

Development and Regulation Committee

10:30	Friday, 28 June 2013	Committee Room 1, County Hall, Chelmsford, Essex
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Quorum: 3

Membership:

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

For information about the meeting please ask for:

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Essex County Council

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Part 1

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

		Pages
1	Apologies and Substitution Notices The Committee Officer to report receipt (if any)	
2	Declarations of Interest To note any declarations of interest to be made by Members	
3	Minutes To approve as a correct record the minutes of the Development and Regulation Committee meeting held on Friday 31 May 2013.	7 - 14
4	Identification of Items Involving Public Speaking To note where members of the public are speaking on an agenda item. These items may be brought forward on the agenda.	
5	Minerals and Waste	
5a	A120 Ardleigh Waste Transfer Facility Proposed development of a new waste management facility, with associated change of use of land. The facility comprises the erection of a building for the transfer/bulking of municipal waste, together with ancillary development including dual weighbridge, weighbridge kiosk, office and staff welfare building, fire water holding tank and pumphouse, electricity substation, infiltration basin to manage surface water and pipework, package sewage treatment plant, vehicle wash system, staff car parking, vehicle hardstanding, fencing, landscaping, formation of accesses to site and associated works. Location: Land adjacent to A120, A120 North, Ardleigh, Colchester, Essex, CO7 7SL. Ref: ESS/16/13/TEN. DR2513	15 - 64

- | | | |
|-------------------------------------|--|------------------|
| 5b | <p>Cordons Farm ELV Facility</p> <p>Use of the site as an end of life vehicles de-pollution and treatment facility with the associated storage of material and plant.</p> <p>Location: Cordons Farm, Long Green, Cressing, Braintree, Essex, CM77 8DL.</p> <p>Reference: ESS/06/13/BTE</p> <p>DR2613</p> | 65 - 86 |
| 6 County Council Development | | |
| 6a | <p>The Limes, Laindon</p> <p>Change of use from a residential care home (Use Class C2) to a combined day centre for Early Years and Family Solutions (Use Class D1).</p> <p>Location: The Limes, 93 New Century Road, Laindon, Basildon, Essex SS15 6AQ.</p> <p>Ref: CC/BAS/14/13</p> <p>DR2713</p> | 87 - 104 |
| 7 Information Items | | |
| 8 | <p>Statistics June 2013</p> <p>To update Members with relevant information on planning applications, appeals and enforcements, as at the end of the previous month, plus other background information as may be requested by Committee.</p> <p>DR2813</p> | 105 - 108 |
| 9 | <p>Date of Next Meeting</p> <p>To note that the next meeting will be held on Friday 26 July 2013.</p> | |
| 10 | <p>Urgent Business</p> <p>To consider any matter which in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.</p> | |

Exempt Items

(During consideration of these items the meeting is not likely to be open to the press and public)

To consider whether the press and public should be excluded from the meeting during consideration of an agenda item on the grounds that it involves the likely disclosure of exempt information as specified in Part I of Schedule 12A of the Local

Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

In each case, Members are asked to decide whether, in all the circumstances, the public interest in maintaining the exemption (and discussing the matter in private) outweighs the public interest in disclosing the information.

11 Urgent Exempt Business

To consider in private any other matter which in the opinion of the Chairman should be considered by reason of special circumstances (to be specified) as a matter of urgency.

All letters of representation referred to in the reports attached to this agenda are available for inspection. Anyone wishing to see these documents should contact the Officer identified on the front page of the report prior to the date of the meeting.

MINUTES OF A MEETING OF THE DEVELOPMENT AND REGULATION COMMITTEE HELD AT COUNTY HALL, CHELMSFORD ON 31 MAY 2013

Present

Cllr R Boyce (Chairman)
Cllr J Abbott
Cllr W Archibald
Cllr P Channer
Cllr M Ellis
Cllr C Guglielmi

Cllr J Lodge
Cllr M Mackrory
Cllr Lady P Newton
Cllr J Reeves
Cllr C Seagers

1. Apologies and Substitution Notices

Apologies were received from Councillors K Bobbin (substituted by Cllr Archibald), A Brown and S Walsh (substituted by Cllr Seagers).

2. Declarations of Interest

No declarations of interest were declared.

3. Appointment of Vice Chairman

Councillor Reeves proposed and Councillor Channer seconded the election of Councillor Carlo Guglielmi as Vice-Chairman of the Committee. There being no other proposals, Councillor Guglielmi was duly appointed.

4. Minutes

The Minutes and Addendum of the Committee held on 19 April 2013 were agreed and signed by the Chairman.

5. Identification of Items Involving Public Speaking

The persons identified to speak in accordance with the procedure were identified for the following item:

Application for a change of use of land with appropriate development to enable use of the site as a waste recycling and materials recovery facility, on land to the south of Terminus Drive, Pitsea.

