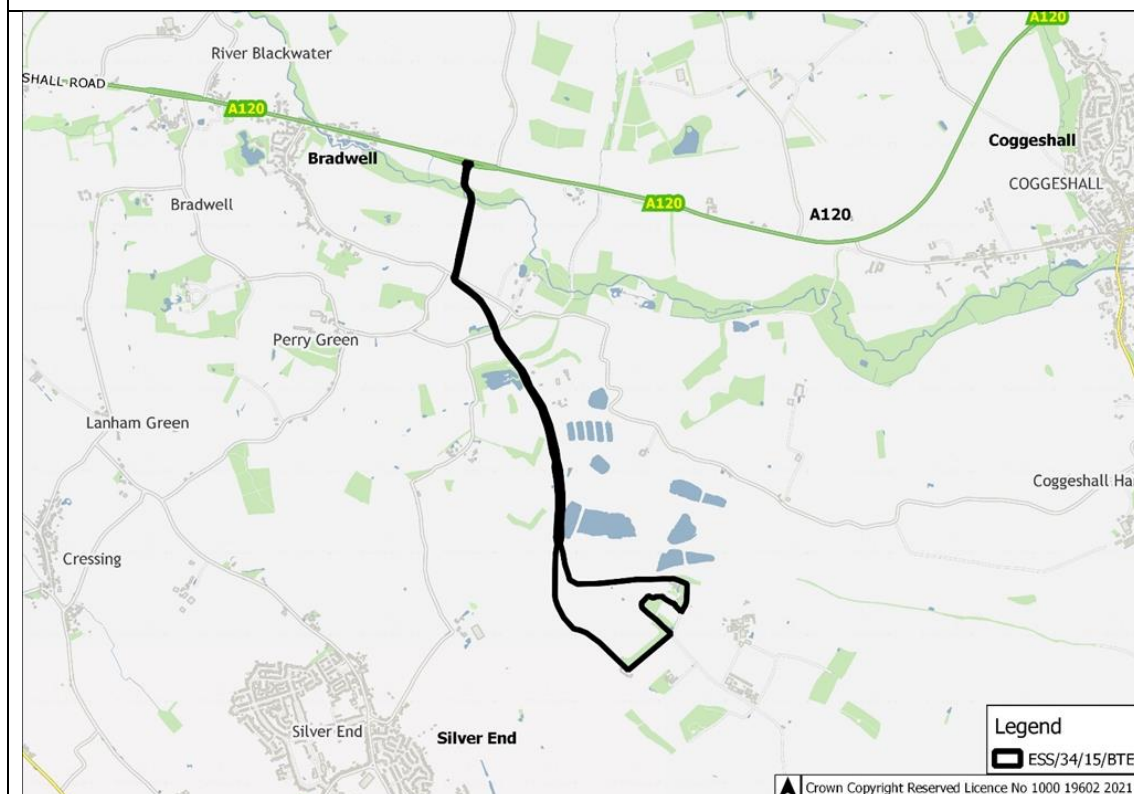


DR/25/23**Report to:** DEVELOPMENT & REGULATION (28 July 2023)**Proposal:** MINERALS AND WASTE DEVELOPMENT

Continuation of development of the Integrated Waste Management Facility (IWMF) with deletion of condition 66, approved details thereunder and associated conditions (Plan of Action if development not taken forward within 5 years) of planning permission ESS/34/15/BTE. ESS/34/15/BTE was amended planning permission for "The Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of offices and vehicle parking; and associated engineering works and storage tanks."

Ref: ESS/39/23/BTE**Applicant:** Indaver Rivenhall Limited**Location:** Land at Rivenhall Airfield Coggeshall Road, Braintree, CO5 9DF**Report author:** Chief Planning Officer (County Planning and Major Development)**Enquiries to:** Claire Tomalin Tel: 03330 136821The full application can be viewed at <https://planning.essex.gov.uk>

1. BACKGROUND

Planning Permission for the Rivenhall Integrated Waste Management Facility (IWMF) was first granted by the Secretary of State (SoS) in March 2010 following a call-in public inquiry (ECC Ref ESS/37/08/BTE).

While the original application was determined by the SoS, subsequent applications fall to the Waste Planning Authority (WPA) to determine, unless called-in or legislation requires otherwise. There have been subsequent variations to the planning permission and submissions in response to conditions, which have been dealt with by the WPA, the summary below focuses on those relevant to the current application.

In 2015 a planning application (ESS/34/15/BTE) was made to amend the capacities of the different elements of the IWMF, in particular increasing the capacity of the Combined Heat and Power Plant (CHP) from 360,000tpa to 595,000tpa, but not increasing the overall input of waste or traffic movements to the site. The application also incorporated details to discharge a number of conditions of the original permission. The planning permission was granted in February 2016.. Implementation of planning permission ESS/34/15/BTE was undertaken in March 2016, however, only sufficient works were carried out to constituent technical implementation of the planning permission.

The planning permission for the IWMF gives consent for:

- A CHP plant (595,000tpa) utilising Refuse Derived Fuel (RDF) generated on site and imported RDF/Solid Recovered Fuel (SRF) to generate heat, steam and electricity to be used on site. Some electricity to be exported to the National Grid.
- Materials Recycling Facility (MRF – 300,000tpa) to sort through imported waste recovering recyclables such as paper, card, plastics and metal.
- Merchant De-Ink Paper pulp plant (MDIP – 170,000tpa) to reprocess waste paper imported to the site, as well as any suitable paper recovered by the MRF and would utilise, heat, steam and power generated by the CHP. Paper pulp board to be exported from the site.
- Anaerobic Digestion (AD – 30,000tpa) facility to treat food and green waste generating biogas for production of electricity on site and generating a compost like output for export.
- Mechanical Biological Treatment Facility (MBT – 170,000tpa), to treat waste by mechanical treatment e.g. shredding and then biological treatment using air and moisture to bio-stabilise the waste, the output being an RDF.

The total amount of waste that can be imported to the site is limited by condition to 853,000tpa. The maximum number of HGV movements is limited to 404 a day Monday to Friday and 202 on Saturday mornings.

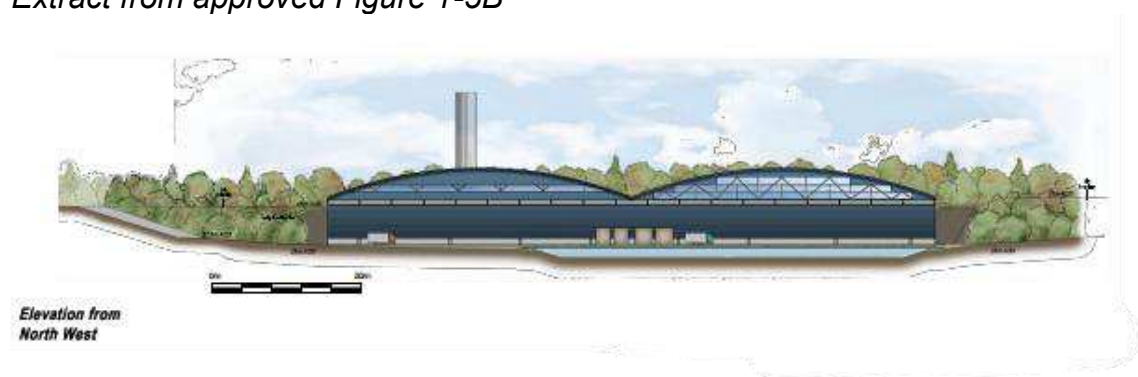
The permission also includes the creation of an extended access road from the A120, now completed, and refurbishment of the Woodhouse Farm Listed Buildings complex and other associated infrastructure. Listed Buildings applications to enable refurbishment of Woodhouse Farm are with Braintree District Council for determination.

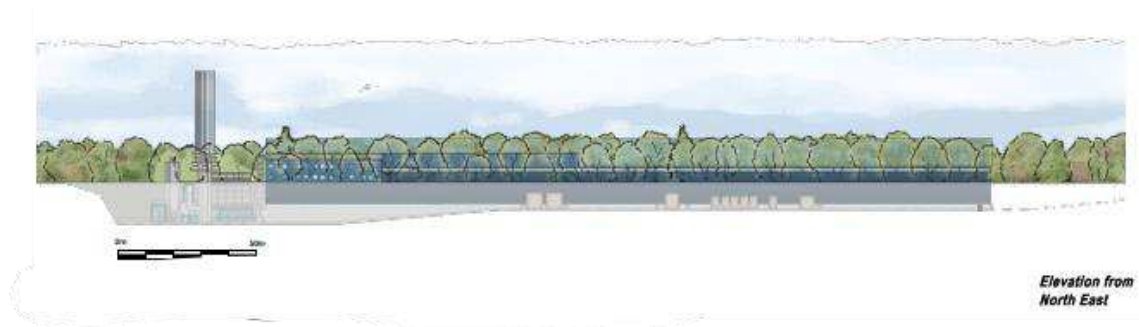
Extract from Figure 1-5B



The MDIP, MRF, MBT and AD are permitted to be housed in a double arched building, where the majority of the building is to be located below natural ground. The CHP and other associated infrastructure is to be located also partly below ground to the rear of the IWMF building.

Extract from approved Figure 1-5B





In October 2018 Indaver took over development of the IWMF from the original applicant Gent Fairhead & Co. Works commenced on site in winter 2019/20.

Works on site since 2019/20 include stabilisation of the void faces, construction of the extended access from the Bradwell Quarry to the IWMF site and works which are now underway with respect to construction of the Energy from Waste (EfW) element of the IWMF and supporting infrastructure.



15 July 2023 - IWMF site viewed from the south east.

The planning permission granted in 2016 (ESS/3415/BTE) to amend the capacities of the different elements was granted subject to additional conditions, including condition 66. This condition sought to address the possibility that if the development was technically implemented, but did not progress, the site would not be left without a beneficial use or not rehabilitated. The condition required submission of a "Plan of Action" either to rehabilitate the site or for an alternative use which was required to be submitted by September 2021.

Indaver submitted an application to discharge the condition (Ref ESS/34/15/BTE/66/01) in September 2021. The “Plan of Action” submitted consisted of three different options, summarised below:

- 1. To build out the permission as authorised by the Planning Permission.*
- 2. Build out those elements within the consent which are technically and commercially viable, all within the building which currently has consent, and/or;*
- 3. Submit an application for consent for alternative waste management and/or energy generation uses.*

Members may recall that this application to discharge the condition was considered in February 2022, when it was resolved to approve option 1 - *To build out the permission as authorised by the Planning Permission*. The discharge of the condition was approved subject to additional conditions, requiring all elements of the IWMF to be constructed before beneficial operation of the EfW Facility and a requirement that construction of the IWMF be completed by 31 December 2026.

Indaver subsequently appealed against the decision of condition 66 ECC Ref ESS/34/15/BTE/06/1APP (PINS Ref APP/Z1585/W/22/3306429) which is currently pending with the Planning Inspectorate.

The applicant has subsequently submitted the current application (ESS/39/23/BTE), which is a variation application under Section 73 of the Town and Country Planning Act which seeks to delete condition 66, including the approved details thereunder and associated conditions, and is the subject of this report.

2. SITE

The IWMF site is located east of Braintree, approximately 1km to the north east of Silver End and approximately 3km south west of Coggeshall and approximately 3km south east of Bradwell village. The site is 25.3 ha which includes the access road.

The IWMF site at its northern end comprises a narrow strip of land leading southwards from the A120 Coggeshall Road, the location of the access road. To the south the IWMF site widens into an irregular shaped plot of land.

