure that the necessary planting for screening establishes and is effective. Natural England has, for reference, raised no objection to the development detailing that the proposal is unlikely to affect any statutorily

protected sites or landscapes.

BLP policy RLP80 inter-alia details that development which would not successfully integrate into the local landscape will not be permitted. As expressed above, this development whilst of no real design quality is considered characteristic for a farm. No objection from any statutory consultee has been raised about the landscape impact of the tank and it noted that similarly no such concern has been expressed by the public. The development area whilst extending the working farm area further to the north is considered appropriate to the locality and with the screening proposed, secured by restrictive condition should planning permission be granted, it is considered would fully integrate the development in the existing landscape setting, rendering the actual provision of a tank in this location compliant with BCS policies CS5 and CS8 and BLP policies RLP80 and RLP90.

With respect to the above it is noted that there are several listed buildings within close proximity of the site and Little Warley Hall Farm. Ranks Green Lane (16) is furthermore in part a Protected Lane of Grade II Listing. The Framework inter-alia details at Paragraph 132 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Leading on from this, at Paragraph 133, it is detailed that where a proposal will lead to substantial harm, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that, when considered, outweigh the harm caused.

BLP policy RLP87 states that the Council will seek to conserve the traditional landscape and nature conservation character of roads designed as Protected Lanes, including their associated verges, banks and ditches. Any proposals that would adversely affect the physical appearance of these Lanes, or give rise to a material increase in the amount of traffic using them will not be permitted. The Council's historic building consultant notes that Tudor Cottage, at the entrance drive to Little Warley Hall Farm, is the closest listed building to the development. It is however considered unlikely that this property would be affected (visually) as the tank is at the far north of the farm site and there are a number of modern industrial farm buildings between it and the cottage. In context of the site, as existing, and the other nearby listed buildings whilst it is noted that there may be some views of the development it is not considered the tank would harm the setting of any of listed buildings at a level to be contrary to the Framework and/or BLP policy RLP87. Support is nevertheless shown to the requirement for a detailed landscape scheme, as recommended by the Council's landscape consultant, to ensure the effective management of the proposed screening.

A number of letters of representation received raised concern about damage being caused to Ranks Green Lane. As previously detailed in relation to vehicle movements (Proposed Operations) it is not considered that this application would explicitly result in additional vehicle movements on the Protected Lane. Wash water has to leave Blixes Farm and this transportation by the fact that Blixes Farm is also located on Ranks Green Lane has to, by default, travel on it. The types of vehicle using the Lane, necessary to transport the material, are large vehicles

however are considered akin to that utilised on a regularly basis by normal farming activities and as such it is not considered that the proposal in itself would give rise to a material increase in traffic generation and subsequent damage to verges, banks and/or road ditches. In this regard it is considered that the proposal would not unduly impact the Protected Lane designation or affect the setting of the nearby listed buildings at a level to be contrary to BLP policy RLP87 and RLP90 (criteria in respect of the local distinctiveness).

Turning now to amenity impacts, the vast majority of public representation received raised concern with regard to odour. BLP policy RLP36 details that planning permission will not be granted for new development, extensions and changes of use, which would have an unacceptable impact on the surrounding area, as a result of noise; smells; dust; grit or other pollution; health and safety; visual impact; traffic generation; contamination to air, land or water; impact on nature conservation interests; and/or unacceptable light pollution. BLP policy RLP62 goes on to detail that planning permission will not be granted for development including changes of use which will, or could potentially, give rise to polluting emissions to land, air and water, or harm nearby residents including noise, smell, fumes, vibration or other similar consequences, unless: i) adequate preventative measures have been taken to ensure that any discharges or emissions, including those which require the consent of statutory agencies, will not cause harm to land use, including the effect on health and the natural environment; and ii) adequate preventative measures have been taken to ensure that there is not an unacceptable risk of uncontrolled discharges or emission occurring, which could cause harm to land use, including the effects on health and the natural environment.

In support of the planning application the applicant has submitted a report produced by the Environment Agency into reported odours around Ranks Green. As detailed in the report, the aim of the investigation was to assess the impact the sites regulated by the Environment Agency were having on the local community in an attempt to establish if the activities were creating unacceptable levels of odour. As detailed in one of the comment boxes to a representation received, the report separates the potential sources of odour from the abattoir itself, the transfer of the wash water to Little Warley Hall Farm, the storage at Little Warley Hall Farm and the deployment on to the surrounding fields. The assessment is made in context of other nearby sources of potential odour including manure heaps, silage storage tanks and Bateman's (poultry) Farm off Mill Lane.

Odour monitoring was undertaken by the Environment Agency between 10 June and 2 August 2013. Of which between 15 July and 2 August 2013 daily monitoring occurred. Set monitoring points were established around the site at points which were considered to represent high, medium and low sensitivity areas. Each site (six locations were chosen) was monitored for 10 minutes with the findings being recorded on a specific monitoring report sheet, used by the Agency in such circumstances. During the monitoring a range of weather conditions were experienced and of particular note so was a range of wind directions. Below is a table detailing the summary of the Environment Agency's investigation at the monitoring locations:

<u>Location</u>	<u>Summary of Findings</u>
Road Bridge – south-west of the storage tank and in a westerly direction of Blixes Farm abattoir.	Intermittent odour detected on 7 of the 29 occasions. Officers were unable to confirm any odour on 23 occasions. It is possible that 1 of the 6 confirmed odours was associated with the storage tank at Little Warley Hall Farm.
Little Warley Hall Farm – north of the storage tank and to the north-west of Blixes Farm abattoir.	Constant odour was detected on 6 out of 31 occasions and an intermittent odour was detected on 6 out of 31 occasions. Officers were unable to substantiate any odour on 19 occasions. It is possible that 7 of the 12 confirmed odours were associated with the storage tank at Little Warley Hall Farm.
Ranks Green – south-east of the storage tank and to the north-west of Blixes Farm abattoir.	Intermittent odour was detected on 4 out of 31 occasions. Officers were unable to confirm any sources of odour on 27 occasions. It is likely that none of the 4 confirmed odours were associated with the storage tank.
Footpath – south-east of the storage tank and to the north-west of Blixes Farm abattoir.	Constant odour detected on 1 out of 31 occasions. An intermittent odour was detected on 4 occasions. Officers were unable to substantiate any odour on 26 occasions. It is likely that 1 of the 5 confirmed odours was associated with the storage tank.
Footpath – south-east of the storage tank and to the north-west of Blixes Farm abattoir.	Intermittent odour was detected on 11 out of 29 occasions. Officers were unable to substantiate any sources of odour on 18 occasions. It is possible that 1 of the 11 confirmed odours was associated with the storage tank at Little Warley Hall Farm.
Ranks Green road junction – south-east of the storage tank and in a westerly direction of Blixes Farm abattoir.	Intermittent odour was detected on 6 out of 30 occasions. Officers were unable to substantiate any odour on 24 occasions. It is likely that none of the confirmed odours at this monitoring point were associated with the storage tank. The odours on these occasions were identified as likely being from Blixes Farm.