Public speakers: Ms Angela Deering speaking against
Mr Russell Forde speaking for.

Minerals and Waste Development

6. Terminus Drive, Pitsea

The Committee considered report DR/20/13 by the Head of Planning, Environment and Economic Growth.

The Committee was advised that the proposal was for the change of use of the land and the erection of buildings, hardstanding, roadways, parking and storage areas to enable the use of the site as a waste recycling and materials recovery facility.

Policies relevant to the application were detailed in the report.

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

The Committee noted the key issues that were:

- Need, Principle and Policy considerations
- Highway impacts
- Impacts on Public Rights of Way
- Design, Landscape and Visual impacts
- Impacts on Ecology
- Impacts on Local and Residential Amenity
- Impacts on the Historic Environment and Viability of Cromwell Manor
- Impacts on Hydrology

In accordance with the protocol on public speaking the Committee was addressed by Ms Angela Deering, Manager of Cromwell Manor. Ms Deering said:

- The proposed development is likely to have an impact on Cromwell Manor (a Grade II listed building), and specifically on the viability of its current commercial use, through the construction process, ongoing activities causing amenity issues and appearance of the final structure.
- The National Planning Policy Framework requires appropriate consideration to be given to the impact of any development on heritage assets
- There is an absence of landscaping to the southern boundary and some doubt about the whether landscaping could be provided here.

Mr Russell Forde then addressed the meeting. He said:

- The location is suitable – historically it has been used as a minerals yard and under the current Basildon Local Plan is marked for general industrial use
- This is an established company, wishing to remain in the area, to expand and provide more local jobs
- Various studies on the likely impact have been carried out and the EA is satisfied with the results. The County Highway Authority is also content
- It is situated a significant distance from local residential property and so any impact on local residents will be minimal.

A number of concerns were raised by Members.

In response to questions raised, Members were informed that:

- With regard to the vibrations felt at Cromwell Manor, the officers were unable to confirm these, as they felt none during their visits to the site. It was pointed out that the mainline railway is adjacent to the Manor and works at the existing industrial operation adjacent to Pitsea Hall Road and

- the application site, both could both potentially create vibrations
- The increase in the scale of operations was noted but the overall increase in HGV movement should be relatively small. The Highways Agency and the County Highway Authority had no objections, subject to the fulfilment of certain conditions
 - Neither the EA nor Place Services considered there would be a significant negative impact on Wat Tyler Park, which lies to the south of the development.
 - The suitability of other potential sites had been considered by the applicant and the presence of vacant premises at the time of committee cannot be considered as the planning application must be determined as made. . Notwithstanding this, the site is designated for general industrial use. This designation would normally preclude the imposition of conditions, but some had been sought in this case
 - The operators had stated their intention to have a system in place to reduce fumes, although it was not clear how this would work, particularly as it was noted that the south doors, which faced Cromwell Hall, would be open during operation
 - It was noted that if planning permission were to be granted, a condition would require the submission of details regarding the southern boundary treatment, to screen the building from the south, by way of fencing, or vegetation. Expert input would be sought on this
 - Any lighting put up so far was unauthorised; a further condition was required to limit the hours of operation of any lighting, details of which would need to be submitted prior to construction
 - Clarification was sought on the operating hours, which if planning permission were to be granted, would result in the alteration of the suggested standard operating hours condition. This would result in a reduction of hours to those stated within the application, despite the application being on designated general industrial land, which would not usually require such a condition.

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

Resolved

Subject to the inclusion of an additional condition restricting lighting to the hours of operation (LGHT2) and that hours of operation were restricted to 17:00 hours (and not 18:30 hours), that planning permission be granted subject to conditions covering the following matters:-

1. COM1 – commencement of the development within 5 years from the date of this permission.
2. COM3 - Compliance with submitted details
3. COM2 – Notification of commencement within 7 days of implementation
4. WAST1 – Definition of waste materials to be imported
5. WAST5 – Restricting waste to areas as approved
6. HIGHWAYS - Bespoke
Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Waste Planning Authority shall be