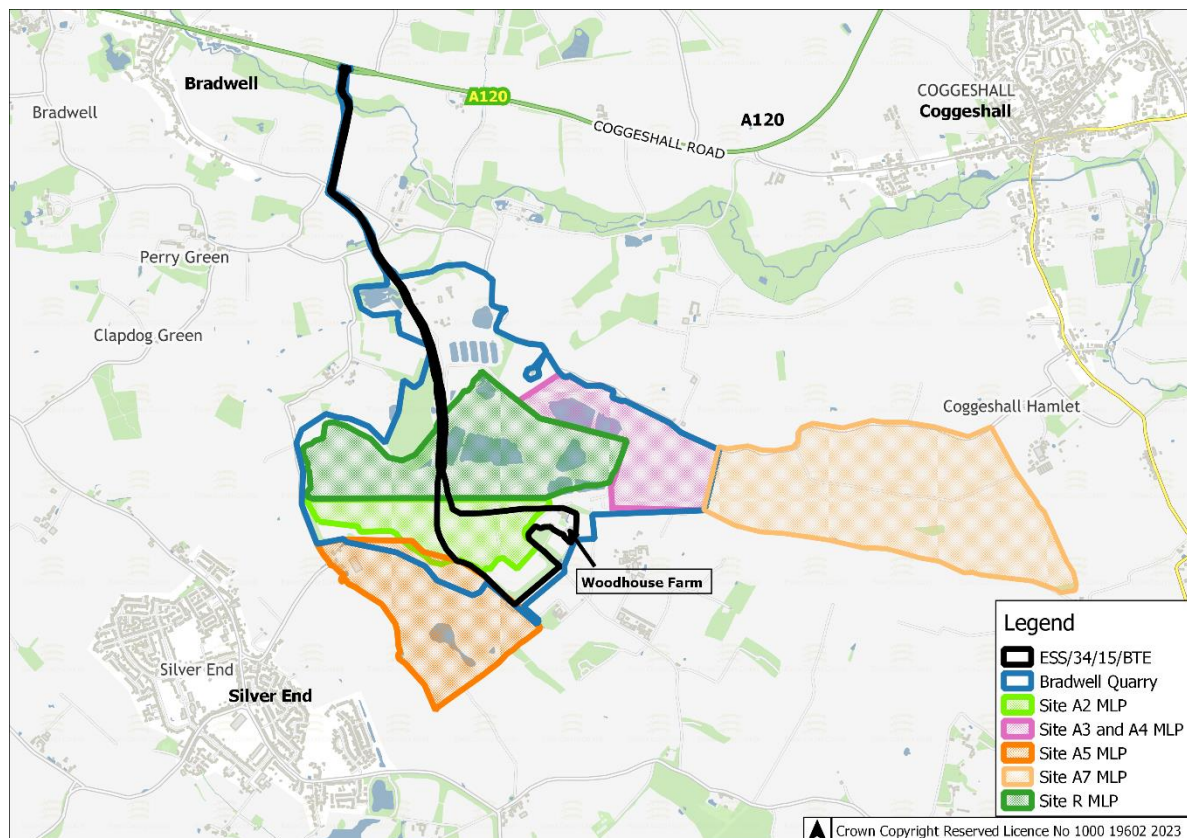
The IWMF site lies within the boundaries of both Bradwell Parish and Kelvedon Parish, the access road being mainly within Bradwell Parish and the remainder of the access road and IWMF itself lying within Kelvedon Parish.

The IWMF site lies on the southern part of the former Rivenhall airfield; the runways have been removed as part of mineral extraction. The IWMF site (not including the access road) is located approximately 1.7km south of Coggeshall Road (A120T) and includes the Grade II Listed Buildings of Woodhouse Farm.

The Woodhouse Farm buildings are located on the south eastern side of the IWMF site and included in the IWMF planning permission area. The IWMF site also includes woodland protected by Tree Preservation Order, which surrounds the southern boundary of the IWMF itself.

The IWMF site also included an airfield hangar which, upon implementation of IWMF permission in 2016, was removed.

The IWMF site overlaps with Bradwell Quarry, where sand and gravel extraction is currently taking place within Minerals Local Plan Preferred site A7. The location plan below shows the extent of previous and current mineral extraction areas; site R permitted in 2001; site A2 permitted in 2011 (which included extraction in part of the site for the IWMF); sites A3 and A4 permitted in 2015; and site A5 granted in 2019. Previously worked out areas of the quarry have been restored at low level to arable agriculture with new hedgerows and woodland planting. Areas of Bradwell Quarry (sites R, A2, A3, A4 and A5) are undergoing or awaiting restoration to a combination of arable, woodland and water.



The IWMF site is set within a predominantly rural character area, consisting of arable crops in large fields, often without boundaries resulting in an open landscape in gently undulating countryside. The landform around the site forms a flat plateau at about 50m Above Ordnance Datum, although the restored minerals workings to the northwest (site R) and southwest (site A5) have been or will be restored at a lower level, creating bowls in the landscape. Sites A3 and A4 have been restored to near natural levels utilising overburden from the IWMF site.

The nearest residential properties, not including Woodhouse Farm (not occupied), include The Lodge and Allshots Farm located to the east of the IWMF site,

approximately 450m away. To the north/north east on Cuthedge Lane are Heron's Farm at approximately 700m from the site of the IWMF, Deeks Cottage at approximately 850m and Haywards 920m from the site of the IWMF. To the west of the site on Sheepcotes Lane lies Sheepcotes Farm, 580m from the site of the IWMF, also Gosling's Cottage, Gosling's Farm and Goslings Barn and Greenpastures all approximately 1200m from the site of the IWMF. Properties to the southwest within Silver End village lie approximately 850m from the site of the IWMF. Parkgate Farm lies south of the site, approximately 1000m from the site of the IWMF.

Approximately 400m to the east of the IWMF site boundary and Woodhouse Farm, lies a group of buildings, including the Grade II listed Allshots Farm and a scrap yard.

Approximately 500m to the south east of the IWMF, beyond agricultural fields, there is a group of buildings known as the Polish site. These buildings are used by a number of businesses and form a small industrial and commercial estate to which access is gained via a public highway (Woodhouse Lane leading from Parkgate Road).

A further business operates on the south west edge of the IWMF site, at the "Elephant House", the building being the fire station for the redundant airfield. The site is used by a road sweeping company, but the site is well screened by mature evergreen trees.

The permitted vehicular route to the IWMF site shares the existing access on the A120 and the private access road for Bradwell Quarry. The access route crosses the River Blackwater by two bailey style bridges and crosses Church Road and Ash Lane (a Protected Lane as defined in Braintree District Local Plan 2023). The access road has now been extended to the IWMF site, and is two way, except where it crosses Church Road and Ash Lane.

A similar area to that of the IWMF application site is allocated in the adopted Waste Local Plan 2017 as a site IWMF2 for residual non-hazardous waste management and biological treatment.

The land comprising the IWMF site has no designations within the Braintree District Local Plan 2023.

There are two Local Wildlife Sites (LoWS) within 3 km of the IWMF site at Blackwater Plantation West, which is within the Blackwater Valley which the access road crosses. The second LoWS is at Storey's Wood (south of the site), which is also an Ancient Woodland.

There are 4 Grade II Listed properties within 1km of the IWMF site including Woodhouse Farm and buildings (within 200m), Allshots Farm and Lodge (400m away) to the east and Sheepcotes Farm (1000m) to the west.

Five footpaths (FP's Bradwell 19, 35, 57 [Essex Way], 58) are crossed by the access road to the IWMF. There is also a public footpath No. 8 (Kelvedon) which heads south through the Woodhouse Farm complex.

3. PROPOSAL

The proposal is to delete condition 66; the details approved thereunder and the associated conditions.

Condition 66 (following the approval of the submission in March 2022) reads as follows:

The development hereby permitted shall be implemented in accordance with the Plan Of Action Option 1 approved on 7 March 2022 under condition 66 of planning permission ESS/34/15/BTE. The approved Plan of Action are set out in the application for approval of details reserved by condition dated 1 September 2022, covering letter from RPS dated 1 September 2022 and additional supporting information in email dated 17 November 2021 (10:387) from RPS with attachment "IWMF High Level Programme v01", subject to the following 2 conditions:

- i) *Plan of action Option 1 as detailed in letter from RPA dated 1 September 2021 shall be implemented in accordance with:*
 - a) *the conditions of planning permission ESS/34/15/BTE dated 26 February 2016;*
 - b) *any details approved under those conditions or to be approved under those conditions;*
 - c) *Non Material Amendments References ESS/34/15/BTE/NMA1 and ESS/4/15/BTE/NMA2 or any subsequently approved Non Material Amendments; and d) the obligations set out in the Section 106 Legal agreement dated 20 October 2009 as amended by deeds of variations dated 1 December 2014, 26 March 2015 and 26 February 2016.*

Reason: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application drawings, details (except as varied by other conditions), to ensure that the development is Sustainable Development and is carried out with the minimum harm to the local environment and in accordance with the NPPF, NPPW, Essex Minerals Local Plan 2014 (MLP) policies P1, S1, S10, S11, S12, DM1, DM2 and DM3, Essex and Southend Waste Local Plan 2017 (WLP) policies 1, 3, 10, 11 and 12, Braintree District Local Plan 2013-2033 Section 1 (BLP S1) policy SP 7, Braintree District Core Strategy adopted 2011 (BCS) policies CS5, and CS8 and Braintree District Local Plan Review 2005 (BDLPR) policies RLP 36, RLP 49, RLP 54, RLP 62, RLP 63, RLP 64, RLP 65, RLP 71, RLP 72, RLP 80, RLP 81, RLP 84, RLP 87, RLP 90, RLP 100, RLP 105 and RLP 106;

- ii) *There shall be no beneficial operation of the Combined Heat and Power (CHP) plant without all other elements of the Integrated Waste Management Facility (IWMF) i.e. Market De Ink Paper Pulp Plant (MDIP) Materials Recycling Facility (MRF), Mechanical Biological Treatment (MBT) plant, Anaerobic Digestion (AD) plant, Waste Water Treatment Plant and all other permitted associated infrastructure having been constructed and available for beneficial operation. For the avoidance of doubt the CHP shall not operate without the MDIP utilising the heat and steam directly from the CHP. The development as permitted shall be constructed and ready for beneficial use by*

31 December 2026.

Reason: To ensure the development delivers Sustainable Development in accordance with the Development Plan. To ensure the development operates in an integrated manner, in particular that the CHP operates in conjunction with the de ink paper pulp plant, such that the facility operates as a combined heat and power facility delivering greater efficiency rather than solely generating electricity in accordance with WLP policy 11, Resources and Waste Strategy 2018 and The Environment Plan for England 2021. To ensure the development is completed within a reasonable time to minimise the impacts from construction and in accordance with Essex and Southend Waste Local Plan 2017 Policies (WLP) 10 & 11, Braintree District Local Plan 2013-2033 Section 1 (BLP S1) policy SP 7, Braintree District Core Strategy adopted 2011 (BCS) policies CS5, and CS8 and Braintree District Local Plan Review 2005 (BDLPR) policies RLP 36, RLP 49, RLP 54, RLP 62, RLP 63, RLP 64, RLP 65, RLP 71, RLP 72, RLP 80, RLP 81, RLP 84, RLP 87, RLP 90, RLP 100, RLP 105 and RLP 106.

The application seeks to delete this condition, the details approved under it and the additional conditions imposed upon it, hereafter together referred to as C66.

4. POLICIES

Since determination of the last planning permission for the IWMF in 2016, a new Waste Local Plan and a new Braintree Local Plan have been adopted. When a S73/Variation application is positively determined a new planning permission is subsequently issued. The reasons for conditions in any new planning permission would need to refer to the current policies. The relevant current policies are listed below:

ESSEX AND SOUTHEND WASTE LOCAL PLAN (WLP) adopted 2017

Policy 1 - Need for Waste Management Facilities

Policy 2 - Safeguarding Waste Management Sites & Infrastructure

Policy 3 - Strategic Site Allocations

Policy 10 - Development Management Criteria

Policy 11 - Mitigating and Adapting to Climate Change

BRAINTREE DISTRICT LOCAL PLAN (BDLP) adopted July 2022

LLP1 Development boundaries

LLP42 Sustainable Transport

LLP52 Layout and Design of Development

LLP57 Heritage Assets and their Settings

LLP59 Archaeological Evaluation, Excavation and Recording

LLP63 Natural Environment and Green Infrastructure

LLP64 Protected Sites

LLP65 Tree Protection

LLP67 Landscape Character and Features

LLP70 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards

LLP74 Flood and surface water drainage

LLP77 External Lighting

NEIGHBOURHOOD PLANS

Bradwell with Pattiswick Neighbourhood Plan adopted July 2019

Policy 1 – Protecting and enhancing the natural environment and green infrastructure

Policy 5 – Protecting and enhancing the historic environment

Kelvedon Neighbourhood Plan adopted July 2022

Policy NE3 - Protection Of Green Infrastructure and Biodiversity

Policy NE7 – Pollution

The Revised National Planning Policy Framework (NPPF) was published on 20 July 2021 and sets out the Government's planning policies for England and how these should be applied. The NPPF highlights that the purpose of the planning system is to contribute to the achievement of sustainable development. It goes on to state that achieving sustainable development means the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways: economic, social and environmental. The NPPF places a presumption in favour of sustainable development. However, paragraph 47 states that *"Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise."*

Paragraph 48 of the NPPF goes on to state *"Local planning authorities may give weight to relevant policies in emerging plans according to: a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given); b) 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 c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."*

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

Paragraphs 218 and 219 of the NPPF, in summary, detail that the policies in the Framework are material considerations which should be taken into account in dealing with applications and plans adopted in accordance with previous policy and guidance may need to be revised to reflect this and changes made. Policies should not however be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, 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).