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With regard to the nuisance/odour diaries kept by local residents, the Environment Agency notes that on 7 occasions nuisance was recorded when land spreading (deployment) of the wash water was being undertaken. However, on 5 occasions no nuisance or incident report was recorded by residents when spreading was taking place. This it is considered by the Agency demonstrates that odours from the spreading does not always reach the Ranks Green area. From the analysis of the nuisance diaries, seen by the Environment Agency, it has been found that 58% of concern/incidents noted took place during time when the wash water was being spread on the land; and 41% of incidents recorded were at time when wash water was being transferred from Blixes Farm to Little Warley Hall Farm. Concentrating on the storage of the wash water, and the provision of a tank (the development to which this application relates), the Environment Agency note that from the monitoring points outside the farm the Officers were able to substantiate several odours which could have originated from the abattoir wash water storage tank. The Environment Agency have however inspected the tank and determined the tank is compliant with 'How to comply with your land spreading permit'.

A deodoriser was installed around the tank in March 2013 and this is being used as a suppressant when the wind is in a specific direction. Residents of Ranks Green have voiced concerns regarding the airborne deodoriser but we (the Environment Agency) have looked at the data sheeting and these state that the "the ingredients did not indicate any toxicological cause for concern in terms of hazard and risk, to either human users or consumers or to animals that may come into contact with the products".

The overall conclusion of the report was that whilst odour was detected on several occasions it was at a level that would be expected of a storage tank and the operator is taking the measures we would expect to minimise them. The storage of abattoir wash water is by its nature an odours one and therefore it would not be expected to be odour free at all times. In respect of this, and as detailed in the formal consultation response received from the Environment Agency, the Agency recommend a condition be attached, should planning permission be granted, requiring the tank to be capped, details of which would to be approved in writing by the Waste Planning Authority in conjunction with the Agency.

The Framework at Paragraph 109, a position/consideration replicated in many of the policies in the WLP and BLP referred to previously in the section, that the planning system should contribute to and enhance the natural and local environment by: (bullet point 4) preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. In consideration of this application – which is the provision of a storage tank for wash water – it is considered that the findings of the Environment Agency's report are useful in determining the actual impact the provision and storage of the wash water is/would have on the locality. The Environment Agency are the regulatory authority for the storage and deployment of the wash water and have already, as detailed previously, issued a Permit/Licence to cover the activities.



The Officer supporting report to Braintree District Council's formal consultation response, in relation to odour, notes that the site is in the countryside where it is not unusual to experience odours as a result of agricultural activity. However, it is considered in this report that this application relates to waste disposal and is not directly related to agricultural. Policies RLP36 and RLP62 of BLP, detailed previously in this report, seek to ensure that new development does not give rise to unacceptable environmental impacts as a result of, amongst other things, visual impact, traffic generation, noise and smells. The Council (Braintree District Council) is aware of issues regarding odour nuisance, however Braintree District Council Environmental Health does not consider they have sufficient evidence to support an objection on the grounds of odour nuisance.

In context of Paragraph 122 of the Framework; that the Council's air quality consultant has not raised an objection in principle to the development, although they have supported the motion for a condition requiring the tank to be covered (as suggested by the Environment Agency); and the above position of Braintree District Council Environmental Health it is considered that whilst odour is a concern the impact is likely to be significant enough, alone, to warrant refusal. In respect of this, and the notable local concern, it is nevertheless considered appropriate to consider if conditions could be imposed to limit potential nuisance and appease some of the local negativity. In this respect it must nevertheless be remembered that any condition imposed as detailed in Circular 11/95: Use of conditions in planning permission (the six tests for conditions) must be relevant to planning and relevant to the development to be permitted and in this regard any conditions imposed cannot solely relate to the deployment of the wash water. The conditions would need to relate to the tank and the activities associated with the use of that provision as a storage facility for abattoir wash water.

Initially with regard to covering the tank, a condition recommended by the Environment Agency and the Council's air quality consultant, the applicant has indicated that they would be willing to accept a condition as such. A cap it is considered would further seek to prevent odour nuisance and limit the actual exposure of the wash water to the atmosphere (during storage). With regard to other potential conditions, some of which have been recommend in public consultation responses received, it is considered that conditions could be applied limiting the use of the tank to just wash water as described in the application details and the total number of vehicle movements (deliveries) to the tank per week. The imposition of such conditions it is considered would seek to offer some certainty on the permitted storage and intensity of use.

With regard to the source of waste (wash water), whilst there is considered a tangible link between Blixes Farm abattoir and Little Warley Hall Farm, the benefits of the tank, as outlined by the applicant, remain irrespective of where the wash water is physically sourced from. It is considered that in land use terms, the site and proposal to a certain degree only comply with relevant policy because of the close proximity to the abattoir. However, the imposition of a condition specifically restricting waste sourced from Blixes Farm abattoir it is considered would be ultra-vires and not relevant to planning or the development to be permitted.

The provision of a storage tank for abattoir wash water it is considered does offer the applicant additional flexibility in context of the land spreading/deployment which is undertaken of the material for agricultural purposes. It is nevertheless also a fact that wash water by its very nature is odorous and as such can have negative impacts on the locality. Guided by technical experts on the matter it is nevertheless not considered, in this instance, that the level of nuisance or impact from the tank would be of a level to warrant refusal of the development. In context of this conclusion and with appropriate conditions attached, should planning permission be granted, it is considered that the development would demonstrate general compliance with WLP policy W10E and BLP policies RLP36 and RLP62.

## **D HUMAN RIGHTS**

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

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

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

## **7. CONCLUSION**

At the heart of the Framework is a presumption in favour of sustainable development. At paragraph 6 of the Framework it is detailed that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental. In an economic role planning should be contributing to building a strong, responsive economy, by ensuring that sufficient land of the right type is available in the right places and the right time to support growth and innovation. In a social role planning should be supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating high quality built environment, with accessible local services that reflect the community's needs and support is health, social and cultural well-being. In an environmental role planning should be contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.

In relation to the three dimensions of planning it is considered that there are clear benefits, to this development, within the economic and environmental roles. The development would support the farming activities at Little Warley Hall Farm and in an environment role minimise waste in that the wash water (a waste/by-product of the abattoir) is being utilised for agricultural benefit. Questions have been raised

as to the merits and rationale of the proposal and process (deployment of abattoir wash water for agricultural reasons) however the WPA in view that expert statutory consultees have not expressed similar concerns, in-deed a Permit/License already exists for the deployment, consider that there is an accepted agricultural use and benefit to the spreading. In light of the Localism Act 2011 and empowering local communities, particular in respect of the social role of planning, the concern and objection raised with regard to odour is of note. That being said it is not considered that sufficient evidence exists to demonstrate that any potential undue impact to the social role would outweigh the above benefits within the economic and environmental roles. This opinion is furthermore supported by the fact that no objection, in principle, to the provision of a storage tank has been raised by any statutory consultee.

It is therefore considered, subject to the imposition of certain restrictive planning conditions, that this proposal does represent sustainable development and as such complies with WLP policies W3A, W4C, W5A, W8B, W8C and W10E; BCS policies CS5 and CS8; and BLP policies RLP36, RLP62, RLP75, RLP80, RLP87 and RLP90.