- constructed and maintained free from obstruction within the site at all times for that sole purpose.
7. HIGHWAYS - Bespoke
Prior to occupation of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of associated materials and manoeuvring shall be provided clear of the highway and retained at all times for that sole purpose as approved in writing by the Local Planning Authority.
 8. HIGH13 – surface materials of access
 9. HIGH14 – Access gates
 10. HIGHWAYS - Bespoke
The Public's rights and ease of access over the public footpath shall be maintained free and unobstructed at all times.
 11. HIGH7 – erection of warning signage for PRoW Vange 136
 12. HIGHWAYS - Bespoke
Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.
 13. HIGHWAYS - Bespoke
The powered two wheeler/cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.
 14. HIGH5 – restriction to 100 HGV movements [50 in and 50 out] per day (Monday to Friday) 50 HGV movements [25 in and 25 out] per day (Saturdays)
 15. HIGH1 – improvement to Terminus Drive access
 16. HIGH2 – All Access to be via Terminus Drive
 17. DET1 – Requires submission of details regarding material, colours and finishes for the waste processing building and acoustic barrier
 18. LAND1 – Requires submission details regarding a landscaping scheme
 19. LAND2 – Requires replacement of trees/and shrubs (if necessary) within 5 years of commencement
 20. DET5 – Requires submission of details regarding the southern boundary treatment
 21. HOUR1 – Restricts construction times to 07:00 to 18:30 hours Monday to Friday and 07:00 to 13:00 hours Saturdays
 22. HOUR5 - Restricts hours of operation times to 07:00 to 17:00 hours Monday to Friday and 07:00 to 13:00 hours Saturdays
 23. NSE3 – Requires noise monitoring to be undertaken and submitted within one month of commencing operations to validate predictions.
If measured noise levels exceed those detailed proposed mitigation measures shall be submitted to and approved in writing by the Waste Planning Authority within 1 month of the monitoring being carried out.
 24. NSE4 - Requires submission details regarding the sound proofing of the waste processing building
 25. DUST1 – Implementation in accordance with approved dust suppression measures
 26. LGHT1 - Requires submission details regarding any proposed lighting on site

27. ADDITION OF LGHT 2 – Restricts hours of illumination to the amended hours of operation, specifically to 07:00 to 17:00 hours Monday to Friday and 07:00 to 13:00 hours Saturdays.
28. ECO1- Implementation in accordance with approved Reptile Mitigation Measures
29. POLL1 - Requires submission details regarding surface water drainage and an assessment of the hydrological and hydrogeological context of the development.

INFORMATIVES

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

7. Unit 2, Manor Trading Estate

The Committee considered report DR/21/13 by the Head of Planning, Environment and Economic Growth. Members noted that this was being brought back to the Committee to agree the reason for refusal following the Committee's resolution to refuse planning permission at the April meeting. The Committee noted that enforcement would be taken within a reasonable timescale to be agreed by officers should an appeal not be lodged against the refusal of planning permission.

Members, having noted the proposal, **AGREED** that planning permission be refused for the following reasons:

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

Committee Protocol

8. Revision of Protocol

The Committee considered report DR/22/13 by the Head of Planning, Environment and Growth.

The Members of the Committee noted the contents of the Addendum attached to these minutes and the changes to Sections 1, 6 & 9 of the Protocol.

Members noted that the purpose of the item was to seek the Committee's endorsement of a revised Committee Protocol, which had last been revised in December 2010. These latest revisions reflected the changes brought about by the Localism Act 2011 and recent case law.

Some concern was expressed over the potential for new Committee Members to take decisions not having received training.. After some discussion on this issue, it was proposed that an amendment should be made to Section 3, Member Training, requiring that "No Member shall take part in the business of the Development & Regulation Committee before completing initial essential training."

The resolution for the amendment was moved, seconded and following a vote of three in favour and eight against, the amendment was not approved.

Consequently, the Committee **ENDORSED** the Protocol, as submitted, with the amendments set out in the Addendum.

The Committee also **AGREED** to review the Public Speaking Protocol in six months' time.

Enforcement of Planning Control

9. Local Enforcement Plan

The Committee considered report DR/23/13 by the Head of Planning, Environment and Economic Growth.

The Members of the Committee noted an amendment to the Visit Frequency to Activity A18 for an incinerator (other than a pet crematorium), where there has been a complaint (found on page 119 of 140 of the Committee Pack). It should be 6 months, not 12 months.

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

Members having noted the report, **ENDORSED** the Plan.

Information Items**10. Statistics April 2013**

The Committee considered report DR/24/13, Applications, Enforcement and Appeals Statistics, as at end of the previous month, by the Head of Planning, Environment and Economic Growth.

The Committee **NOTED** the report.

11. Date and Time of Next Meeting

The Committee noted that the next meeting will be held on Friday 28 June 2013 at 10.30am in Committee Room 1.

There being no further business the meeting closed at 12.17pm.