Neighbourhood Plans

5. CONSULTATIONS

BRAINTREE DISTRICT COUNCIL (Planning): Braintree District Council expressed its objection in the strongest terms during the consideration of the IWMF at Rivenhall Airfield by the SoS in 2010. However it had to accept the decision of the planning process via the SoS that the proposal was acceptable in principle and has since sought to work proactively with the statutory planning and licencing bodies (namely ECC and the Environment Agency) to minimise the impacts on local residents, amenity, infrastructure and the environment. This development continues to be an area of grave concern to many residents, the local Parish Councils, as well as the District Council itself, with the centre to become the largest single emitter of greenhouse gases within the District and sits within the County Council's identified 'Climate Change Focus Area'.

The District Council had also previously objected to the discharge of condition 66 which was approved by Essex County Council and appealed by the applicant. Braintree DC had been accepted as a Rule 6 Party in that appeal. This was on the basis that the Plan of Action submitted was disingenuous and lacking both a clear plan or any actions and did not respond to local resident concerns.

This application now seeks to remove condition 66 completely and the applicant notes that this is because the development has started with contracts let and work on site is underway, meaning that the need for the condition has fallen away and therefore, in their view, it fails to meet the tests for conditions set out in national policy and guidance.

Braintree DC notes that for the purposes of this individual condition, the requirements set out within it have largely been superseded by development on site. However we remain firmly of the view that given the time that has passed since the original application was determined and the fundamental change in what is being proposed to be brought forward by the applicant on the site (including the increase in electricity generation which is being sort through the NSIP process), a single new application appears to be the only sensible way in which residents, stakeholders and statutory bodies can properly consider and engage in the proposals which are now before us, and consider them in the context of the current national and local planning policy framework.

BRAINTREE DISTRICT (EHO): No comments received.

ENVIRONMENT AGENCY: No objection. The applicant may wish to apply to remove those elements of the IWMF that are not to be developed as monitoring fees will be charged for all elements included in the Environmental Permit.

HISTORIC ENGLAND: No comments to make.

LEAD LOCAL FLOOD AUTHORITY: No comments to make.

NATIONAL HIGHWAYS (EAST OF ENGLAND): No objection

BRADWELL WITH PATTISWICK PARISH COUNCIL: No comments to make.

KELVEDON PARISH COUNCIL: Objection. It is considered to be an attempt to extensively vary the original planning approval which now amounts to planning creep. The current project bears almost no resemblance to what was originally granted planning consent and request that the whole project be re-assessed on its merits.

COGGESHALL PARISH COUNCIL (Adjacent): Objection. Despite significant local opposition to the original scheme, it could be argued that the IWMF project had some benefits attached in relation to its sustainability credentials with the facilities required under Condition 66, giving some mitigation to the incinerator. This Condition would have been imposed for sound national and local planning policy reasons, and afforded some sustainability to what is otherwise purely a new incineration plant, and on this basis, the Parish Council objects to the removal of the Condition.

Conditions are imposed to make applications acceptable in planning terms, where they otherwise may not be. The Condition is not a small one, but a requirement to ensure that all of the related services being proposed would also come forward, to ensure that waste treatments other than purely incineration would occur.

The fundamental structure of how this project was originally put forward to both Essex County Council, and the community, has been undermined and the removal of Condition 66 will bring the process to the point where it is an entirely new proposal. Any such new proposal should be required to be put in as a new planning application to be determined on its merits within the current policy framework and overall guidance, along with our understanding of how the incineration of waste should be dealt with in 2023. This scheme was originally permitted - with the associated recycling elements - in 2010. Even within the intervening 13 years, our understanding of the effect of burning on the climate has vastly changed and is becoming unacceptable. Therefore, one of the first questions that should be asked is whether this scheme would be permitted in its incineration only guise, today.

If the argument for not bringing forward the associated works is one of viability, and the removal of the impositions under Condition 66 are needed in order to make it viable, then the entire project should stop, as it is therefore fundamentally unviable in its proposed form. There should not be a situation whereby the subdivision of a planning permission from the conditions deemed necessary at the time, is permitted.

SILVER END PARISH COUNCIL (adjacent): No comments received.

RIVENHALL PARISH COUNCIL (nearby): Objection. The application raises further complex planning and legal matters which are a consequence of the long planning history for the site and the numerous changes of plans – and the failure to deliver (i.e. bring to operation) any permission given to date.

The first permission for the “Integrated” waste site, which included a significant proportion of recycling, was given following a Public Planning Inquiry, by the Secretary of State, in March 2010. Over 60 planning conditions were imposed, to give the Local Planning Authority (LPA) and local communities assurances about control of impacts for what is a major industrial development in the countryside.

A significant s73 variation was then granted by the LPA, Essex County Council, in February 2016, which reduced the proportion of recycling and greatly increased the proportion of waste incineration. There have also been other changes and overall, the amount of consented waste incineration has increased from 300,000 tpa to 595,000 tpa. Prior to 2010 there were also consents for waste plants on the site which did not involve waste incineration, but these were never implemented.

This latest application seeks the removal of Condition 66 (C66) from the planning permission for the site referenced ESS/34/15/BTE (the major s73 variation) which was granted by ECC in February 2016.

An approved plan of action and a condition 69 was attached to the C66 discharge notice requiring that the 2016 consent be implemented in full so that the consented facility is actually built. The applicants in the current application are arguing that they are not required to deliver the consent and that removal of such requirements would not lead to significant environmental effects.

However, such an assurance cannot be made. The applicants have repeatedly stated at the Rivenhall Airfield Waste Site Liaison meetings (to which Rivenhall Parish Council sends representatives who always attend), that they will not be building to the consent. The applicants have stated that they are seeking a series of significant changes to the consent including increased electricity production and alternative uses for heat. The consent says that to deliver Combined Heat and Power status, the facility includes a paper pulping unit linked to the incinerator to use heat, steam and electricity. The applicants have stated that the paper pulping unit, the footprint of which is leased to a different company, is “not viable and will not be built”. They have given no assurances that they will deliver any of the consented recycling elements of the extant consent – so that is potentially no paper pulping plant, no materials recycling and no anaerobic digestion (AD).

The applicants (Indaver) knew when they acquired the site what the planning requirements were, yet have set about dismantling them just as Gent Fairhead sought to repeatedly alter the 2010 original consent (as the previous owners).

C66 of the 2016 consent related to the event that the waste facility is not brought into beneficial use (i.e. operating) within 5 years of commencement of the development. That period has already lapsed – and by some margin, as it became due in February 2021.

C66 required that a plan of action for an alternative use or a scheme of rehabilitation for the site would be required for approval by the Waste Planning Authority and that it should be implemented within 6 months of approval by the Waste Planning Authority.

The approved plan of action is that the site should be built according to the 2016 consent. Yet the applicants have made it clear they will not do so.

The applicants argue in the current application that the only reason that C66 was considered necessary when it was imposed in February 2016 was due to the absence of an environmental permit and the consequential desire to mitigate the risk that the planning permission might be implemented and construction commenced, but then halted prior to the start of operation because the necessary environmental permit could not be obtained.

What the applicants fail to address in their current application, but have admitted to the Waste Site Liaison meeting, is that the changes they seek to the consent for the facility may require a new or amended environmental permit. There is no guarantee that the current permit will be the one that is in place for the facility if and when it starts operations. The applicants also assume that there will be no significant changes to environmental impacts as a result of their proposed changes and yet have submitted a Scoping Opinion request for a series of huge glasshouses to be built on land that has long been allocated within the planning consents for both the waste site and the quarry land for environmental restoration to meadows, woodland and agricultural land, with a road access though part of that land. If such major changes are not approved, and for other reasons such as the commercial environment, there remains a risk that overall, the waste facility will not be delivered.

The applicants conclude that, in deleting C66, Essex County Council should not impose any new condition requiring full or entire implementation of the 2016 consent. In other words, they seek an almost blank sheet of paper to do as they wish. The applicants state:

“To impose a new condition through this s73 application to require full or entire implementation would be an unlawful new and onerous burden” and that the “legal position is that the partial implementation of the development is lawful”. However, no indication is given as to what “partial” means.

In conclusion, this latest application to change the waste site consent introduces yet more uncertainty and further undermines any residual confidence that local communities have in what will actually be built. There can be no firm assurances on environmental impacts as it is simply unknown as to what the applicants will actually build whilst suggested and proposed changes keep being raised by them.

If successful, the current application would deliver an almost blank sheet of paper (in planning terms) to the applicants to build whatever parts of the current consent they wish to build and nothing more, whilst at the same time applying for other changes. This despite decades of planning history for the site. It appears that the only part of the facility the applicants are committed to build is the waste incinerator and in that case the facility could not be described as “integrated”.

Rivenhall Parish Council would submit that the current application should be refused and that the applicants should be required to build to the extant consent. Failing that, and as the parish council has repeatedly requested, a new and full planning application should be required to detail what the applicants actually do

wish to build, and that should be subject to full consultation and appraisal by the local community and statutory consultees in order to put an end to the decades of planning creep on the site.

FEERING PARISH COUNCIL (nearby): No objection to an obligation to carry out the planning application as it still stands are not removed and that all elements of the IWMF as permitted are delivered within a timely fashion.

LOCAL MEMBER- BRAINTREE - Witham Northern: Any comments will be reported verbally.

LOCAL MEMBER- BRAINTREE - Braintree Eastern: Objection. My view that Essex County Council is not applying the criteria for Section 73 correctly.

Indaver submitted a minor-material amendment (S73) to ECC with regards to the planning permission of the Rivenhall Integrated Waste Management Facility, the MMA is summarised below:

- Continuation of development of the Integrated Waste Management Facility (IWMF) with deletion of condition 66, approved details thereunder and associated conditions (Plan of Action if development not taken forward within 5 years) of planning permission ESS/34/15/BTE (ref: ESS/39/23/BTE).

It is my view this is not a “minor-material amendment” and should result in a new Environment Impact Assessment being carried out using today’s criteria and legislation and not that of 2010 as much has changed since then.

I understand that last month (May 2023) ECC decided a new EIA was not required, because “Deletion of the approved details and associated conditions, would not change the development permitted under the original planning permission, thus there would be no change to the characteristics of the development as described in the list above, which were considered as part of the Environmental Statement and subsequent addendums to that Environmental Statement”.

It has been pointed out to me that this was not the correct test and ECC should have considered whether the amended proposed development as a whole would comprise EIA development and not simply whether the changes amounted to a significant change to the existing development.

Deleting Condition 66 is a material change because it changes the IWMF into an waste incinerator facility only and would be different from what was envisaged by the then Secretary of State in 2010; basically it is not a minor material amendment. Therefore, please will you look at whether Section 73 has been applied correctly and whether a new EIA is required.

It is my view that deleting Condition 66 is such a huge material consideration, it should be called in by today’s Secretary of State.

6. REPRESENTATIONS

6 properties were directly notified of the application of which only 2 are residential properties. 13 letters of representation have been received These relate to planning issues, summarised as follows:

<u>Observation</u>	<u>Comment</u>
Object to the principle of a waste facility close to Silver End, as moved to the area for green surroundings and better air quality. The facility would reduce air quality.	The principle of the IWMF was established through the original planning permission determined following a call-in inquiry.
Object as removal of condition 66 ensure the facility is built in accordance with the agreed plans.	See appraisal
The application raises further complex planning and legal matters a consequence of numerous changes of plans and failure to bring into operation any facility.	See appraisal
The planning conditions give assurance to the public that the impacts of the development will be controlled.	See appraisal
Past permissions have watered down the recycling elements of the proposal and increased the waste incineration facility to nearly 600,000tpa.	See appraisal
Applicants state that the changes would not result in additional impacts on the local community, but it's not clear what will be built.	See appraisal
All aspects keep changing and recently developers announced plans to build huge glasshouses all around the waste site on land agreed to be restored to meadows, woodland and agricultural land.	See section 7
Application should be refused and either Applicant's should be required to build all what they have planning permission for or make a new planning application for what they wish to build, with full consultation to avoid decades of planning creep.	See appraisal

Indaver (the applicant) have stated that they will not build or unlikely to build all the elements of the IWMF, thus not delivering the AD, MRF or the paper pulping plant that the Inspector took into account in 2009/10 when making his recommendation for approval.