## **8. RECOMMENDATION**

That planning permission be granted subject to the following conditions:

1. COM3 – Compliance with Submitted Details
2. DET2 – Design Detail (Variant)  
Within three months of the date of this permission, design details for the capping of the storage tank shall be submitted to and approved in writing by the Waste Planning Authority. The submitted detailed include scale drawings together with an indicative guide of function during operation (delivery of wash water). The cap shall be implemented in accordance with the approved details within three months of the date of the design details being approved.
3. HIGH4 – Prevention of Mud and Debris on Highway
4. HIGH5 – Vehicle Movement Limits (Variant)  
The total number of vehicle movements associated with the delivery of wash water to the storage tank, hereby permitted, shall not exceed 12 movements (6 in and 6 out) per calendar week.
5. LAND1 – Landscape Scheme
6. LAND2 – Replacement Landscaping
7. WAST1 – Waste Type Restriction (Wash water as described within the application details)

### **BACKGROUND PAPERS:**

ESS/60/13/BTE Application File

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### **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

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Habitats and Species Regulations 2010 is not required.

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

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

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**LOCAL MEMBER NOTIFICATION:**

BRAINTREE – Witham Northern

**DR/04/14**

committee DEVELOPMENT & REGULATION

date 28 February 2014

# **MINERALS AND WASTE DEVELOPMENT**

Proposal: **Change of use of the property to mixed uses comprising of a small scale waste transfer (Health Care Waste), storage and associated office use.**

Location: **Unit 2, Goldcrest Industrial Estate, Driberg Way, Braintree, Essex, CM7 1NB**

Ref: **ESS/66/13/BTE**

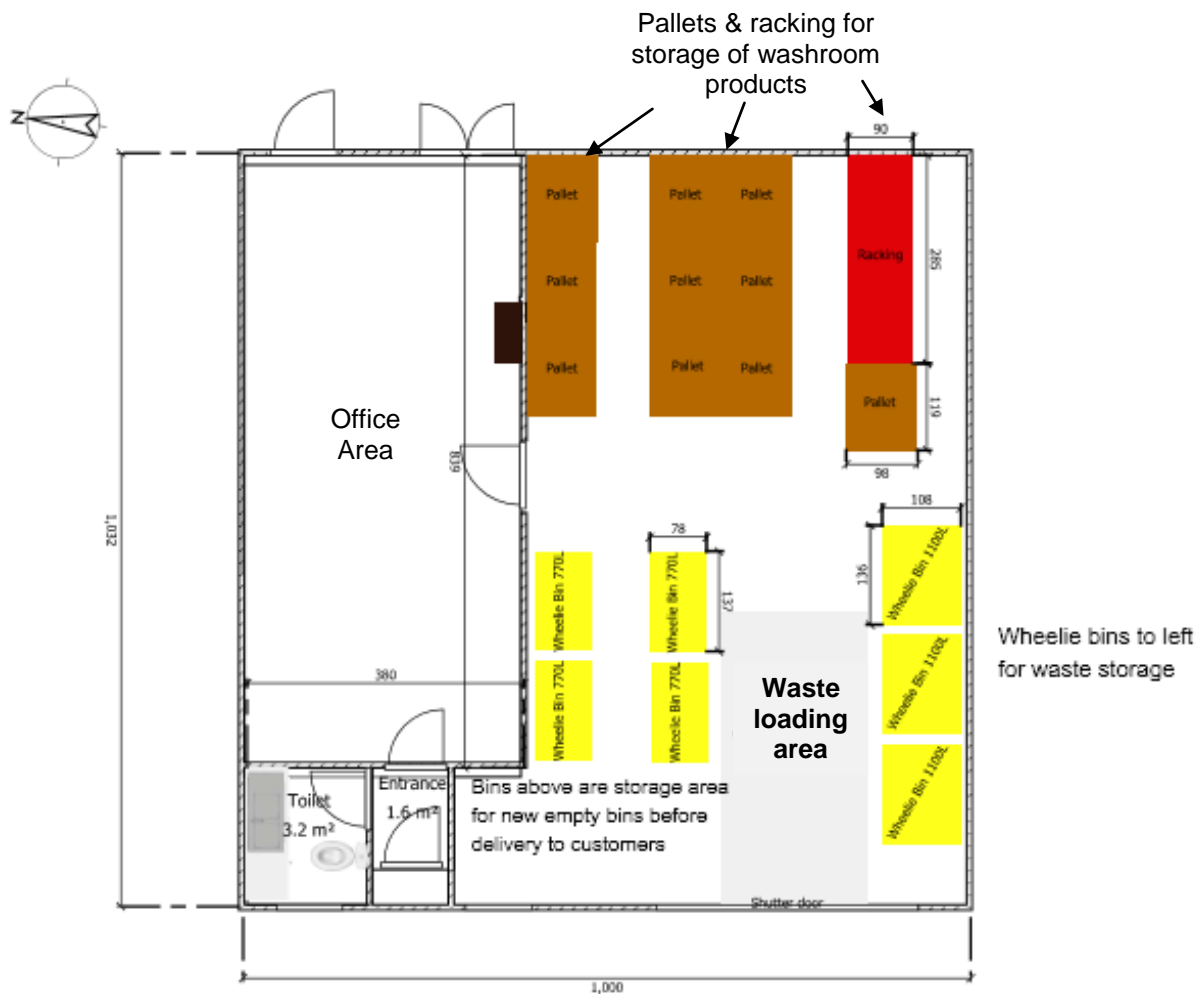
Applicant: **Stirling Washroom Services Limited**

Report by Director of Operations: Environment and Economy

Enquiries to: Gemma Bright, Tel: 03330 136 814

The full application can be viewed at [www.essex.gov.uk/viewplanning](http://www.essex.gov.uk/viewplanning)





## 1. BACKGROUND & SITE

The site is approximately 1.1km southeast of Braintree town centre and is located within the Goldcrest Industrial Estate (sometimes called the Skitts Hill Industrial Estate) within the Braintree urban area. The immediate boundaries of the site are with other industrial units. Directly adjacent to the industrial estate to the north is a small buffer strip comprising of open space, beyond which lie residential properties on Brise Close, the nearest dwelling being approximately 120m from the site. Adjacent to the industrial estate to the west is a residential area on Skitts Hill, the closest property being approximately 130m from the site. 90m to the southeast of the site is the Braintree waste water treatment works. To the east of the industrial estate is an informal countryside and recreational area, straddling the River Brain with associated cycleways and pedestrian access, beyond which are further residential areas (approximately 145m away).

The site consists of an industrial unit on the south side of Driberg Way. The unit is the middle unit in a block of three, which face west and accessed by a shared access to Driberg Way, which links to Skitts Hill in the west. The unit has 3 dedicated parking spaces directly in front of the unit, with opportunity to use a further three spaces on the opposite side of the 'yard' from which access to the unit is gained.



The unit is currently being used by the applicant to store washroom products and as a base for the waste collection and disposal side of the business. At present, no waste is stored on site and the applicant collects the healthcare waste and delivers it directly to the relevant treatment facilities, outside of Essex.

The industrial estate is designated as employment area with the Braintree District Local Plan. There is a Local Wildlife Site is Mill Park Wetland, which is approximately 200m to the north east of the site. The site is also located within approximately 70m of the River Brain.

There have been no other planning applications with regards to waste on this site previously.

## **2. PROPOSAL**

The proposal is for a change of use of Industrial Unit 2, for mixed uses comprising a small scale waste transfer station, storage and associated office use. The waste to be stored on site would be health care waste.