Chairman

committee DEVELOPMENT & REGULATION

date 28 June 2013

MINERALS AND WASTE DEVELOPMENT

Proposal: **Proposed development of a new waste management facility, with associated change of use of land. The facility comprises the erection of a building for the transfer/bulking of municipal waste, together with ancillary development including dual weighbridge, weighbridge kiosk, office and staff welfare building, fire water holding tank and pumphouse, electricity substation, infiltration basin to manage surface water and pipework, package sewage treatment plant, vehicle wash system, staff car parking, vehicle hardstanding, fencing, landscaping, formation of accesses to site and associated works.**

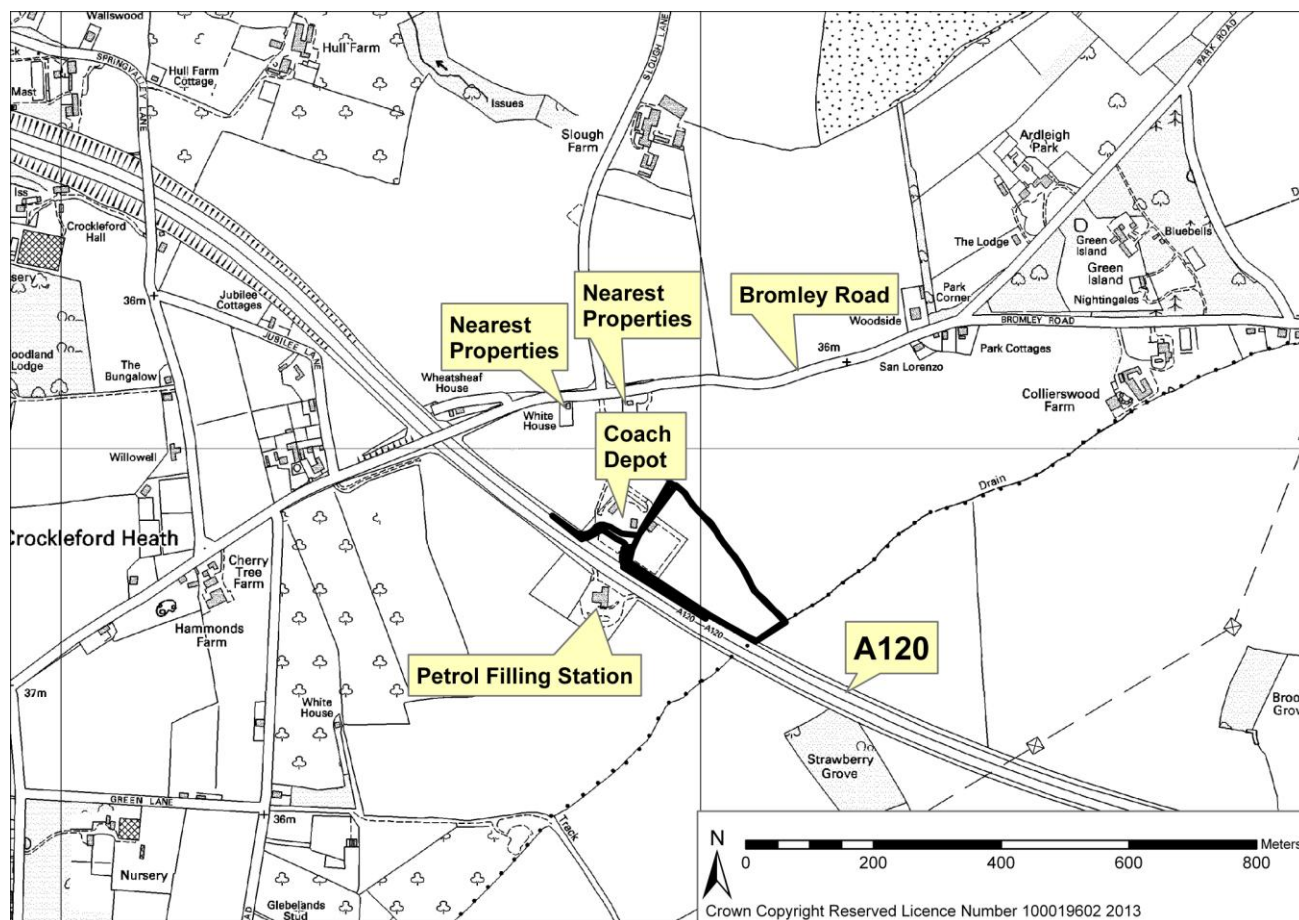
Location: **Land adjacent to A120, A120 North, Ardleigh, Colchester, Essex, CO7 7SL.**