See appraisal

Applications considered since 2010 have reduced the recycling elements of the IWMF, increased the proportion of incineration and demonstrated the lack of viability of an integrated facility.

See appraisal

ECC imposed conditions in determining the submission under condition 66 to require all elements of the IWMF to be built, but the applicant's stated they would not build all elements as they were unviable.

See appraisal

Applicant argues condition 66 was only imposed as at the time no Environmental Permit had been obtained. But if all elements of the IWMF are not to be built, the EA have stated an amended EP would be required, which potentially they may not get that amended EP.

See appraisal

Glasshouses are being considered linked to the IWMF which would significantly change the approved restoration scheme for the surrounding quarry.

See section 7

Applicant considers partial implementation of the planning permission is lawful, but not clear what partial means.

See appraisal

Current application introduces yet more uncertainty and further undermines any residual confidence that local communities have in what will actually be built and what environmental impacts there would be.

See appraisal

If current application approved it would give blank sheet of paper (in planning terms) to build whatever parts of the

See appraisal

current permission they wish to build and nothing more.

If the applicant only builds the EfW it would not be an integrated facility. See appraisal

7. Other developments associated with IWMF

Representations refer to two other developments associated with the IWMF.

- A) Increased power output The applicant Indaver is seeking to increase the power output of the facility. The current planning permission allows power output up to 49.9MW. This the maximum output of a power plant they may be granted by a local authority. Due to technological changes Indaver consider they can generate greater than 49.9MW, without increasing the volume of waste permitted to be treated through the EfW plant and without any additional traffic movements above those currently permitted.

Power plants generating greater than 49.9MW are classified as National Significant Infrastructure Projects (NSIP) under the 2008 Planning Act and applications for such are determined by the Planning Inspectorate. NSIPs have a specific procedure which includes a pre-application consultation stage. The NSIP website indicates an application is expected in the fourth quarter of 2023. The application to PINS for a Development Consent Order to increase the power output at Rivenhall IWMF is currently at the pre-application consultation stage, consultation having commenced on the 29 June 2023 for 8 weeks. This is a separate planning process and does not impact on the determination of the current planning application.

- B) Greenhouses A separate developer Oasthouse, but with knowledge from Indaver, has recently made a request for pre-application advice to both ECC as Minerals and Waste Planning Authority and Braintree District Council regarding the potential for development of greenhouses on land surrounding the IWMF site, on parts of the former Bradwell Quarry. This potential proposal has been presented at the Rivenhall IWMF liaison group and the local Parish Council consulted on the pre-application request. The greenhouses are proposed to use heat from IWMF to heat the greenhouses and utilise CO² in the growing process. . As part of this pre-application advice it has been agreed between the Minerals and Waste Planning Authority and Braintree District Council that the application would be a County Matter as, if the application were to come forward, it would significantly change the approved restoration scheme for Bradwell Quarry and would require linkages to the IWMF. At this stage, no planning application has been made.

These applications will be dealt with on their individual merits but, as no planning permissions have been issued, they currently have no bearing on the determination of the current application subject of this report.

8. Screening Opinion Direction Request

Under the Environmental Impact Regulations 2017, it was necessary to screen the proposed application to assess whether it was EIA development and if so whether it should be submitted with a revised or new Environmental Statement. The original 2008 and subsequent 2015 applications were supported by Environmental Statements.

The Screening Opinion issued by the WPA concluded that the application was not EIA development as the development, as changed, did not meet the thresholds requiring mandatory EIA and would not give rise to significant environmental effects. The application would not change what is permitted by the current extant planning permission.

There is a right for any third party to seek what is known as a “Screening Direction” from the SoS. A Screening Direction is the SoS’s view as to whether the application is EIA development and should be supported by an Environmental Statement.

A request for a Screening Direction has been made by a third party to the SoS. The Planning Casework Unit at the Department of Levelling Up, Housing and Communities has indicated that a decision on the request may take as long as 90 days, if not longer, to consider. This does not prevent the WPA making a resolution on the application, but it would be not necessarily be appropriate to issue a decision on the application until such time as the SoS has considered the request and notified the WPA of its decision.

9. Call-In

Representations have made reference to the fact that the application should be called-in i.e. that the determination of the application should be undertaken by the SoS. At this stage, the WPA has not received any notification from the SoS that a request for call-in is being considered.

10. APPRAISAL

The key issues for consideration are:

- A. The original purpose of condition 66;
- B. What was approved under Condition 66 in March 2022;
- C. Changes in case law since determination of the submission under condition 66;
- D. The consequences with respect to planning control that would arise from the deletion of condition 66, the details approved thereunder and associated conditions;
- E. The environmental impacts that would arise from the deletion of C66; and
- F. Relationship to outstanding appeal with respect to C66

A THE ORIGINAL PURPOSE OF CONDITION 66

Condition 66 was imposed in 2016 when the WPA determined the application to change the capacities of the various elements of the IWMF (application reference ESS/34/15/BTE). At that time while the IWMF had gained planning permission it

had not obtained an Environmental Permit (EP) from the Environment Agency that would allow it to operate as permitted by the planning permission.

It was unlikely that a developer would take the commercial risk to progress to full construction of the IWMF without an EP, but it was likely that a technical implementation would take place such that the planning permission would not expire. Condition 66 sought to address the possibility that the site might technically be started but not obtain an EP and therefore not progress beyond initial groundworks. Groundworks that constituted technical implementation were undertaken in March 2016, but then further works did not progress immediately beyond this time. The condition sought to require that if development had not progressed within 5 years from the date of commencement that a scheme for rehabilitation or a plan of action for an alternative use for the site should be submitted within 6 months. The Plan of Action was required by September 2021.

As explained, the applicant submitted a Plan Of Action (ECC reference ESS/34/15/BTE/66/01) in September 2021, setting out 3 potential options, and the submission was determined in February 2022 by the Development and Regulation Committee. A copy of the Committee report documents are available [here](#).

The IWMF obtained an EP in June 2020 that was in line with the planning permission ESS/34/15/BTE. Construction of the CHP/EfW element of the IWMF development is now positively progressing (see the photographs in Section 1 of the report) and the original purpose for the planning condition imposed in 2016 has fallen away.

B WHAT WAS APPROVED UNDER CONDITION 66 of ESS/34/15/BTE/66/01 IN MARCH 2022

In March 2022, the decision on the submission under Condition 66 was issued, approving the details under Option 1 of the applicant's submission i.e. that the IWMF should be built as per the planning permission. The approval was subject to two conditions. The first ensuring that there was no doubt that in approving Option 1, the approval was still subject to all the conditions of the ESS/34/15/BTE and a further condition that required all elements of the IWMF to be constructed prior to the operation of the CHP/EfW plant and that the construction should be completed by 31 December 2026.

The applicant has appealed this decision as it is their view that it is unlawful to require all elements of the IWMF to be built prior to operation of the EfW facility and that it is unlawful to impose a time limit on completion. The appeal is currently scheduled to be heard in October 2023.

C CHANGES IN CASE LAW SINCE DETERMINATION OF THE SUBMISSION UNDER CONDITION 66.

Since determination of the submission under condition 66 there has been a planning case determined in the Supreme Court - *Hillside Parks Ltd. v. Snowdonia National Park Authority* [2022] UKSC 30, which has clarified that non-completion of a project for which planning permission has been granted (i.e.

partial implementation) does not make development carried out pursuant to the permission unlawful.

This is in line with Government guidance paragraph 21a-005 of National Planning Practice Guidance which states:

“Are there any circumstances where planning conditions should not be used?

...

Conditions requiring the development to be carried out in its entirety:

Conditions requiring a development to be carried out in its entirety will fail the test of necessity by requiring more than is needed to deal with the problem they are designed to solve. Such a condition is also likely to be difficult to enforce due to the range of external factors that can influence a decision whether or not to carry out and complete a development.”

Without pre-judging the appeal outcome, it is likely that this case and guidance will be taken into account by the appointed Planning Inspector.

In light of the above and in discussion with the appellant and Braintree District Council (a rule 6 party to the appeal), it was agreed to consider resolving the matters subject of the appeal via an application by the appellant/applicant (Indaver) to delete condition 66, including the approved details thereunder and associated conditions and hence the current application has come forward.

D THE CONSEQUENCES WITH RESPECT TO PLANNING CONTROL THAT WOULD ARISE FROM THE DELETION OF CONDITION 66, THE DETAILS APPROVED THEREUNDER AND ASSOCIATED CONDITIONS.

If C66 were deleted as applied for, there would not be a condition that specifically requires:

- a) All elements of the IWWMF to be built prior to operation of the EfW facility
- b) A condition requiring that all elements are constructed by 31 December 2026.

The WPA remains of the view that the planning permission for the IWWMF is permission for an Integrated Waste Management Facility – the components listed in the description of development highlighted in the title of this report. The application for the IWWMF was considered to represent ‘sustainable development’ in the context of planning guidance (NPPF) notably because of the benefits of integration. For example, having an MRF co-located with CHP facility, providing the last opportunity to recover recyclables and that of co-locating a paper pulp plant with the CHP, meant heat and steam could be used directly in the paper pulp facility, which is more efficient use of heat and steam than power generation alone. Such integrated uses sought to maximise the sustainability of the IWWMF.

However, it is acknowledged that the applicant has stated that the paper market has changed since 2010 when the permission was granted, in particular since the COVID 19 Pandemic the greater prevalence of working online and from home has reduced paper usage in offices.

Indaver as a company has been open in stating that it does not now consider the paper pulp plant to be viable. Indaver has been exploring with other developers other options for direct use of heat and/or CO². As explained previously, pre-application advice has been provided on potential greenhouses using heat and CO². MBT also permitted as part of the IWMF is a technology that has since been shown to have disadvantages because, while reducing the volume of waste, ultimately the output still needs to be disposed of either through landfill or incineration; reduction of the volume of waste is less beneficial when co-located with an incinerator. Indaver has stated that it doesn't consider there is sufficient feed material for the AD plant permitted as part of the IWMF. Thus at the current time Indaver is only indicated it is progressing the EfW facility, but has stated it is exploring other waste management facilities that could be co-located at the site, in particular a MRF.

As explained earlier, national planning guidance considers planning conditions requiring completion of a development are unreasonable, because not all factors are fully in the control of the developer, such as the change in circumstances since 2016 as put forward by the developer as not matters in their control. As previously mentioned, the PPG states, with respect to conditions that require development in its entirety, *"Such a condition is also likely to be difficult to enforce due to the range of external factors that can influence a decision whether or not to carry out and complete a development."*

While the WPA acknowledges the above, the WPA remains of the view that the SoS in determining the original application in 2010 and the WPA in considering the 2015 variation, took into account the integration of the facility and how this contributed to delivering sustainable development. Without this integration the IWMF would not be the IWMF as permitted and would be a standalone EfW, which is less sustainable than if all elements were delivered. However, it has to be recognised that sustainable development is made up of 3 dimensions, namely, social, economic and environmental. Indaver at this stage does not consider elements of the IWMF are financially viable thereby impacting the economic sustainability of those elements of the IWMF.

Nonetheless, even if C66 was deleted, the IWMF can only be developed in accordance with the planning permission. Representees have stated that removal of condition 66 would lead to uncertainty as to what is to be developed. While it is not clear what elements of the IWMF will be finally delivered, apart from the EfW, the existing planning permission only permits what is set out in the planning decision notice. Condition 2, for example, approves all the main drawings to which development under the planning permission is required to be built unless alternative approval is given via any future applications to the WPA, or the SoS in the case of DCO development. In addition, other conditions of the planning permission control various detailed aspects of the development. For example the building roof details, lighting, landscaping, ecological mitigation, access and noise which minimise the environmental impacts of the development. The IWMF is also subject to an EP administered by the Environment Agency, which controls pollution aspects of the IWMF.

In addition, the Local County Council Member for Braintree Eastern doesn't consider the deletion of C66 should be dealt with by a S73, considering it to be a

material change to the development, because it removes the specific requirement to build all elements of the IWMF. As explained earlier, the WPA's view has always been that the planning permission required all elements to be built and in many respects the condition on the approval of the Plan of Action just reinforced the sequencing in specific terms. In addition, recent caselaw would indicate that not developing all elements of a permitted development, does not make that part that has been developed unlawful and as explained above, the deletion of C66 doesn't change what is permitted by the planning permission. It is therefore considered that the deletion of condition 66 would not in fact result in a more than a minor material amendment to the permitted development.