The property is a purpose built industrial unit and consists of breeze block internal walls and common style external facing bricks. The roof consists of steel framework, covered in roof panels. On the western side of the unit are a wooden door for pedestrian access and a metal shutter door for vehicular access. There is a further wooden door for pedestrian access on the eastern side of the unit. The unit has an internal floor area of 103.02m<sup>2</sup>, whilst the total site area including the access and parking is 352.98m<sup>2</sup>. The unit is 10m wide by 10.3m in length.

As this proposal is solely for a change of use, it is not proposed to increase the development area, change the design or external materials.

The proposal is for a small healthcare waste transfer station. Healthcare waste collected within Essex would be brought to the facility for storage and bulking up, negating the need for daily trips to the disposal facility in London and Suffolk. There would be no treatment or disposal of waste on site. Waste would be stored on site for a maximum of two weeks before being transported to the relevant facility. It is proposed that the waste would be collected from its source in 90 litre bags, to be transferred to and stored within three 1100 litre capacity lockable wheelie bins, contained within the industrial unit itself. This would result in a maximum of 3300 litres (estimated to be approximately 462kg) being on site at any one time and an annual throughput total of 85,800 litres (estimated to be approximately 12 tonnes) of waste.

The waste that would be handled on site is classified as 'healthcare waste'. In this case, this would consist of waste collected predominately from feminine hygiene bins, nappy bins from offices and other organisations, 'yellow and orange bag' healthcare waste and sharps from medical sources (including from tattooists, acupuncturists and vets) and tins mainly from air fresheners. As such, approximately 10% of this waste would be classified as 'hazardous waste' resulting in an annual total 8,580 litres (estimated to be approximately 1.2 tonnes) of hazardous waste would be stored on site annually.

It is proposed that the delivery vehicles would be reversed in to the unit, with the steel shutter door being closed prior to waste transfer. During delivery of the waste, the 90 litre bags as collected would be taken from the delivery vehicle and placed in to the wheelie bins by hand using all the necessary Personal Protective Equipment. During collection of the waste, same process would occur but removing the bags from the wheelie bins and placing them into the collection vehicle.

The application proposes that the site would be in use during the hours of 07:30 to 16:30 Monday to Friday with no working on Saturdays, Sundays, public or bank holidays.

It is proposed that there would be a maximum daily of 10 (5 in and 5 out) vehicle movements. It is estimated that the transfer of the waste from vehicle to wheelie bin and vice versa would take a maximum of 5 minutes for each transfer. When considering the maximum daily movements proposed, this would result in a potential maximum daily transfer time of 25 minutes to be carried out within the unit.

There is a standard industrial ventilation system within the unit. The proposed internal layout of the unit would mean that only one window would be located within the waste handling area, the others would be located in the office. The applicant has proposed that "Prozone" automatic ozone generators would be installed to destroy unpleasant smells and sanitise the air for staff.

### 3. POLICIES

The following policies of the Essex and Southend on Sea Waste Local plan, adopted 2001, the Braintree District Council Local Development Framework Core Strategy 2011 (BCS) and Braintree District Local Plan Review 2005 (BLP) provide the development plan framework for this application. The following policies are of relevance to this application:

Policy	BLP	<u>WLP</u>
Location of Employment Land	RLP 27	
Employment Policy Areas	RLP 33	
Buffer Areas between Industry and Housing	RLP 34	
Industrial and Environmental Standards	RLP 36	
Vehicle Parking	RLP 56	
Development Likely to Give Rise to Pollution, or the Risk of Pollution	RLP 62	
Air Quality	RLP 63	
Water Quality	RLP 72	
Waste hierarchy		W3A
Surface & groundwater protection		W4B
Access		W4C
Clinical waste		W5B
Preferred locations		W8A
Non-preferred locations		W8B
Small scale proposals		W8C
Development Management		W10E



The National Planning Policy Framework (NPPF), published in March 2012, sets out requirements for the determination of planning applications and is also a material consideration. The NPPF combined and streamlined all planning policy except for Waste, so Planning Policy Statement 10 Planning for Sustainable Waste Management (PPS10) continues to apply. Additionally the National Waste Management Plan for England (NWMPE) is the overarching National Plan for Waste Management. All decisions must comply with the NPPF, while the NWMPE and PPS10 are material considerations in planning decisions.

Paragraph 215 of the NPPF states, in summary, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The level of consistency of the policies contained within the Essex and Southend on Sea Waste Local Plan, adopted 2001, the Braintree District Council Local Development Framework Core Strategy and Braintree District Local Plan Review is considered within the report.

With regard to updates to the WLP the Waste Development Document: Preferred Approach 2011 (now known as the Replacement Waste Local Plan (RWLP)), was consulted on in November 2011 and should be given little weight, having not been 'published' following the adoption of the NPPF.

#### **4. CONSULTATIONS**

BRAINTREE DISTRICT COUNCIL –No objection

ENVIRONMENT AGENCY – No objection

HIGHWAY AUTHORITY – No objection

WASTE MANAGEMENT (ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS) – No comments received

LOCAL MEMBER – BRAINTREE – Braintree Town - Any comments received will be reported

#### **5. REPRESENTATIONS**

314 properties were directly notified of the application. Six letters of representation have been received, one of which was in support of the application. The other representations relate to planning issues covering the following matters:

<u>Observation</u>	<u>Comment</u>
Insufficient parking in the industrial estate causing dangerous parking	See Appraisal
Parking provision is not mentioned and without proper provision needs to be refused	See Appraisal

Highway Department is not preventing inappropriate parking on Skitts Hill	See Appraisal
Traffic using Orchard Drive as a 'short cut'	See Appraisal
Additional odour will be caused as evidenced by need to install scented sprays.	See Appraisal
Blight caused by dumping waste in warehouses costing local Authorities millions	See Appraisal
Why is this not located on the Springwood Industrial Estate?	See Appraisal
Not a suitable activity in this location as it is surrounded by residential area.	See Appraisal
Security of the unit and of the waste	See Appraisal
Concern over health & safety inspection regime that will have to be put in place	See Appraisal
Concerned if a late amendment would allow the site to be used as an incinerator	The proposal is for the transfer and storage of clinical waste and not for waste disposal (incineration)
If living within 25m of a clinical waste site additional charges to sell your home for checking for Digitized Polygons	Not a planning issue

## 6. APPRAISAL

The key issues for consideration are:

- A. Need & Principle of Development
- B. Impacts on Local Amenity
- C. Hydrological Impacts
- D. Highway Impacts

### A NEED & PRINCIPLE OF DEVELOPMENT

The NPPF states that there are three strands of sustainability. Sustainable development focuses on building a strong competitive economy, whilst enhancing the local environment and supporting strong, vibrant and healthy communities. The NPPF considers these three roles to be mutually dependant states significant weight should be given to proposals, which support economic growth and the prevention of climate change.

As noted earlier the within the report, the NPPF does not contain specific waste policies, which means that PSS10 and the National Waste Management Plan for England are material considerations in decision making. However, local authorities

taking decisions on waste applications should have regard to policies in the Framework so far as relevant.