Ref: **ESS/16/13/TEN**

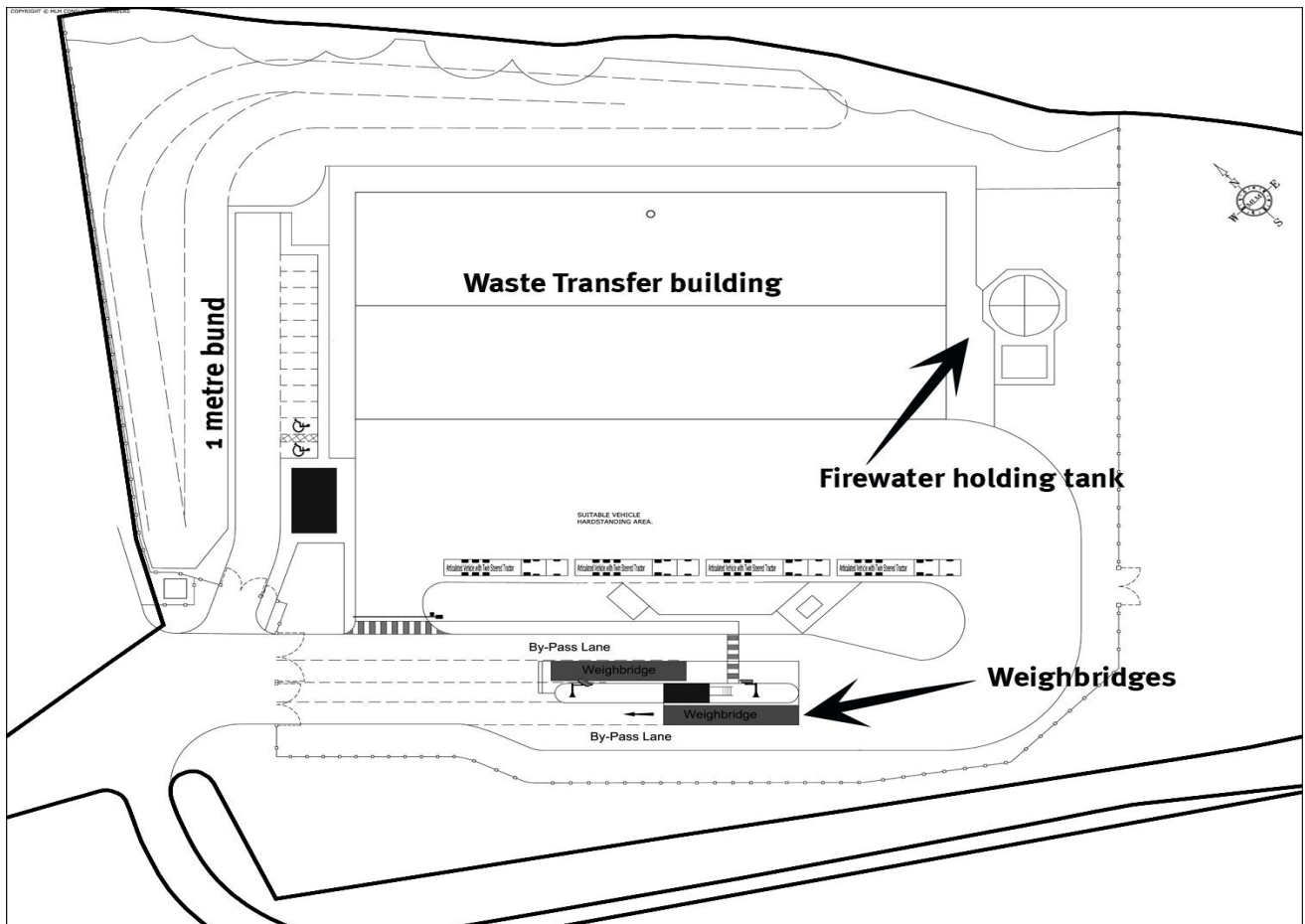
Applicant: **Essex County Council**

Report by Head of Planning, Environment and Economic Growth

Enquiries to: Shelley Bailey Tel: 01245 437577



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1. BACKGROUND & SITE

The 2.7ha site is located in the District of Tendring on the northern side of A120 Trunk Road in Ardeleigh, between the A120/A12 interchange with Old Ipswich Road and the A133 roundabout at Frating.

The site is partly a former petrol filling station now used as a depot for a private coach hire company and a truck-stop/haulage depot with café. The coach depot falls outside the application area and would not be affected operationally.

There is a petrol filling station located to the south west of the application site approximately 50m away on the opposite side of the A120.

The majority of the application site is currently used for arable farming.

There is existing vehicular access and egress via the east-bound carriageway of the A120. In addition, there is an access road located to the north which provides a dedicated route for Martells Quarry, located in Slough Lane. This access would remain in place.

The closest residential properties are located to the north along Bromley Road; the closest being located approximately 130m from the site boundary. The closest commercial properties are located directly adjacent (the coach depot) and on the

opposite side of the A120 (the petrol filling station).

2. PROPOSAL

The application is for the siting of a waste transfer building and associated development to allow the bulking up of municipal waste for more efficient onward transportation to waste treatment facilities elsewhere.

The waste transfer site is proposed to receive 115,000 tonnes per annum of municipal (including black bag) waste from the Tendring District Council and Colchester Borough Council administrative areas.

Approximately 1.2ha of the total site area would be used for built development, with the remaining area used to provide a landscaped buffer.