It is understood that if certain elements of the IWMF are not built then a variation may be required to the EP administered by the Environment Agency. While no application has been made to the EA at this stage, it does not prevent the developer progressing with the development. Ultimately, if a variation to the EP was not obtained the developer could develop the site fully as permitted through the extant planning permission and operate under the extant EP.

Braintree District Council, several parish councils and representees have objected to the application on the basis that, if the development for the waste facility is not going to be the integrated waste facility considered by the SoS in 2010 and the WPA in 2015, then the development should be subject to a completely new application. It is suggested the new planning application should set out what would be developed at the site, which might for instance be a stand-alone EfW facility and the proposals considered against current local and national planning policy, particularly with respect to climate change.

Nonetheless, at the current time, it is considered that there is no tangible position to claim Indaver are not lawfully implementing the extant planning permission. There is no breach of planning control and thus there is no justification to require a new planning application. However, should Indaver only build out and beneficially operate the EfW facility alone, further advice may be needed on whether a breach of planning control would exist at that time.

E THE ENVIRONMENTAL IMPACTS THAT WOULD ARISE FROM THE DELETION OF C66

As explained above, while deletion of C66 would mean there was no direct conditional requirement to build all elements of the IWMF prior to operation of the CHP/EfW plant or to complete it by the 31 December 2026, the deletion would not change what is permitted to be developed and operated on the site.

As Indaver has openly stated, it is likely that not all elements of the IWMF will be built, however, building less than what was permitted could, for example, lead to different environmental impacts than those assessed as part of the previous Environmental Impact Assessment process. While it is considered that not building all elements of the IWMF could deliver less environmentally sustainable development, being less sustainable does not necessarily equate to greater environmental impacts in the locality. The environmental impacts were considered both in 2010 by the SoS and by the WPA in 2016 and appropriate mitigation

required as part of the proposals or required and controlled through the planning conditions and legal obligations.

Not developing all elements of the IWMF (as long as the main building and EfW plant is developed as permitted) would not change the following matters considered as part of the original Environment Statement:

- Water Environment
- Ecology Impact
- Landscape and visual Impact
- Cultural Heritage
- Traffic and Transport
- Air Quality
- Noise and vibration
- Social and Community Issues
- Human Health

However, further advice on this position may be needed depending on what is eventually built out and operated at that point in time.

F RELATIONSHIP TO OUTSTANDING APPEAL WITH RESPECT TO C66

Currently the applicant has appealed the decision of the WPA with respect to C66 and an inquiry is programmed for October 2023. At the time of submitting the S73 application the applicant had indicated that , if the application was approved, they would be willing to withdraw the appeal.

In view of the clarifying caselaw since determination of the submission under condition 66, as set out earlier (Section C), as part of the preparation the pending planning appeal, Counsel's advice has been sought and it is considered that the WPA's case may have been undermined by this recent caselaw. Defending such an appeal will require significant staff and financial resources. It is not considered in the wider public interest that the WPA can provide any additional evidence, bar that already provided within the February 2022 Committee Report and submitted Statement Of Case, which would justify its position in relation to the pending appeal.

The delay resulting from the SoS notification – i.e. that it may take 90 days or longer to consider the EIA Screening Direction - means potentially no decision on the current application, if positively resolved, can be issued in time to negate the need for a public inquiry into the appeal. As a result, the appellant has advised that they are likely to continue with the appeal and planned Public Inquiry in October 2023, regardless of the resolution on the current application.

It is considered that, due to the clarification provided by the recent *Hillside* case, in any event, the WPA should not continue with participation in the public inquiry, other than relying on the evidence already submitted, as it would not be in the wider public interest to do so.

11. LEGAL AGREEMENT

The current planning permission is subject to a legal agreement and deeds of variation associated with previous S73/variation planning permissions. In order to ensure the obligations remain associated with any new planning permission, it is necessary for all parties to the agreement to enter into a deed of variation to the agreement. Thus if planning permission were to be granted i.e. deletion of C66, a deed of variation would need to be completed before the planning permission could be issued.

12. CONCLUSION

The deletion of Condition 66, the details approved thereunder and the associated conditions would remove a specific condition requiring all elements of the IWFMF to be built before the EfW plant could be operated and also remove the requirement to complete all construction by 2026.

Recent caselaw has clarified that partial implementation of a development is not unlawful and thus the requirements approved under condition 66 are considered to be unenforceable. This position is also supported by planning guidance.

However, it should be emphasised that it is the opinion of the WPA that the removal of C66 does not give the developer the right to build anything other than that which has been approved. The development would still be required to comply with all the conditions of the planning permission, including, layout, access, vehicle numbers, waste throughput, lighting noise, ecology etc, unless planning applications are made either to the WPA or SoS for changes and these applications subsequently approved.

It remains the view of the WPA that the IWFMF was permitted as an integrated facility and that, without the integration of all the elements of the IWFMF, it would not deliver the full benefits of integration. And as a result it would deliver less environmentally sustainable development.

Should permission be resolved to be granted, no decision on the application would be issued until such time as the SoS has issued its decision on the EIA Screening Direction.

13. RECOMMENDED

13.1 That planning permission be granted subject to the following:

- a) The SoS not concluding the application should be supported by an EIA and/or that the application should be called in for his determination;
- b) Legal agreement: The prior completion, within 6 months (unless otherwise agreed with Chairman) a Deed of Variation to the existing Legal Agreement to ensure all previous legal obligations remain associated with the new permission; and
- c) Conditions: Imposition of the previous conditions, except C66, and incorporating any details approved under the conditions or non material

amendments granted to existing conditions as set in Appendix A

- 13.2 If the appellant fails to withdraw the appeal into Condition 66 decision ECC Ref ESS/34/15/BTE/06/1APP (PINS Ref APP/Z1585/W/22/3306429) that ECC should not present further evidence and not provide representation at the Public Inquiry

BACKGROUND PAPERS

Consultation replies
Representations

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017 (AS AMENDED)

The proposed development would not be located adjacent or within a European site.

Therefore, it is considered that an Appropriate Assessment under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended) is not required.

EQUALITIES IMPACT ASSESSMENT

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

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

In determining this planning application, the Waste 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 respondents and the applicant/agent. 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) Order 2015.

LOCAL MEMBER NOTIFICATION

BRAINTREE - Witham Northern
BRAINTREE - Braintree Eastern

Appendix A – Conditions for ESS/39/23/BTE

- 1 This planning permission will have deemed to have been implemented and commenced from the date of the planning permission. The development permitted under planning permission ESS/34/15/BTE was notified as commenced on 1 March 2016 by letters dated 1 March 2016 and 3 March 2016 from Holmes and Hills Solicitors. The commencement was acknowledged by the Waste Planning Authority under reference ESS/34/15/BTE/1/1 on 14 March 2016.

Reason: To comply with section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall only be carried out in accordance with planning application ECC ref ESS/37/08/BTE (PINS Ref. APP/Z1585/V/09/2104804) dated 26 August 2008 (as amended) and

As amended by Non-Material Amendment application reference ESS/37/08/BTE/NMA2 dated 4 September 2012, accompanied by letter from Berwin Leighton Paisner dated 29 August 2012 and email dated 18 September 2012 as approved by the Waste Planning Authority on 25 October 2012.

and

As amended by planning application reference ESS/44/14/BTE dated 5 August 2014, accompanied by letter from Holmes & Hills dated 5 August 2014, report entitled "Business development since obtaining planning permission" dated August 2014, report "Changes in the Case for Need since September 2009" dated August 2014 and letters from Honace dated 5 August 2014 and Golder Associates dated 4 August 2014 and granted by the Waste Planning Authority on 4 December 2014.

and

As amended by planning application reference ESS/55/14/BTE dated 12 December 2014, accompanied by letter from Holmes & Hills LLP dated 12 December 2014, SLR report "Justification for Removal of Fuel Sourcing Conditions" Rev 4" dated December 2014 and letter from Honace dated 5 August 2014 and Golder Associates dated 4 August 2014.

And

As amended by planning application reference ESS/34/15/BTE dated 4 August 2015 and drawing numbers:

Drawing Ref	Title	Dated
1-1A	Land Ownership & Proposed Site Plan	21/12/15
1-2B	Proposed Planning Application Area and Site Plan	21/05/15
1-5B	Typical Arrangement and Architectural Features	21/05/15

1-8	Schematic Arrangement of Woodhouse Farm	21/05/15
1-9A	Simplified Process Flow	21/05/15
1-10A	Integrated Process Flow	21/05/15
3-3B	Site Plan Layout	21/05/15
3-8E	Building and Process Cross Sections	Dec 2015
3-12E	Building and Process Layout and Cross Sections	Dec 2015
3-14B	Upper Lagoon & Wetland Shelf	18/12/14
3-16	Services Plan	21/05/15
3-19D	General Arrangement & Front Elevation	Dec 2015
8-6A	Landscape Mitigation Measures	21/05/15
IT569/SK/06 A	Proposed Improvements to Site Access Road Junction with Church Road	05/08/08
IT569/SK/07 A	Proposed Improvements to Site Access Road Junction with Ash Lane	05/08/08
19-2C	Tree Survey	21/05/15
19-3C	The Constraints and Protection Plan	21/05/15
19-5A	Base Plan Woodhouse Farm	21/05/15
IWMF RP 01	IWMF Roof Layout Plan	24/12/15

As amended by Non-Material Amendment application reference ESS/34/15/BTE/NMA1 dated 10 August 2021, accompanied by letter from RPS dated 9 August 2021 as approved by the Waste Planning Authority on 30 September 2021.

As amended by Non-Material Amendment application Reference ESS/34/15/BTE/NMA2 dated 10 December 2021 accompanied by letter from RPS dated 16 December 2021 as approved by Waste Planning Authority on 31 January 2022.

As amended by Non-Material Amendment application reference ESS/34/15/BTE/NMA4 dated 10 December 2021 accompanied by covering letter dated 16 December 2021 as approved by the Waste Planning Authority on 13 January 2022.

As amended by Non-Material Amendment application reference ESS/34/15/BTE/NMA5 dated 25 April 2023 accompanied by covering letter dated 20 April 2023 as approved by Waste Planning Authority on 31 May 2023.

As amended by Non Material Amendment application reference ESS/34/15/BTE/NMA6 dated 5 May 2023 and covering letter dated 3 May 2023 as approved by the Waste Planning Authority on 7 June 2023.

And in accordance with any non-material amendment(s) as may be subsequently approved in writing by the Waste Planning Authority and except as varied by the following conditions:

Reason: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application drawings, details (except as varied by other conditions), to ensure that the development is carried out with the minimum harm to the local environment and in accordance with Essex and Southend Waste Local Plan 2017 (WLP) policies 1, 3, 10, 11 and 12 and Braintree District Local Plan 2022 (BDLP) policies SP1, SP7, LPP1, LPP47, LPP52, LPP57, LPP63, LPP64, LPP65, LPP66, LPP67, LPP70, LPP71, LPP72, and LPP77.

- 3 The total number of Heavy Goods Vehicle (HGV¹) movements associated with the excavation of materials (i.e. overburden, sand, gravel, and boulder clay) and import and/or export of materials associated with the operation of the completed Integrated Waste Management Facility (IWMP²) hereby permitted shall not exceed the following limits:

404 movements 202 in and 202 out per day (Monday to Friday);
202 movements 101 in and 101 out per day (Saturdays);

and shall not take place on Sundays, Public or Bank Holidays, except for clearances from Household Waste Recycling Centres between 10:00 and 16:00 hours as required by the Waste Disposal Authority and previously approved in writing by the Waste Planning Authority. No HGV movements shall take place outside the hours of operation authorised in Conditions 34 & 36 of this permission.

¹ An HGV shall be defined as having a gross vehicle weight of 7.5 tonnes or more.

² IWMP shall be defined as the buildings, structures and associated plant and equipment for the treatment of waste at the site.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with, WLP policies 10 and 12 and BDLP policies LPP52 and LPP66.

- 4 The total number of HGV vehicle movements associated with the construction of the IWMP (including deliveries of building materials) when combined with the maximum permitted vehicle movements under Condition 3 shall not exceed the following limits 404 movements 202 in and 202 out per day (Monday to Sunday). No HGV movements shall take place outside the hours of operation authorised in Condition 35 of this permission.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with, WLP policies 10 and 12 BDLP policies LPP52 and LPP66.

- 5 A written record of daily HGV movements into and out of the site shall be maintained by the operator from commencement of the development and kept for the previous 2 years and shall be supplied to the Waste Planning Authority within 14 days of a written request. The details for each vehicle shall include the identity of the vehicle operator, the type and size of the vehicle, the vehicle registration number, and an indication of whether the vehicle is empty or loaded.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with, WLP policies 10 and 12 and BDLP policies LPP52 and LPP66.