PPS10 states that 'the overall objective of Government policy on waste, as set out in the strategy for sustainable development, is to protect human health and the environment by producing less waste and by using it as a resource wherever possible. With sustainable waste management, the Government aims to break the link between economic growth and the environmental impact of waste, by moving the management of waste up the 'waste hierarchy' of prevention, preparing for reuse, recycling, other recovery, and disposing only as a last resort

Waste Local Plan policies W3A (Waste Hierarchy) requires applications to be considered in terms of consistency with the waste hierarchy, sustainability and the proximity principle. The proximity principle has been developed within PPS10 such that the principle is now one of "waste to be disposed of in one of the nearest appropriate installations". More specific locational criteria are set out in policy W8B (Non Preferred Locations) and W8C (Small Scale Waste Facilities), which in combination set out the locational criteria for small waste facilities (with a capacity generally below 25,000 tonnes per annum). When a proposal is not located within preferred locations (as described in WLP policy W8A) suitable locations are defined as within industrial estates and where the use can be located within existing buildings not requiring significant adaption or extension. Policy W5B (Clinical waste) confirms these locations as suitable for the management of healthcare waste, subject to compliance with other relevant policies within the plan. These policies are considered to be consistent with the aims and objectives of the NPPF.

The proposal has been developed by the applicant to compliment his existing washroom products business, to provide a complete washroom solution to customers. This increases competition within this niche market: In principle, this should not be stifled by planning regulations, unless material considerations (such as amenity and the environment) indicate otherwise. At present, the current collection regime involves visiting customers' washrooms and then taking the waste directly to the appropriate treatment facilities (which are beyond the Essex boundary). This results in four to five journeys per day to the two receptor sites; one of which is 45.2 miles away, and the other 38 miles. By bulking the waste up at the proposed site, the operator would be able to reduce the number of trips to the disposal facility to once every two weeks and thereby reducing waste miles. The applicant considers long-term continuation of the current method unviable. Additionally, the applicant considers that should planning permission be granted, the business could grow and lead to more staff being employed at the premises. This is in conformity with the economic dimension of the NPPF.

There has been no objection lodged by Braintree District Council. However, local objections question why the facility has been proposed on the Goldcrest Industrial Estate (particularly because of the surrounding residential areas) and not the Springwood Industrial Estate to the west of Braintree. The applicant has responded stating consideration was given to a number of industrial estates within the Braintree area, but the business is in its infancy and cannot economically justify the much larger premises available on the Springwood Industrial Estate. The proposed unit and location would suit the businesses current needs and would be financially viable.

Additionally, as the application requires a change of use to transfer and storage of healthcare waste a landlord that was prepared to allow this was required. It is the case that with the exception of the locations stated in policy W8A (Preferred Locations) there is no preference given to specific industrial estates over others within WLP policies W8B, W8C and W5A.

The unit at Driberg Way is located within the purpose built Goldcrest Industrial Estate, which is designated as employment area by policy RLP 33 (Employment Policy Area) within the Braintree District Development Plan Documents and is therefore in compliance with WLP policies W8B, W8C and W5A. Policy RLP 33 (Employment Policy Area) does seek to protect designated employment areas for Use Classes B1, B2, and B8. While waste storage/transfer is a Sui Genus use, it is similar to B2 (General Industrial) and B8 (Storage & distribution) uses and Braintree District Council has raised no objection. The proposal is therefore considered acceptable in this location.

Policy RLP 34 (Buffer areas between Industry and Housing) seeks to maintain buffer zones between industrial and residential areas. The application would not impact on this buffer zone and is therefore in compliance with policy RLP 24.

It is considered that in principle the proposal is not in conflict with the NPPF's presumption in favour of sustainable development, or contrary to the adopted development plan documents. The applicant has demonstrated a need for the proposal, in terms of reducing the current need to travel to the waste receptor sites in Suffolk and London, up to four times a day. The proposal would therefore reduce 'waste miles', with the benefit of reducing greenhouse gas emissions and therefore meeting one of the central aims of the NPPF to address climate change. Additionally, the site is located within a designated industrial estate and is therefore in compliance with waste policies W3A, W8B, W8C, W5A and Braintree policies RLP 33. These policies are considered to concur with the aims and objectives of the NPPF and PPS10. However, local impacts should be considered as well as other material considerations in relation to this specific site and use of this proposal would outweigh this need and general principle of sustainable development.

## **B IMPACTS ON LOCAL AMENITY**

WLP policy W10E states permission would be granted only where there is satisfactory provision within the application for amenity of neighbouring occupiers particularly in relation to smell and other potential pollutants. Similarly, Braintree Local Plan Policy RLP 36 (Industrial and Environmental Standards) states permission will not be granted for changes of use, which would have an unacceptable impact on amenity, which in this case includes smells, health and safety, traffic generation, contamination to land air or water. To further quality this, RLP 63 (Air Quality) requires proposals to meet air quality objectives, whether as directly due to the proposal, or the resultant traffic movements.

### Odour

Due to the nature of the waste proposed to be stored within the unit, there would be an opportunity for an increase in odour as a result of the proposal. A number of local

residents have objected to the proposal on the grounds of odour impacts. Many of these have noted that the application site is approximately 90m to the north the Braintree waste water treatment works. They have also stated that this waste water treatment works often emits significant odours, which would be worsened by this proposal.

Braintree District Council does not object to the application, following consideration by Planning and Environmental Health officers.

As part of the application, by way of an odour management scheme submitted as further supporting information, it is proposed to reverse the delivery vehicles in to the industrial unit while the transfer of the sealed containers and tied bags is undertaken. The three proposed lockable wheelie bins used to store the waste, would be located within Unit 2 at all times submitted in support of the application) and the bins would be closed and locked when transfer activities were not occurring. Furthermore, it is estimated by the applicant that each delivery and collection would take no more than 2 to 3 minutes to undertake, further limiting the potential for odour to be release. Therefore, as it is proposed that there would be a maximum of 5 vehicle movements this would present a maximum of 15 minutes per day that the wheelie bins (within the industrial unit) would be open, which would potentially release odour. During the night, the bins would have the added security of being locked within Unit 2.

Additionally, it is proposed that "Prozone" automatic ozone generators would be installed. These units destroy micro-organisms and break down odour, destroying unpleasant smells and sanitising the air for staff.

Due to the proposed method of operation and deodorising equipment it is considered there would be minimal if any impact on residential amenity, particularly in the context of existing odours from the nearby sewage treatment works. It is therefore considered that the proposal complies with Policies W10E and RLP 36.

### Air Quality

As previously described, the current collection regime involves visiting customers washrooms and then taking the waste directly to the appropriate treatment facilities (which are beyond the Essex boundary). The bulking up of waste at the site would significantly reduce waste miles.

In consideration of the value that the NPPF places on the prevention of climate change, the application should be considered against the potential overall emissions to air. It is the case, that the proposal would generate a daily maximum of 10 (5 in, 5 out) light goods vehicle movements per day within the immediate locality. This proposal would generate a relatively low number of vehicle movements and other uses of this unit (which permission may not need to be sought) could result in significantly higher vehicle movements i.e. the taxi company using the adjacent unit.

It is therefore considered that the scheme overall would not increase emissions to air and reduce the greenhouse gas emissions (when compared to the existing situation) having positive environmental benefits in accordance with the NPPF and Policies W10E, RLP 36 and RLP 63.