The main building itself is proposed towards the north west part of the site with landscaped areas between it and the A120 to the south and agricultural fields to the north east and south east. The building would measure 79m x 35m in area and would have a height of 10m to the eaves and 11.8m to the roof ridge. A ventilation stack, approximately 1.2m in diameter, would be situated in the centre north east of the roof and protrude 6.8m above the roofline (5m above the apex).

Vehicles would enter and exit the site via the existing slip-roads off and on to the eastbound carriageway of the A120. They would then be weighed and turn onto an area of concrete located to the south west of the proposed building, before reversing into the building via high-speed shutter doors.

Inside the building there would be 13 bays measuring 6m x 33m. Smaller Refuse Collection Vehicles (RCVs) would deposit waste in these bays and larger Heavy Goods Vehicles (HGVs) would be loaded for onward transportation using a loading shovel. All vehicles would be weighed again prior to exiting the site.

The area of concrete would accommodate parking for 4 articulated vehicles.

In addition to the main building, there is proposed:

- A welfare office building 60m²
- A weighbridge office building 17.7m²
- 12 staff car parking spaces including 2 disabled bays
- A substation building
- A sprinkler tank and pumphouse
- A diesel storage tank
- A power washer
- 1m high bunding around a section of the north west and north east perimeter
- 2.4m high chain-link fencing enclosing the developed area.

Operating hours are proposed as follows:

- 0600 – 2000 hours Monday to Friday

- 0800 – 1600 hours Saturdays, Sundays and Bank/Public Holidays.

The peak time for vehicle movements associated with the development has been assessed to be between 1400-1500 hours, when 41 two-way vehicle movements could be generated.

3. POLICIES

The following policies of the Essex and Southend on Sea Waste Local Plan, (WLP), Adopted 2001, and the Tendring District Local Plan, (TDLP), Adopted December 2007, provide the development plan framework for this application. The Tendring District Local Plan Proposed Submission Draft November 2012, (TDLPS), is at Pre-Submission Draft stage and is a material consideration. The following policies are of relevance to this application:

	<u>WLP</u>	<u>TDLP</u>	<u>TDLPS</u>
BPEO	W3A		
Need	W3C		
Flood Control	W4A		
Water Pollution	W4B		
Access	W4C		
Integrated Waste Management	W6A		
Materials Recovery Facilities	W7E		
Proposed Sites	W8A		
Alternative Sites	W8B		
Planning Conditions and Obligations	W10A		
Development Control Criteria	W10E		
Hours of Operation	W10F		
	WLP	TDLP	TDLPS
Spatial Strategy		QL1	
Design of New Development		QL9	SD9
Designing New Development to Meet Functional Needs		QL10	
Environmental Impacts and Compatibility of Uses		QL11	
Air Pollution/Air Quality		COM20	
Light Pollution		COM21	
Noise Pollution		COM22	
General Pollution		COM23	
Protection of the Best and Most Versatile Agricultural Land		EN4	
Biodiversity/Nature Conservation and Geo-diversity		EN6	PLA4
Habitat Creation		EN6b	
Development Affecting Highways		TR1a	
Transport Assessment		TR1	
Presumption in Favour of Sustainable Development			SD1

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

Paragraph 214 of the NPPF states that, for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004¹ even if there is a limited degree of conflict with the Framework.

Paragraph 215 of the NPPF states that in other cases and following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

The Tendring District Local Plan and the Essex and Southend Waste Local Plan are considered to fall within the scope of paragraph 215. Therefore the level of consistency of the policies contained within these Plans is considered at **Appendix 1**.

4. CONSULTATIONS

TENDRING DISTRICT COUNCIL – No objection in principle to the provision of a waste transfer station to serve Colchester and Tendring. Objects to the proposed location which is contrary to ECC policy, including that a facility should be located no further than 4 miles from the administrative boarder and situated on an industrial estate. Comments that there is no clear justification for the site selection or for discounting Cuckoo Farm. A Judicial Review application would be considered should permission be granted. The prominent location and traffic generated would adversely affect the amenity of the district as a tourist and visitor destination. The lack of westbound access is unsatisfactory. Requires a multi-modal junction and bridge and associated road network improvements as a minimum should the development be permitted.

Comment: The Waste Local Plan does not stipulate a 4 mile distance, however one of the key planning objectives of PPS10 is to enable waste to be disposed of in one of the nearest appropriate installations. Other locational considerations are examined in the body of the report.

HIGHWAYS AGENCY – No comments to make.

ENVIRONMENT AGENCY – No objection subject to adherence to the principles set out in the submitted surface water drainage scheme and to the imposition of a condition requiring further details of surface water drainage. Comments that the

¹ In development plan documents adopted in accordance with the Planning and Compulsory Purchase Act 2004 or published in the London Plan.

development would require an Environmental Permit.