- 6 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the extended access road and crossing points with Public Right of Way. The approved details include the application for approval of details reserved by condition dated 4 August 2015 and include the following drawings:

Drawing Ref	Title	Date
IT569/PAA/01A	Horizontal & vertical alignment of extended access road Sheet 1	18/11/15
IT569/PAA/02C	Horizontal & vertical alignment of extended access road Sheet 2	18/11/15
IT569/PAA/03	Extended access road cross sections, Sheet 1	14/05/15
IT569/PAA/04	Extended access road cross sections, Sheet 2	14/05/15
IT569/PAA/05	Extended access road cross sections, Sheet 3	14/05/15
IT569/PAA/06	Extended access road cross sections, Sheet 4	14/05/15
IT569/PAA/07A	Extended access road cross sections, Sheet 5	14/07/15
IT569/PAA/08	Typical drainage details	May 2015
IT569/PAA/09	Typical access road detailed cross sections	May 2015
IT569/PAA/10	Drainage long section detail, Sheet 1	May 2015
IT569/PAA/11	Drainage long section detail, Sheet 2	May 2015
142064-DC-GA-C-116 C	Access road longitudinal section	17/12/15
142064-DC-GA-C-117	Access road cross sections	Jun 2015
IT569_WR_01_Rev A	Widening details for access road between Church Road and Ash lane	15/05/2015
IT569/S278_01G	Footpath crossing typical detail	12/11/15

***Reason:** In the interests of highway safety, safeguarding local amenity and to comply with WLP policies 10 and 12 and BDLP policies LPP42, LPP52 and LPP66.*

- 7 No works on the construction of the IWMF shall commence until the access road extension and widening and all footpath cross-over points have been constructed.

***Reason:** In the interests of highway and pedestrian safety, safeguarding local amenity and to comply with, WLP policies 10 and 12 and BDLP policies LPP42, LPP52 and LPP66.*

- 8 No vehicles shall access or egress the site except via the access onto the Coggeshall Road (A120 trunk road) junction as shown on application drawing Figure 1-2.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with WLP policies 10 and 12 and BDLP policies LPP42, LPP52 and LPP66.

- 9 No vehicles shall park on the access road between the A120 and Ash Lane.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with WLP policies 10 and 12 BDLP policies LPP42, LPP52 and LPP66.

- 10 Intentionally blank
NB Condition fully discharged see application reference ESS/55/14/BTE/10/01

- 11 Intentionally blank
NB Condition fully discharged see application reference ESS/55/14/BTE/11/1

Reason: To ensure that any heritage interest has been adequately investigated and recorded prior to the development taking place and to comply with WLP policy 10, BDLP policy LPP57 and in accordance with the NPPF.

- 12 The development hereby permitted shall be implemented in accordance with the ecological works and works to the Woodhouse Farm moat approved on 17 August 2022 under condition 12 of planning permission ESS/34/15/BTE. The approved details are set out in the application for approval of details reserved by condition dated 12 November 2021, email from Indaver/RPS dated 27 Jul7 2022 and document "Rivenhall IWMF – Moat Plan of Action.

Reason: To make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity and to protect the setting of the Woodhouse Farm Listed Buildings and in accordance with, WLP policy 10 and BDLP policies LPP47, LPP57, LPP63, LPP64, LPP65, LPP66 and LPP67.

- 13 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the signage, telecommunications equipment and lighting within the Woodhouse Farm complex (comprising Woodhouse Farmhouse, the Bakehouse, and the listed pump together with the adjoining land outlined in green on Plan 1 [which can be found in the S106 legal agreement dated 30 October 2009 associated with ESS/37/08/BTE]). The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings & documents:

Drawing Ref.	Title	Dated
135	Site plan & signage proposals	Jul 2015
	APC Communications solutions – Internet & voice solutions V2	14/07/15
	Pell Frischmann – Exterior lighting design	23/07/15

DW40019H001/P1	Proposed lighting layout	22/07/2015
CW40019H001	Proposed lighting to car parking and pedestrian areas	23/07/2015
	The Pharos LED bollard – Urbis Schreder	
	The Axia (the Green light) - Schreder	

The signage, telecommunications equipment and lighting shall be implemented in accordance with the details approved.

Reason: To protect the setting of the Listed Buildings and in the interest of visual amenity and to comply with WLP policy 10 and BDLP policies SP1, SP7, LPP52, LPP57, LPP70 and LPP77 .

- 14 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the design and maintenance of the stack. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings and specifications:

Drawing Ref.	Title	Dated
LA01A	Chimney stack top cladding details plan & elevations	23/07/15
LA02A	Chimney stack top cladding details fixing details	23/07/15
	Alucobond reflect- technical data sheet	
	Alucobond – cleaning & maintenance of stove-lacquered surfaces	
	Genie – Self-propelled telescopic booms - specifications	
	Genie – Self-propelled telescopic booms - features	

The stack shall be constructed and maintained in accordance with the approved details throughout the life of the IWMF.

Reason: In the interest of visual amenity and to protect the countryside and to comply with WLP policy 10 and BDLP policies LPP1, LPP47, LPP52, LPP57 and LPP67.

- 15 Prior to construction of the IWMF buildings or the structures to the rear of the main building details of the IWMF buildings and structures including the design and samples of the external construction materials, colours and finishes of the external cladding of the, and design and operation of the vehicle entry and exit doors, shall be submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the details and samples approved.

Reason: For the avoidance of doubt, in the interests of visual and landscape amenity and to comply with WLP policy 10 and BDLP policies SP7, LPP1 and LPP52.

- 16 Intentionally blank
NB Condition not used by SoS in 2010
- 17 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the management plan for the CHP plant to ensure there is no visible plume from the stack. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and documents referenced:
- S1552-0700-0008RSF entitled "CHP Management Plan for Plume Abatement" Issue no. 5 dated 16/02/16 by Fichtner; and
 - S1552-0700-0013RSF entitled "Plume Visibility Analysis" both by Fichtner.
- The development shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity, to protect the countryside and to comply with WLP policy 10 and BDLP policies SP7, LPP47, LPP52, LPP67 and LPP70.

- 18 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the green roof for the main IWMF building. The approved details include the application for approval of details reserved by condition dated 4 August 2015, statement by Honace "Condition 18 Green Roof" and document entitled "Bauder extensive biodiverse vegetation (XF301)". The green roof shall be implemented in accordance with the details approved.

Reason: In the interests of visual and landscape amenity and enhancement of ecological biodiversity and to comply with WLP policy 10 and BDLP policies SP7, LPP47, LPP52, LPP63 and LPP66.

- 19 No works to install process equipment or plant within the IWMF shall commence until details of the IWMF process layout and configuration have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure the layout and configuration of the process equipment and plant would not give rise to impacts not assessed as part of the application and Environmental Statement and to protect local amenity and to comply with WLP policy 10 and BDLP policies LPP52 and LPP70.

- 20 The development hereby permitted shall be implemented in accordance with the details submitted with respect to construction compounds and parking of all vehicles and plant and equipment associated with the extraction of materials and the construction of the IWMF. The approved details include the application for approval of details reserved by condition dated 4 August 2015 and as set out on drawing CCE-HZI-50043049 Rev 0.3 dated 17/12/15. .

Reason: In the interest of visual amenity, to protect biodiversity and the countryside and to comply with WLP policy 10 and BDLP policies SP7, LPP47, LPP52, LPP57, LPP63, LPP67, LPP70 and LPP77.

- 21 No beneficial operation of the IWMF shall commence until details of the provision to be made for and the marking out of parking spaces for cars, HGVs and any other vehicles that may use the IWMF have been submitted to and approved in

writing by the Waste Planning Authority. The parking provision and marking out shall be implemented in accordance with the approved details. The parking areas shall be retained and maintained permanently for manoeuvring and parking. No HGVs shall park in the parking area adjacent to Woodhouse Farm complex except in relation to deliveries for the uses at Woodhouse Farm complex.

***Reason:** In the interest of visual amenity, to protect biodiversity and the countryside and to comply with WLP policy 10 and BDLP policies SP7, LPP47, LPP52, LPP57, LPP63, LPP67, LPP70 and LPP77*

- 22 The development hereby permitted shall be implemented in accordance with the details submitted with respect to foul water management. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings and documents:

Drawing Ref	Title	Dated
142064-DC-GA-C-108G	Proposed drainage layout Sheet 1 of 2	16/10/15
142064-DC-GA-C-109G	Proposed drainage layout Sheet 2 of 2	16/10/15
142064-DC-GA-C-111A	Drainage Construction details	30/06/15

And email from Honace with enclosures dated 22/01/16 (17:13).

The foul water management scheme shall be implemented in accordance with the details.

***Reason:** To minimise the risk of pollution on ground and surface water, to minimise the risk of flooding and to comply with WLP policy 10 and BDLP policies LPP70 and LPP77*

- 23 The development hereby permitted shall be implemented in accordance with the details submitted with respect to surface water drainage and ground water management. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings and documents:

Drawing Ref	Title	Dated
142064-DC-GA-C-108G	Proposed drainage layout Sheet 1 of 2	16/10/15
142064-DC-GA-C-109G	Proposed drainage layout Sheet 2 of 2	16/10/15
142064-DC-GA-C-111A	Drainage Construction details	30/06/15

And email from Honace with enclosures dated 22/01/16 (17:13).

The surface water drainage and ground water management scheme shall be implemented in accordance with the approved details.

Reason: To minimise the risk of pollution on ground and surface water, to minimise the risk of flooding and to comply with WLP policy 10 and BDLP policies LPP70 and LPP74.

- 24 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the scheme of ground water monitoring. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings and documents:

Drawing ref	Title	Dated
SOD-24 Rev A	Ground water borehole monitoring points	29/07/15
6-4	Groundwater Monitoring points	12/05/11
13 Rev A	Ground water Monitoring points	20/03/14
213033-150	As-built borehole locations	17/09/14
142064-DC-GA-C-111A	Drainage Construction details	30/06/15

- Appendix A – Bradwell Quarry Groundwater Monitoring plots Jan 2008 to Jul 2015
- CC Ground Investigations Ltd – Key to exploratory hole logs
- CC Ground Investigations Ltd – Rotary borehole log for borehole nos. BH10 (sheets 1 to 4) dated 2014, BH11 (sheets 1 to 6) dated 2014, BH19 (sheets 1 to 4) dated 2014,
- Email from Honace dated 11/02/16 (09:19)
- Email from Honace dated 11/02/16 (13:59)

Reason: To minimise the risk of pollution to ground and surface water and to comply with WLP policy 10 and BDLP policy LPP70.

- 25 The development hereby permitted shall be implemented in accordance with the details submitted with respect to land contamination and land remediation and mitigation measures where contamination is identified approved on 16 February 2016 under condition 25 of planning permission ESS/55/14/BTE. The approved details include: application for approval of details reserved by condition dated 4 August 2015 and the following documents:

- Condition 25 – Contaminated Land by Honace
- Rivenhall – Record Site Plan & Schedule of buildings
- Analytical Report Number : 14-59380 dated September 2014 by i2 Analytical Ltd
- Drawing no. 213033-150 As-Built Borehole Locations dated 14 July 2014

Reason: To minimise the risk of pollution to ground and surface water, to minimise the risk of flooding and to comply with WLP policy 10 and BDLP policy LPP70.

- 26 The market de-inked paper pulp plant shall only source its heat steam and energy from the IWMPF with the exception of periods of start-up and maintenance and repair of the IWMPF.

Reason: To ensure the market de-inked paper pulp plant only remains at the site as a direct consequence of its co-location with the IWMPF and to protect the

countryside from inappropriate development and to comply with WLP policies 10 and 11 and BDLP LPP71 and LPP72.

- 27 No waste, except pre-sorted waste paper and card and Solid Recovered Fuel, shall be brought on to the site other than that arising from within the administrative area of Essex and Southend-on-Sea. Records indicating the origin of all waste consignments and tonnages brought to the site shall be kept and made available for inspection by the Waste Planning Authority for at least 2 years after receipt of the waste. The records shall be made available to the Waste Planning Authority within 14 days of a written request.

Reason: In the interests of the environment by assisting the Essex and Southend-on-Sea waste planning authorities to become self-sufficient for managing the equivalent of the waste arising in their administrative areas, ensuring that the waste is transported in accordance with the proximity principle, minimising pollution and minimising the impact upon the local environment and amenity and to comply with WLP policies 10 and 11.