## Security of Waste & Health and Safety Issues

Some objections received concern the security of the waste within the wheelie bins, with the likelihood of the bins being broken in to and the waste scattered within the industrial estate and residential areas. Further concerns have been raised regarding the security of the pedestrian door to the west of the building. A further objection queried the health & safety inspection regime that would have put in place and that blight caused by dumping waste in warehouses, which would ultimately cost the Local Authority money to remove.

The applicant states that the unit the wheelie bins would be emptied approximately once every two weeks, thus preventing accumulation of waste. Additionally the unit itself has all of the usual security measures associated with an existing industrial estate and if the application is granted, then an additional alarm and CCTV system would be installed. As previously described, all of the waste would be stored within the unit in lockable wheelie bins, while no transfer activities were occurring. During the period when the unit was not in use (between 16:30 and 07:30) all entrances of the unit would be locked to prevent crime by way of stealing stock and mal-intent regarding the waste.

With regards to the health and safety issues raised by local residents there has been no objection raised by Braintree District Council's Environmental Health Officer or the Environment Agency. It is considered that in line with policy RLP 36 there would not be significant health and safety issues as a result of the proposal. It is also the case that adequate preventative measures have been taken to reduce any impacts further, by way of additional security measures.

Furthermore, in accordance with the NPPF, 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 do specify that the operation would need to be permitted in line with the Environmental Permitting Regulations 2010.

It is considered that in accordance with the NPPF, planning permission should not be refused on the basis of local amenity as the proposal is not in conflict with policies W10E, RLP 36 and RLP 63. It is considered that the adverse impacts do not significantly and demonstrably outweigh the benefits of proposal. It has been suitably demonstrated that there would be only minimal potential for localised odour release, (individually or in combination with the Braintree waste water treatment works) and adequate security measures.

## **D HYDROLOGICAL IMPACTS**

Due to the nature of the waste being transferred and stored on site, potential hydrological impacts must be considered, particularly as the River Brain is approximately 70m to the east. Waste Local Plan policies W10E (Development Management) and W4B (Surface & groundwater protection) only allows proposals to be permitted where there would not be an unacceptable risk to water quality and the hydrological environment. This is echoed by policies RLP 36 (Industrial and

Environmental Standards), RLP 62 (Policy Development Likely to Give Rise to Pollution, or the Risk of Pollution) and RLP 72 (Water Quality).

The proposal states that sharps would be in purpose made sealed containers and other healthcare waste would be in tied bags and stored in lockable wheelie bins, which would be stored within Unit 2. All transfer activities would be contained within the unit itself, which has a concrete (impermeable) floor and water disposal is likely to be via the foul sewer, such that there would be no direct pathway for the waste to come in contact with surface water and thus pathway to the River Brain.

Braintree District Council and the Environment Agency do not object to the proposal on hydrological grounds.

In view of the proposed methods of operation, it is considered there would be no significant adverse impact on the water environment and the proposals are therefore in compliance with the NPPF and policies W10E, W4B, RLP 36, RLP 62 and RLP 72.

## E HIGHWAY IMPACTS

As there would be vehicular activity associated with this proposal impacts on the highway must be considered. Policies W4C (Access & Highways) and W10E (Development Management) require proposals to have suitable access and prevent impacts on the highway network. Similarly, RLP 27 (Location of Employment Land Development for employment) and RLP 36 (Industrial and Environmental Standards) states permission will not be granted where it would be likely to add unacceptably to traffic congestion. In addition, policy RLP 56 (Vehicle Parking) requires applications to comply with the adopted vehicle parking standards.

Within the application, it is stated that there would be a maximum of 10 vehicle movements (5 in and 5 out) per day, which would include the delivery and collection of the stored waste. It is stated that there are currently 3 parking spaces immediately in front of the unit, with opportunity to use three spaces on the opposite side of the yard, within the site area. There are no proposals for additional parking.

There is currently one employee, who uses a single light goods vehicle for waste collections from clients and deliveries to the disposal facilities. It should be noted that there are number of uses, which are permitted on industrial estates and do not need to benefit from specific planning permission, which could generate a significant numbers of vehicle movements, potentially more than is specified within this planning application of a maximum number of 10 movements per day.

There have been a number of objections to the proposal on the grounds of highway impacts on the current access from Goldcrest Industrial Estate and Skitts Hill, and the lack of parking spaces within the industrial estate. It appears to be the case that there is limited available parking within the industrial estate and therefore a number of employees park on the footpaths within the industrial estate and on the main highway opposite dwellings on Skitts Hill. This causes local road users difficulties in negotiating the parked cars causing localised congestion, and the use of Orchard Drive as a short cut. Both Braintree District Council and the Highway Authority are aware of this long term concern of the local residents.

The Highway Authority has no objections to this proposal as it does not conflict with safety, accessibility, efficiency/capability, the road hierarchy or parking standards. Similarly, Braintree District Council does not object on these grounds.

It is considered that the minimal increase in vehicle movements (up to 10 per day) would not significantly impact on congestion experienced by the local highway network and would therefore comply with policies W4C, W10E, RLP 27 and RLP 36. Similarly, the applicant has three parking spaces as part of the rented unit, with only one employee and one light goods vehicle requiring a parking space at present. It is not therefore considered that this development would contribute to the current lack of parking spaces that is experienced by other units on the estate, and it would be unreasonable for the Waste planning Authority to refuse permission on the grounds that other businesses on the estate have insufficient parking. Although, the business may grow, it is considered that the allocated vehicle parking spaces are sufficient for this. It is therefore considered that the proposal is in compliance with policy RLP 56 and so should not be refused on Highways, access or parking grounds. Granting permission where benefits of development are not significantly and demonstrably outweighed by adverse impacts concurs with the direction of the NPPF.

## **7. CONCLUSION**

The unit itself is already used by the applicant as a store to house the washroom products, but no waste is currently stored on site. Should the application be refused, the applicant can continue to use the unit to store the washroom products and continue to make daily trips to the relevant treatment facility. However, the applicant considers the waste collection business would not be viable in the long term if this were to be the case.

In view of this, it has been suitably demonstrated that there is a need for the proposal, in terms of allowing healthcare waste to be bulked up to reduce the number of trips from the Braintree area to the disposal facilities beyond the Essex boundary, whereby reducing waste miles and greenhouse gas emissions. Additionally, the site is located within a designated industrial estate and is therefore in compliance with waste policies W3A, W8B, W8C, W5A and Braintree policies RLP 33 in terms of location for such an activity. The need and principle of development is supported by aims and objectives of the NPPF, PPS10 and the NWMPE.

Furthermore, due to the proposed methods of operation, it is considered there would be no significant adverse impact on the water environment or local amenity by way of air quality, odour, security of the waste and health and safety. Proposals are therefore in compliance with the NPPF and policies W10E, W4B, RLP 36, RLP 62, RLP 63 and RLP 72.

With regards to parking issues, it is considered that it has been demonstrated that there are sufficient parking spaces allocated to the unit at present and if the business were to grow. The proposal is therefore complies with the NPPF and policies W4C, W10E, RLP 27, RLP 36 and RLP 56.