NATURAL ENGLAND – Comments that there is not likely to be an adverse effect on the Ardleigh Gravel Pit SSSI (located approximately 1.5km to the north). Encourages incorporation of Green Infrastructure and refers to standing advice.

HIGHWAY AUTHORITY – No objection subject to all vehicles visiting the proposal site utilising the existing A120 slip roads only. No vehicles shall use the private access located between the proposal site and Bromley Road/Slough Lane.

COUNTY COUNCIL'S NOISE, AIR AND LIGHTING CONSULTANT –

Noise

No objection.

Comments that the Noise Assessment predicts a worst case scenario of 3dB below background noise levels. This adheres to the relevant British Standard, which is to not exceed background levels. However, Tendring DC has required the noise rating to be at least 5dB below background. Therefore, the applicant proposes mitigation measures to the ventilation stack which would result in a worst case scenario of around 8dB below background levels. Notes that the noise limit criteria relevant to the British Standard differs between local authorities, however the requirement to not exceed background level is considered to offer protection to residential properties whilst not being overly onerous on developers.

Comments that the independent noise assessment submitted by a representee does not alter the comments made above.

Air Quality

No objection.

Comments that the application's overall assessment approach is reasonable. The odour benchmark levels have been taken from the Defra guidance for composting sites, which is considered representative of the application site. If the benchmark for biological landfill odours had been used the benchmark would have been reduced and therefore exceeded at the petrol station and coach depot but not any residential receptors. The air quality consultant has not recommended that the benchmark for biological landfill odours should be used.

Considers that adverse odour impacts would not arise from the site. There is therefore no requirement for carbon filters in the odour extraction system as suggested by the representee.

Lighting

No objection. Comments that the design complies with the British Lighting Standards. Requires backlight shields for all columns that run along boundary lines.

WASTE MANAGEMENT (ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS)
– Comments that the proposed Waste Transfer Station would serve the

administrative areas of Tendring District Council and Colchester Borough Council and is consistent with the proposal to provide one of a network of six strategic transfer facilities required to serve Essex and Southend-on-Sea. The network of transfer stations would enable the efficient bulk transfer of locally collected municipal waste to strategic treatment facilities and is required to deliver the Joint Municipal Waste Management Strategy for Essex.

PLACE SERVICES (Ecology) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection subject to a condition securing proposed enhancements and long-term management of the site.

Comments that Bee Orchids are not legally protected in England. It is possible that they are present on site but there are no records to show this. However, the landscape plan accompanying the application would leave the margins of the site unaffected and scrub planting would provide better habitat than the existing arable land.

PLACE SERVICES (Trees) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection subject to a landscape plan excluding ash and aspen from the planting schedule, including appropriate pit design for proposed planting and providing a post-planting management plan. Does not consider the proposed felling of an oak is necessary.

PLACE SERVICES (Urban Design) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection subject to conditions relating to the colour of the roof, detailing of timber cladding, eaves etc and stack design.

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

ARDLEIGH PARISH COUNCIL – Supports the application. Raises concerns over traffic safety, particularly at Great Bromley junction (east of the application site along the A120 and A133). Traffic should be directed via the Horsley Cross (east of the application site along the A120) and Crown Interchange (west of the application site at the A12/A120 interchange) junctions.

ELMSTEAD PARISH COUNCIL – No comments received.

LOCAL MEMBER – TENDRING – Tendring Rural West – Requests that the application is heard at Development and Regulation Committee. Comments that all vehicles would need to turn at the Frating roundabout on the A133 (east of the application site), which is already at capacity.

5. REPRESENTATIONS

6 properties were directly notified of the application. 3 letters of representation have been received. These relate to planning issues covering the following matters:

Observation

Comment

The strategy for reducing landfill waste through the distribution of waste transfer sites across Essex and the Basildon Mechanical Biological Treatment plant (MBT) is supported.	Noted.
The development has been advertised as not in accordance with the Essex Waste Plan and Tendring District Local Plan. Alternative sites have not been investigated thoroughly enough to warrant such a departure. It is a waste of tax-payers money to invest in Plans only to disregard them.	See appraisal.
There is uncertainty over the Basildon MBT and permission has been granted for an MBT at Stanway. If an MBT gets built at Stanway or elsewhere then there may be less logic in locating the proposed transfer station in the proposed location.	The development of the MBT at Courtauld Road in Basildon (permission ref ESS/22/12/BAS) has commenced. The permission for MBT at Stanway (permission ref ESS/63/06/COL) has not been implemented. It is not proposed that a restriction would be imposed to require waste to be transferred to a particular facility, should permission be granted for the proposed development.
The proposed site is 85% agricultural land and 15% brownfield. Development in this location is contrary to ECC policy to protect agricultural land.	See appraisal.
Bee Orchids are a protected species and present on site in the summer.	See appraisal.
Noise from the A120 has increased over the last 25 years. A sound level survey was commissioned in 2008 which demonstrated that noise levels exceeded World Health Organisation Guidelines, contrary to the report included with the application. Noise barriers should be installed along the A120.	(2008 Noise Assessment supplied to the Waste Planning Authority). See appraisal.
Proposed operational hours and days including Sundays and Bank Holidays are excessive. Normal hours are 0800 – 1800 hours Monday to Friday.	See appraisal.
The air extraction tower should include	See appraisal.

a carbon filter to ensure no increase in odour above that existing. The existing Martells landfill site already affects residents due to landfill gas.