- 28 Intentionally blank
NB condition removed following planning permission reference ESS/55/14/BTE.

- 29 No waste other than those waste materials defined in the application shall enter the site for processing or treatment in the IWMF plant. No more than 853,000tpa of Municipal Solid Waste and/or Commercial and Industrial Waste shall be imported to the site.

Reason: To ensure the scale of the facility would not give rise to impacts not assessed as part of the planning application and Environmental Statement and to protect local amenity and to comply with WLP policy 10 and BDLP SP1, SP7, LPP52 and LPP70.

- 30 Intentionally blank
NB condition removed following planning permission reference ESS/55/14/BTE.

- 31 No waste brought onto the site shall be deposited, handled, stored, composted or otherwise processed outside the IWMF buildings and structures.

Reason: To ensure minimum disturbance from operations, to avoid nuisance to local amenity and to comply with WLP policy 10 and BDLP SP1, SP7, LPP52 and LPP70..

- 32 All waste materials shall be imported and exported from the site in enclosed, containerised or sheeted vehicles.

Reason: To ensure minimum nuisance from operations on local amenity, particularly litter and odour and to comply with WLP policy 10 and BDLP SP1, SP7, LPP52 and LPP70..

- 33 No vehicle shall leave the IWMF site without first having been cleansed of all loose residual mineral or waste materials from the vehicle's body and chassis.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with WLP policy 10 and BDLP policies LPP52 and LPP70.

- 34 No removal of soils or excavation of overburden, boulder clay, sand and gravel shall be carried out other than between the following hours:

07:00-18:30 hours Monday to Friday; and,

07:00 -13:00 hours Saturdays;

and shall not take place on Sundays, Bank and Public Holidays except for water pumping, environmental monitoring and occasional maintenance of machinery, unless temporary changes are otherwise approved in writing by the Waste Planning Authority.

Reason: In the interests of limiting the effects on local amenity, to control the impacts of the development and to comply with WLP policy 10 and BDLP policies LPP52 and LPP70.

- 35 The construction works (including deliveries of building materials) for the development hereby permitted shall only be carried out between 07:00-19:00 hours Monday to Sunday and not on Bank and Public Holidays except for occasional maintenance of machinery for the pouring and finishing works to concrete between May 2023 and December 2023, unless temporary changes are otherwise approved in writing by the Waste Planning Authority.

Reason: In the interests of limiting the effects on local amenity, to control the impacts of the development and to comply with WLP policy 10 and BDLP policies LPP52 and LPP70.

- 36 No waste or processed materials shall be imported or exported from any part of the IWMF other than between the following hours:
07:00 and 18:30 hours Monday to Friday; and,
07:00 and 13:00 hours on Saturdays,
and not on Sundays, Public or Bank Holidays except for clearances from Household Waste Recycling Centres on Sundays and Bank and Public Holidays between 10:00 and 16:00 hours as required by the Waste Disposal Authority and previously approved in writing by the Waste Planning Authority.

Reason: In the interests of limiting the effects on local amenity, to control the impacts of the development and to comply with WLP policy 10 and BDLP policies LPP52 and LPP70.

- 37 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the signage for Public Rights of Way where they cross the access road. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawing no. IT569/S278_01G entitled "Footpath crossing typical detail" dated 12/11/15. The signage for Public Rights of Way implemented in accordance with the approved details and shall be maintained throughout the life of the IWMF.

Reason: In the interest of the safety of all users of both the Right of Way and the haul road and to comply with WLP policy 10 and BDLP policies LPP42 and LPP52,

- 38 During the commissioning and beneficial operation of the IWMF, except for temporary operations, as defined in Condition 42, between the hours of 07:00 and 19:00 the free field Equivalent Continuous Noise Level (LAeq 1 hour) at noise sensitive properties adjoining the Site, due to operations in the Site, shall not exceed the LAeq 1 hour levels set out in the following table:

Noise Sensitive Properties Location:

Herring's Farm	45
Deeks Cottage	45
Haywards	45
Allshot's Farm	47
The Lodge	49
Sheepcotes Farm	45
Greenpastures Bungalow	45
Goslings Cottage	47
Goslings Farm	47
Goslings Barn	47
Bumby Hall	45
Parkgate Farm Cottages	45

Measurements shall be made no closer than 3.5m to the façade of properties or any other reflective surface facing the site and shall have regard to the effects of extraneous noise and shall be corrected for any such effects.

Reason: In the interests of residential and local amenity and to comply with WLP policy 10 and BDLP policies LPP52 and LPP70.

- 39 The free field Equivalent Continuous Noise Level (LAeq 1 hour) shall not exceed 42 dB(A) LAeq 1 hour between the hours of 19:00 and 23:00, as measured or predicted at noise sensitive properties, listed in Condition 38, adjoining the site. Measurements shall be made no closer than 3.5m to the façade of properties or any other reflective surface facing the site and shall have regard to the effects of extraneous noise and shall be corrected for any such effects.

Reason: In the interests of residential and local amenity and to comply with WLP policy 10 and BDLP policies LPP52 and LPP70.

- 40 The free field Equivalent Continuous Noise Level (LAeq 1 hour) shall not exceed 40 dB(A) LAeq 5min between the hours of 23:00 and 07:00, as measured and/or predicted at 1 metre from the façade facing the site at noise sensitive properties, listed in Condition 38, adjoining the site.

Reason: In the interests of residential and local amenity and to comply with WLP policy 10 and BDLP policies LPP52 and LPP70.

- 41 Noise levels shall be monitored at three monthly intervals at up to five of the locations, listed in Condition 38, the five locations shall be agreed with the Waste

Planning Authority. Monitoring shall begin upon commencement of the commissioning phase of any element of the IWMF. The results of the monitoring shall include the LA90 and LAeq noise levels, the prevailing weather conditions, details of the measurement equipment used and its calibration and comments on the sources of noise which control the noise climate. The survey shall be for four separate 15 minute periods, two during the working day 0700 and 1830, and two during the evening/night time 18:30 to 07:00 hours, the results shall be kept by the operating company during the life of the permitted operations and a copy shall be supplied to the Waste Planning Authority. After the first year of operation of the IWMF, the frequency of the monitoring may be modified by agreement with the Waste Planning Authority.

Reason: In the interests of residential and local amenity and to comply with WLP policy 10 and BDLP policies LPP52 and LPP70.

- 42 For temporary operations at the site in relation to the excavation of materials, the free field noise level at sensitive properties, listed in Condition 38, adjoining the site shall not exceed 70dB LAeq 1 hour, due to operations on the site. Temporary operations shall not exceed a total of eight weeks in any continuous 12 month period for work affecting any noise sensitive property. Not less than 5 days written notice shall be given to the Waste Planning Authority in advance of the commencement of any temporary operation. Temporary operations shall include site preparation, bund formation and removal, site stripping and restoration, and other temporary activity as may be agreed, in advance of works taking place, with the Waste Planning Authority.

Reason: In the interests of amenity and to comply with WLP policy 10 and BDLP policies LPP52 and LPP70.

- 43 The development hereby permitted shall be implemented in accordance with the details submitted with respect to lighting. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following documents:
- Condition 43 Construction lighting By Honace; and
 - Hilcare Ltd – Project P118536R2a – Reschemed scheme as a flat open area using 6m columns and the specified number of flood lights dated 03/08/2015 including with data sheets, light locations and light level calculations.

The lighting shall be erected, installed and operated in accordance with the approved details throughout the life of the IWMF. The lighting details with respect to excavation of materials shall not be illuminated outside the hours of 0700 and 1830 Monday to Friday and 0700 and 1300 Saturday and at no time on Sundays, Bank or Public Holidays except for security and safety lighting activated by sensors. No lighting for construction of the IWMF shall be illuminated outside the hours of 0700 and 1900 Monday to Sunday and at no time on, Bank or Public Holidays except for security and safety lighting activated by sensors. The lighting shall be maintained such that no lighting shall exceed 5 lux maintained average luminance.

Reason: *In the interests of residential and local amenity and protection of the environment and in the interest of protecting biodiversity and in the interests of highway safety and to comply with WLP policy 10 and BDLP policies LPP52 and LPP77.*

- 44 No lighting for use during operation of the IWMF within the site shall be erected or installed until details of the location, height, design, sensors, times and luminance have been submitted to and approved in writing by the Waste Planning Authority. The lighting details shall be such that no lighting shall exceed 5 lux maintained average luminance. The lighting details shall be such that the lighting shall not be illuminated outside the hours of 0700 and 1830 Monday to Friday and 0700 and 1300 Saturday and at no time on Sundays, Bank or Public Holidays except for security and safety lighting activated by sensors. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage from the boundaries of the site. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

Reason: *In the interests of residential and local amenity and protection of the environment and in the interest of protecting biodiversity, in the interests of highway safety and to comply with WLP policy 10 and BDLP policies LPP52 and LPP77.*

- 45 The development hereby permitted shall be implemented in accordance with the details submitted with respect to phasing of the construction of the access road, creation of the retaining structures around the site of the IWMF and extraction of the minerals. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 as amended by Non Material Amendment applications ref. ESS/34/15/BTE/NMA2 application dated 10 December 2022 and ESS/34/15/BTE/NMA5 dated 25 April 2023 and the following drawings:

Drawing Ref	Title	Dated
IT569 PAA 12	Access Road construction phasing	Jul 2015
11780-0022-04	Proposed earthworks sequencing	Aug 2022

Reason: *In the interests of residential and local amenity and protection of the environment and in the interest of protecting biodiversity, in the interests of highway safety and to comply with WLP policy 10 and BDLP policies SP7, LPP52 and LPP42, LPP63, LPP70.*

- 46 The development hereby permitted shall be implemented in accordance with the details submitted with respect to soil handling, soil storage and machine movements and the end use of soils as approved on 16 February 2016 under condition 46 of planning permission ESS/55/14/BTE. The approved details include: application for approval of details reserved by condition dated 4 August 2015 and the following documents:
- Condition 46 – Soil Handling by Honace
 - Figure 5-1 Agricultural land classification – Rivenhall Airfield RCF dated 10 July 2006
 - Figure 5-2 Soil types – Rivenhall Airfield RCF dated 10 July 2006

- Drawing no. 5-4 Agricultural Land Classification – Site A2 Bradwell Quarry dated 11 May 2011
- Drawing 5-5 Soil types – Site A2 Bradwell Quarry dated 11 May 2011

Reason: To minimise structural damage and compaction of the soil and ensure sustainable use of surplus soils and to aid in the restoration and planting of the site and to comply with WLP policy 10.

- 47 Unless otherwise agreed in writing by the Waste Planning Authority, no topsoil, subsoil and/or soil making material shall be stripped or handled unless it is in a dry and friable condition³ and no movement of soils shall take place:
During the months November to March (inclusive);

(a) When the upper 50 mm of soil has a moisture content which is equal to or greater than that at which the soil becomes plastic, tested in accordance with the 'Worm Test' as set out in BS1377:1977, 'British Standards Methods Test for Soils for Civil Engineering Purposes'; or

(b) When there are pools of water on the soil surface.

³ The criteria for determining whether soils are dry and friable involves an assessment based on the soil's wetness and lower plastic limit. This assessment shall be made by attempting to roll a ball of soil into a thread on the surface of a clean glazed tile using light pressure from the flat of the hand. If a thread of 15cm in length and less than 3mm in diameter can be formed, soil moving should not take place until the soil has dried out. If the soil crumbles before a thread of the aforementioned dimensions can be made, then the soil is dry enough to be moved.

Reason: To minimise structural damage and compaction of the soil and to aid in the restoration and planting of the site and to comply with WLP policies 10.

- 48 No minerals processing other than dry screening of excavated sand and gravel or in the reformation of levels using Boulder or London Clays shall take place within the site.

Reason: To ensure that there are no adverse impacts on local amenity from the development not previously assessed in the planning application and Environmental Statement and to comply with, WLP policy 10 and BDLP LPP52 and LPP70.

- 49 Any fuel, lubricant or/and chemical storage vessel whether temporary or not shall be placed or installed within an impermeable container with a sealed sump and capable of holding at least 110% of the vessel's capacity. All fill, draw and overflow pipes shall be properly housed within the bunded area to avoid spillage. The storage vessel, impermeable container and pipes shall be maintained for the duration of the development.

Reason: To minimise the risk of pollution to water courses and aquifers and to comply WLP policy 10 and BDLP policy LPP70.