It is therefore considered that the proposal is not contrary to the adopted development



plan documents, so granting permission where benefits of development are not significantly and demonstrably outweighed by adverse impacts concurs with the direction of the NPPF. Additionally, it is considered that the proposal is directly compliant with the NPPF, particularly in reducing waste miles and securing reductions in greenhouse gas emissions (Para 93), which is considered to be central to the economic, social and environmental dimensions of sustainable development. The proposal would help to generate economic prosperity in the local area, while not having a significant impact on the environment or social needs within the locality and wider Essex.

## **8. RECOMMENDED**

That planning permission be **granted** subject to conditions covering the following matters.

1. COM1 – to be implemented within 5 years
2. COM3 – to be carried out in accordance with submitted details
3. HIGH2 – compliance with indicated access

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## **BACKGROUND PAPERS**

Consultation replies  
Representations

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## **THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010**

The proposed development would not be located within distance to a European site. Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required.

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

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

In determining this planning application, the Essex County Council has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012

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**LOCAL MEMBER NOTIFICATION**

BRAINTREE – Braintree Town

**DR/05/14**

committee DEVELOPMENT & REGULATION

date 28 February 2014

# **MINERALS AND WASTE DEVELOPMENT – ENFORCEMENT ITEM**

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**

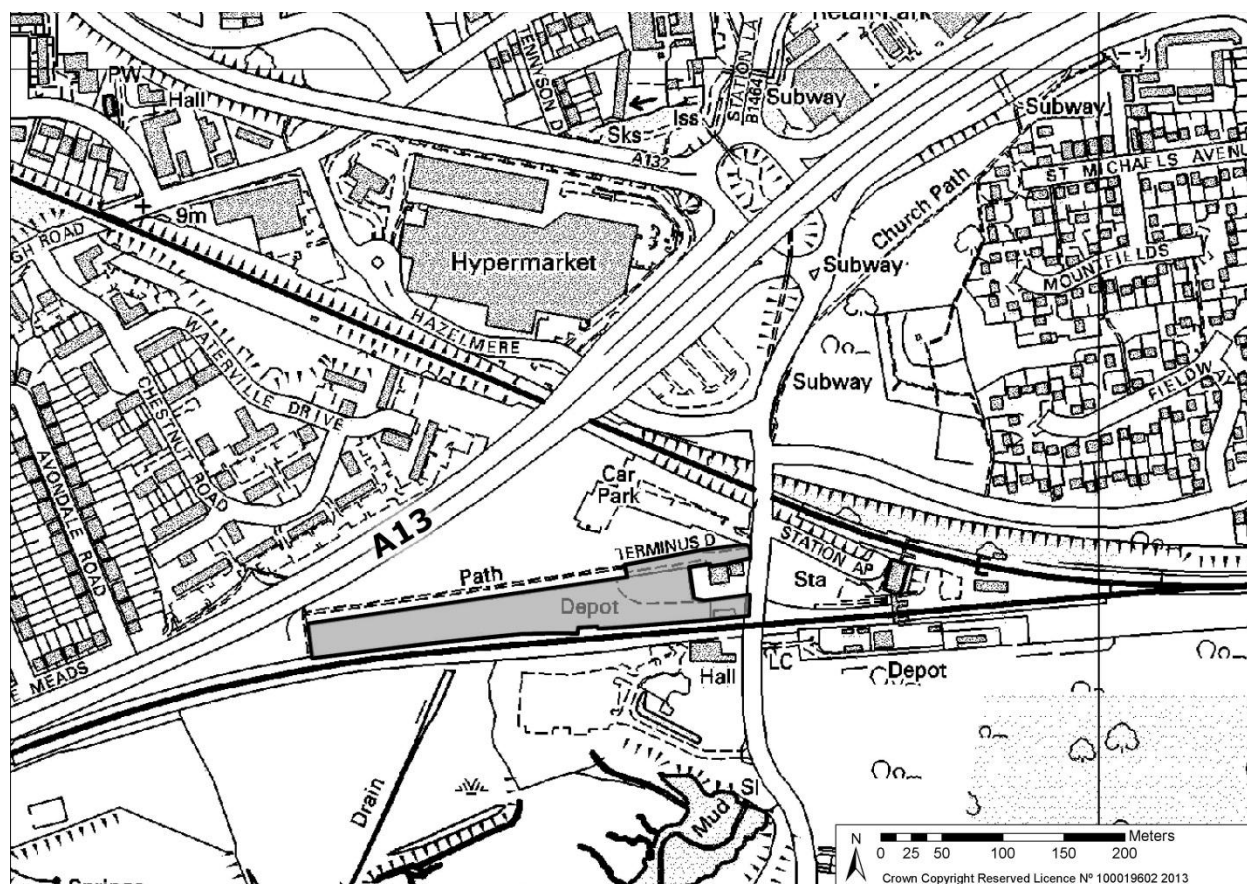
Ref: **ESS/69/12/BAS**

Applicant: **Heard Environmental**

Report by Director of Operations: Environment and Economy

Enquiries to: Claire Tomalin Tel: 03330 136821

The full application can be viewed at [www.essex.gov.uk/viewplanning](http://www.essex.gov.uk/viewplanning)



## **1. BACKGROUND**

Members will recall the application was considered May 2013. The Committee resolved to grant planning permission subject to conditions. Planning permission was subsequently issued on the 11 June 2013.

## **2. SITE**

The site is located south of Pitsea, south of the A13 on Pitsea Hall Lane. The site is accessed via Terminus Drive a no through road. The site itself covers an area of approximately 1.24 hectares. The site is located immediately north of the London to Shoeburyness railway line (the Loop which goes via Rainham) and south east of the London to Shoeburyness main line, with the two lines converging at Pitsea station to the east.

To the southwest, beyond the Loop railway line (approximately 10m), is the Vange Creek Marshes (Local Wildlife Site) and to the south east (approximately 10m) is Cromwell Manor (formerly Pitsea Hall), which is a Grade II listed building used as a wedding and conference venue.

## **3. PROPOSAL SUMMARY**

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 for mainly commercial and industrial (C & I) waste and construction & demolition (C&D) waste.

The annual throughput of waste proposed to be handled at the site would be 49,000 tonnes per annum. Of this total approximately 10% would be household waste, 60% C & I waste and the remaining 30% would consist of C & D.

The proposal includes the erection of a building within which waste would be sorted and materials recovered, with associated offices and hardstanding.

## **4. UPDATE SINCE DETERMINATION OF THE APPLICATION**

### Judicial Review Challenge

On 31 July 2013 the authority were given prior notification by way of a letter before action of the intention of the owner, tenant and operators of Cromwell Manor (formerly known as Pitsea Hall) to submit a Judicial Review (JR) challenge to the decision of the authority to grant planning permission.

A JR is primarily concerned with whether an error has occurred in the decision making process – not necessarily what the actual decision was. The court in considering a JR will not substitute what it thinks is the 'correct' decision.

The main substance of the JR challenge related to the way in which the authority had considered the impact of the proposals on the Listed Building. The authority responded to this prior notification defending its position with respect to determination

of the application.

The formal JR challenge was received on 30 August 2013 and was subject of 5 grounds of challenge, which are set out in Appendix 1. In summary it was challenged that the authority had not properly considered the impact of the proposals on the Listed Building in accordance with planning legislation and policy and therefore the decision was unlawful.