- 50 The development hereby permitted shall be implemented in accordance with the details submitted with respect to temporary and permanent site perimeter fencing. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and as by Non Material Amendment application ref. ESS/34/15/BTE/NMA4 dated 3 January 2023 and the following documents and drawings:

Drawing Ref	Title	Dated
CCE-HZI-500430049 Rev 0.3	Construction site layout	17/12/2015
732.1/08A HDA D1	Rabbit proof fence detail	Jun 2015
732.1/10A HDA D3	Tree protection fencing – BS 5837:2012	Jul 2015
222009-DC-XX-XX-GA-C-1602 P03	Site Wide – Fencing Details	Sept 2022
SHA 1359	Arboricultural Method Statement Report by Sharon Hosegood Associates	Jan 2023

The fencing and gates shall be erected in accordance with the details approved and maintained throughout the life of the IWMF.

***Reason:** In the interest of visual amenity, to protect the countryside and to comply with WLP policy 10 and BDLP SP7, LPP52, LPP63, LPP65, LPP67.*

- 51 (a) The development hereby permitted shall be implemented in accordance with the details submitted with respect to a scheme and programme of measures for the suppression of dust as approved on 16 February 2016 under condition 51a of planning permission ESS/55/14/BTE. The approved details include: application for approval of details reserved by condition dated 4 August 2015 and the following documents:
- Condition 51a – Dust minimisation scheme by Honace; and
 - Construction dust – HSE Information Sheet no. 36 (revision 2).
- (b) No beneficial operation of the IWMF shall commence until a scheme and programme of measures for the suppression of dust, have been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include:
- (i) The suppression of dust caused by handling, storage and processing of waste; and
 - (ii) Dust suppression on haul roads, including speed limits.
- In relation each scheme provision for monitoring and review.

The development shall be implemented in accordance with the approved schemes and programme for the duration of the development hereby permitted.

***Reason:** To reduce the impacts of dust disturbance from the site on the local environment and to comply with WLP policy 10 and BDLP policies LPP66 and LPP70.*

- 52 (a) The development hereby permitted shall be implemented in accordance with the details submitted with respect to measures to control fugitive odour from the

excavation of materials and construction of the IWMF as approved on 16 February 2016 under condition 52a of planning permission ESS/55/14/BTE. The approved details include: application for approval of details reserved by condition dated 4 August 2015 and the following document "Condition 52a – Odour minimisation scheme by Honace"

(b) No beneficial operation of the IWMF shall commence until details of equipment required to control any fugitive odour from the handling/storage/processing of waste have been submitted to and approved in writing by the Waste Planning Authority. The details shall be implemented as approved.

Reason: In the interests of local amenity and to comply with WLP policy 10 and BDLP policies LPP52 and LPP70.

- 53 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the ecological information and mitigation. The approved ecological information and mitigation includes the following:

Ecological information approved on 27 July 2011 in accordance with condition 53 of planning permission Ref. APP/Z1585/V/09/2104804 (ECC ref ESS/37/08/BTE). The details approved included letter dated 19 May 2011 from Golder Associates with accompanying application form and Ecology report dated October 2010.

The application for approval of details reserved by condition dated 4 August 2015 and the information contained within the Ecological report by Green Environmental Consultants dated July 2015 and Appendix 7-1 Baseline ecology report August 2008.

Ecological mitigation shall be carried out in accordance with the approved details throughout the life of the IWMF.

Reason: To make appropriate provision for conserving and enhancing the natural environment, in the interests of biodiversity and in accordance, WLP policy 10 and BDLP policies LPP64, LPP63, LPP65, LPP66 and LPP67.

- 54 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the habitat management plan. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the "Habitat Management Plan – revised July 2015 – report number 499/10" by Green Environmental Consultants and appendices A to E.

The development shall be implemented in accordance with the approved habitat management plan throughout the life of the IWMF.

Reason: To make appropriate provision for conserving and enhancing the natural environment, in the interests of biodiversity and in accordance with, WLP policy 10 and BDLP policies LPP63, LPP64, LPP65 and LPP66 and LPP67.

- 55 No demolition, excavation works or removal of hedgerows or trees shall be undertaken on the site during the bird nesting season [1 March to 30 September inclusive] except where a suitably qualified ecological consultant has confirmed

that such construction etc. should not affect any nesting birds. Details of such written confirmations shall be sent to the Waste Planning Authority 14 days prior to commencement of the works.

Reason: To make appropriate provision for conserving and enhancing the natural environment, in the interests of biodiversity and in accordance with WLP policy 10 and BDLP policies LPP63, LPP64 , LPP65 and LPP66 and LPP67.

- 56 Only one stack shall be erected on the site to service all elements of the IWMF. The height of the stack shall not exceed 85m Above Ordnance Datum.

Reason: In the interest of visual amenity, to protect the countryside and to comply with WLP policy 10 and BDLP policies SP7, LPP47, LPP52, and LPP66 and LPP67.

- 57 The development hereby permitted shall be implemented in accordance with the details submitted with respect to bunding and planting. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 as amended by Non-Material Amendment applications ref. ESS/34/15/BTE/NMA2 application dated 10 December 2022 and ESS/34/15/BTE/NMA5 application dated 25 April 2023 and the following drawings:

Drawing Ref	Title	Dated
732.1_07B HDA SA1	Soft landscape proposals site access	Jun 2015
732.1_02G HDA SL1	Soft landscape proposals sheet 1 of 5	18/12/15
732.1_03G HDA SL2	Soft landscape proposals sheet 2 of 5	18/12/15
903.2/04E HDA SL3	Soft landscape proposals sheet 3 of 5	April 2023
903.2/05E HDA SL4	Soft landscape proposals sheet 4 of 5	April 2023
903.2/06D HDA SL5	Soft landscape proposals sheet 5 of 5	April 2023
732.1_09 HDA D2	Standard tree pit detail	Jun 2015
In respect of area W2-A only		
4321/PO2	Outline Planting W2-A	01/11/21
	IWMF W2-A Outline Landscape specification	02/11/21

Reason: To comply with section 197 of the Town and Country Planning Act 1990 (as amended), to improve the appearance of the site in the interest of visual amenity, to protect the countryside and to comply with WLP policy 10 and BDLP policies SP7, LPP47, LPP52, LPP63, LPP66 and LPP67..

- 58 Any tree or shrub forming part of the retained existing vegetation or the planting scheme approved in connection with the development that dies, is damaged,

diseased or removed within the duration of 5 years during and after the completion of construction of the IWWMF, shall be replaced during the next available planting season (October-March inclusive) with a tree or shrub to be agreed in advance in writing by the Waste Planning Authority.

Reason: To comply with section 197 of the Town and Country Planning Act 1990 (as amended), to improve the appearance of the site in the interest of visual amenity, to protect the countryside and to comply with WLP policy 10 and BDLP policies SP7, LPP52, LPP63 and LPP66 and LPP67.

- 59 The development hereby permitted shall be implemented in accordance with the details submitted with respect to tree retention and protection measures. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and as amended by Non Material Amendment application ref. ESS/34/15/BTE/NMA5 application dated 25 April 2023 and the following drawings:

Drawing Ref	Title	Dated
732.1_07B HDA SA1	Soft landscape proposals site access	Jun 2015
732.1_02G HDA SL1	Soft landscape proposals sheet 1 of 5	18/12/15
732.1_03G HDA SL2	Soft landscape proposals sheet 2 of 5	18/12/15
903.2/04E HDA SL3	Soft landscape proposals sheet 3 of 5	April 2023
903.2/05E HDA SL4	Soft landscape proposals sheet 4 of 5	April 2023
903.2/06D HDA SL5	Soft landscape proposals sheet 5 of 5	April 2023
732.1_10A HDA D3	Tree protection fencing	Jul 2015
732.1_08A HDA D3	Rabbit proof fence detail	Jun 2015

The tree protection measures shall be implemented at the time of planting and maintained throughout the life of the IWWMF.

Reason: In the interest of visual amenity, to ensure protection for the existing natural environment, including adjacent TPO woodland and to comply with WLP policy 10 and BDLP policies SP7, LPP52, LPP63, LPP64, LPP65, LPP66 and LPP67.

- 60 The development hereby permitted shall be implemented in accordance with the details submitted with respect to management and watering of trees adjacent to the retaining wall surrounding the IWWMF. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the statement by HDA entitled "Rivenhall Integrated Waste Management Facility – Condition 60" dated 8 June 2015. The management and watering shall be carried out in accordance with the approved details throughout the life of the IWWMF.

Reason: In the interest of visual amenity, to ensure protection for the existing natural environment, including adjacent TPO woodland and to comply with, WLP policy 10 and BDLP policies SP7, LPP52, LPP63, LPP64, LPP65 and LPP66 and LPP67.

- 61 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the layout of parking area including hard and soft landscaping and lighting adjacent to Woodhouse Farm. The approved details include: the application for approval of details reserved by condition dated 4 August 2015, the Statement by Honace entitled "Condition 61 Woodhouse Farm Parking & Lighting" and the followings drawings:

Drawing ref	Title	Dated
IT569/CP/01 Rev B	Woodhouse car park layout and typical details	21/07/15
732.1_05G HDA SL4	Soft landscape proposals sheet 4 of 5	18/12/15
DW40019H001 Rev p1	Proposed lighting layout	22/07/15

The parking, lighting and landscaping shall be maintained in accordance with the details approved throughout the life of the IWFMF.

Reason: To protect the setting of the Listed Buildings and in the interest of visual amenity and to comply with WLP policy 10 and BDLP policies SP7, LPP52 and LPP77.

- 62 The development hereby permitted shall be implemented in accordance with the details submitted with respect to traffic calming measures designed to reduce the speed of traffic using the access road in the vicinity of the River Blackwater. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings:

Drawing Ref	Title	Dated
IT569_S278_01G	Footpath crossing typical detail	12/11/15
IT569_S278_02C	Vole and otter crossing	24/07/2015
SignPlot v3.10	"Vole and otter crossing" sign	

The traffic calming measures shall be maintained throughout the life of the IWFMF in accordance with the approved details.

Reason: To make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity and in accordance with WLP policy 10 and BDP policies LPP63 and LPP66.

- 63 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the lining and signing of the crossing points of the access road with Church Road and Ash Lane. . The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings:

Drawing ref	Title	Dated
IT569/S278/03 C	Proposed improvements to site access road junction with Church Road	June 2015
IT569/S278/04 C	Proposed improvements to site access road junction with Ash Lane	June 2015

SignPlot v3.10	"Heavy Plant crossing" sign	
SignPlot v3.10	"Stop" sign	
SignPlot v3.10	Priority sign	

The lining and signing shall be maintained in accordance with the approved details throughout the life of the IWWMF.

Reason: *In the interests of highway safety, safeguarding local amenity and to comply with WLP policy 10 and BDLP policies LPP52, LPP42, LPP70.*

- 64 Intentionally blank
NB Condition fully discharged see application ESS/55/14/BTE/64/1 as amended by ESS/34/15/BTE/NMA1.

- 65 There shall be no use of the access road from the A120 to the IWWMF except by traffic associated with the IWWMF, Bradwell Quarry or to access agricultural land for agricultural purposes.

Reason: *In the interests of highway safety, as traffic movements above those associated with the IWWMF, Bradwell Quarry and existing agricultural movements would need to be considered afresh and to comply with , WLP policy 10 and BDLP policies SP7, LPP42 and LPP52.*

- 66 Intentionally blank
NB condition removed following planning permission reference ESS/39/23/BTE.

- 67 Intentionally blank
NB Condition fully discharged see application reference ESS/34/15/BTE/67/01.

- 68 Woodhouse Farm and buildings shall be refurbished to a visitor and education centre no later than 1 March 2022.

Reason: *To ensure the timely refurbishment of the Listed Buildings and their being brought into beneficial in order to protect these heritage assets and to comply with WLP policy 10 and BDLP policy SP7 and LPP57 and the NPPF.*

- 69 Following the approval of details required by condition 19 and prior to the installation of process equipment and plant, an updated noise assessment shall be undertaken and submitted to the Waste Planning Authority for approval to demonstrate that the maximum noise levels set out in condition 38 would not be exceeded. Installation of process equipment and plant for the IWWMF shall not commence until the updated noise assessment has been approved by the Waste Planning Authority.

Reason: *In the interests of residential and local amenity and to comply with WLP policy 10 and BDLP policies LL52 and LPP70.*

Informative: *This planning permission shall be read and construed in conjunction with the Legal Agreement dated 20 October 2009, as amended by deeds of*

variation dated 1 December 2014, 26 March 2015, 26 February 2016 and [date to be confirmed].