In preparing a response to the JR challenge it came to light that there had been some confusion over the drawings forming part of the application. Some superseded versions of the drawings with respect to the main building had been presented at Committee and it was unclear whether all consultees had commented on the original or revised drawings. In addition it was noted that an error had occurred in the drafting of the decision notice such that part of a condition wording was missing.

The authority sought counsel's advice and it was recommended that, taking the matters as a whole, (those forming the JR challenge and the errors noted since the submission of the JR) the authority should agree to the quashing of the planning permission. The claimant with respect to the JR agreed to consent to the quashing of the planning permission. The planning applicant also agreed to the quashing of the planning permission.

A signed consent order to this effect dated the 17 September was sent to the court and was approved by the court on 10 January 2014.

Effect of quashing the permission: The effect of quashing the planning permission is that the application is now undetermined and the authority must reconsider the application. The applicant has provided additional information, in particular a Heritage Statement, and has revised the main building by adding a screen to the front of the main building. In addition, supporting information has been updated in light of these changes and information supplied with respect to some of the pre-commencement conditions of the now quashed planning permission.

The revised application is now the subject of full re-consultation; the 21 day period for consultation will end on the 7 March 2014.

Upon completion of the consultation and consideration of the application, the matter will be referred back to the Committee for determination.

Activity on site and enforcement: The applicant, Heard Environmental, commenced construction of the main building in August 2013, without having discharged pre-commencement conditions of the now quashed planning permission. The applicant/agent were notified of this breach of planning control and the agent submitted the outstanding details in relation to the pre-commencement conditions in September 2013. However, in light of the JR challenge the applications to discharge conditions were withdrawn. The outer shell of the building has been completed.

The operator has not brought the building into use for waste recycling. The operator has imported waste wood into the site, which has been deposited at the west end of the site. This wood has been sorted by grab and by hand and different qualities of

wood exported from the site. There has been some storage of empty skips at the east end of the site.

The site has been the subject of complaints from the occupiers of Cromwell Manor with respect to vibration. Vibrations were felt when the waste site operator was scraping and levelling the roadway of Terminus Drive, but this was a short-term temporary activity. Other periods of vibration have been reported but it has not been possible to substantiate that the vibration can be directly attributed to the operations at the waste site. The occupiers of Cromwell Manor have been asked to maintain a log of impacts should they experience disturbance in the future.

Development has therefore taken place on site, however, in view of the outstanding application (now remaining to be determined) it is considered that it would not be appropriate to take enforcement action seeking removal of the unauthorised development at the current time. Relevant government Guidance is found in the National Planning Policy Framework (NPPF) which states that; Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and the local planning authorities should act proportionately in responding to suspected breaches of planning control. In accordance with the Council's Local Enforcement and Monitoring plan negotiation should always be the first step in resolving any breach of planning control.

The operator has submitted an application and therefore prior to deciding whether or not it would be expedient to take formal enforcement action, it is considered that time should be allowed for the determination of the application and for consideration of the impacts of the proposals. In the event that planning permission is granted this would regularise the building and the use of the site as a waste recycling site. In the event that planning permission is refused then the need for formal enforcement action would need to be reconsidered at that time, should it be considered expedient.

In the interim it is considered appropriate to continue to monitor activities and review the need for enforcement action, dependent on whether there are significant changes in the level of activity at the site which give rise to unacceptable impacts or upon determination of the application.

## **5. RECOMMENDED**

That no enforcement action is undertaken in respect of the existing breach of planning control (against the unauthorised development) pending the determination of the extant planning application (ref ESS/69/12/BAS), subject to the Waste Planning Authority continuing to monitor activities on site to ensure that no injury to local amenity takes place.

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### **BACKGROUND PAPERS**

Consultation replies

Representations

JR submission and responses

### **LOCAL MEMBER NOTIFICATION**

BASILDON – Pitsea

## **Appendix 1**

### **Grounds of JR Challenge by Owners & Operators of Cromwell Manor**

#### **Ground 1**

Failure to comply with the duty to have special regard to the desirability of preserving the listed building or its setting as required by the Planning (Listed Buildings and Conservation Areas) Act 1990, ss. 16(2) and 66(1) and in consequence applying a test which was wrong in law when considering the application.

#### **Ground 2**

Failure to require a report from the applicant on the significance of the listed building as a heritage asset as required by para. 128 of the National Planning Policy Framework (NPPF) and failure to identify and assess the particular significance of the heritage asset as required by para. 129 of the NPPF.

#### **Ground 3**

Misinterpretation and misapplication of the tests provided in the NPPF, paras 131-134 and in particular failure to determine whether there would be substantial harm to the heritage asset, as required by paras. 131-134.

#### **Ground 4**

Failure to comply with the publicity and notification requirements under the Planning (Listed Buildings and Conservation Areas) Regulations 1990, reg. 5A in view of the acknowledged fact that the development would affect the setting of a listed building.

#### **Ground 5**

Failing to undertake a lawful screening exercise in accordance with reg. 4 and Schedule 3 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Accordingly planning permission was granted without requiring and taking into account an environmental Statement and other environmental information, in breach of reg. 3(4). This resulted in a failure (Inter alia) to consult English Heritage and a failure to undertake a systematic and cumulative assessment of all the likely significant effects of the proposed development on the listed building and its setting.



**DR/06/14**

Committee DEVELOPMENT &amp; REGULATION

date 28<sup>th</sup> February 2014**INFORMATION ITEM****Applications, Enforcement and Appeals Statistics**

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

Enquiries to Tim Simpson – tel: 03330 136 812

or email: [tim.simpson2@essex.gov.uk](mailto: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

**6**

No. Decisions issued this financial year

**39**

Overall % in 13 weeks this financial year

**69%**

% on target this financial year (CPS returns count)	56%
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Nº Delegated Decisions issued in the month	6
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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	40
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Nº of Major Applications determined (13 weeks allowed)	0
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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%)	83%
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All Applications

Nº. Delegated Decisions issued last month	9
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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	153
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Nº. of Submission of Details Pending	72
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Nº. of referrals to Secretary of State under delegated powers	1
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Appeals

Nº. of appeals outstanding at end of last month	1
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Enforcement

Nº. of active cases at end of last quarter	24
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Nº. of cases cleared last quarter	14
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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	1
Nº. of Temporary Stop Notices Issued last month	0
Nº. of Stop Notices Issued last month	0



**DR/07/14**

Committee                DEVELOPMENT & REGULATION

date                      28 February 2014

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**INFORMATION ITEM**

**Dates of Future Meetings**

Report by Clerk to the Committee

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Enquiries to Matthew Waldie – tel: 01245 430565

or email: [matthew.waldie@essex.gov.uk](mailto:matthew.waldie@essex.gov.uk)

**1.        PURPOSE OF THE ITEM**

To inform Members of the proposed meeting dates to end of April 2015.

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**2.        MEETING DATES**

**2014**

Friday 28 March

Friday 25 April

Friday 23 May

Friday 27 June

Friday 25 July

Friday 22 August

Friday 26 September

Friday 24 October

Friday 28 November

Friday 12 December

**2015**

Friday 23 January

Friday 27 February

Friday 27 March

Friday 24 April

All meetings scheduled for 10:30 am, with Members' training at 9:30 am.