Pressure jet cleaning should be restricted to between 0900 – 1730 hours to avoid nuisance.

See appraisal.

Would vehicles be stored overnight? If so, what type of vehicle and would there be security to prevent theft?

No overnight parking is proposed.

Request that waste is not stored overnight. If it is stored overnight vermin should be controlled.

Waste is proposed to be removed from site daily. A maximum period of up to 3 days storage could take place in exceptional circumstances.

Existing site light levels are a concern. Request that proposed light levels are less.

See appraisal.

Development of the rural area over the years has impacted on stress levels and wellbeing.

The potential impact of the development applied for is considered in the report. See appraisal.

A property less than 500m from the site has not been directly notified of the application.

Properties within 250m of the application site boundary were directly notified of the application in accordance with the Statement of Community Involvement Adopted December 2012.

A visit to a waste transfer station at Alconbury in December 2012 showed it was very well run.

Noted.

Would the development be run by ECC or privately?

The site would be managed by a private company under contract from the County Council as Waste Disposal Authority, should permission be granted.

Who would be responsible for addressing odour problems should they arise?

The operator would be responsible for complying with the Environmental Permit.

Pleased that access would be via the A120 and not Bromley Road. What alternatives have been considered for access should any problems arise?

There are no alternative plans for access. See appraisal.

Tendring District Council's Cabinet opposed the development in November 2012 due to traffic concerns.	Noted.
Peak movements would be 41 between 1400-1500 hours. Lorries may be forced to queue on the A120 or continue to the congested roundabout to attempt to enter on their return.	See appraisal.
Bromley Road is unlit, used by horses and cyclists and a cyclist was killed at the junction of Bromley Road with the existing access road in April 2013.	Bromley Road is not proposed to be utilised for access. See appraisal.
Developing a site for Tendring and a site for Colchester would reduce traffic movements and congestion. The site is too large. The economic case for smaller sites was made for the rest of the County.	See appraisal.
Odour will be generated from waste and disturb local residents and footpath users. Biofilters should be required from the outset prior to complaints being generated.	There are no public rights of way in the immediate vicinity of the application site. See appraisal.
In 2006 the Ombudsman ruled in favour of local residents who complained of noise and disturbance from a smaller waste transfer site in Epping District.	Each development is considered on its own merits. Noise impacts are addressed for this particular proposal in the appraisal.
The site and lorries will generate dust and wind-blown rubbish.	See appraisal.
Noise from the development would be more intrusive than the A120 background noise. The power washing area should be enclosed and the building and site parameter should be insulated.	See appraisal.
The proposed development is contrary to the Waste Development Document Preferred Approach, which is in favour of large-scale sites on industrial sites close to waste arisings and small-scale sites co-located with existing facilities.	See appraisal.

Location of the development off Severalls Lane would adhere to the policy and alleviate traffic concerns due to the newly constructed junction next to the football stadium.

6. APPRAISAL

The key issues for consideration are:

- A. Policy Framework, Need and Principle
- B. Policy Considerations
- C. Landscape and Visual Impact
- D. Impact on Amenity
- E. Traffic and Highways
- F. Water and Flood Impact
- G. Ecological Impact
- H. Human Rights

In respect of Environmental Impact Assessment, a Screening Opinion (ref CC/TEN/44/12/SO) was requested by the applicant and subsequently issued by the Waste Planning Authority on 04 December 2012 confirming that an Environmental Impact Assessment would not be required.

When the planning application was formally submitted to the WPA the development was altered slightly from that development the subject of the Screening Opinion. Therefore, a further Screening Opinion was issued on 17 April 2013 to take into account an increase in site area of 0.2m and an amended site layout. The Opinion remained that an Environmental Impact Assessment would not be required.

In considering the impact of the proposed development, it should be noted that transport, noise, odour, flood risk, ecological, lighting, arboricultural and landscape and visual assessments are among the reports included with the application.

A POLICY FRAMEWORK, NEED & PRINCIPLE

Policy framework

S.38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The relevant Development Plan framework consists of the WLP and the TDLP. Paragraph 215 of the NPPF states that in respect of such plans, due weight should be given to relevant policies 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).

The NPPF does not contain specific waste policies, since national waste planning

policy will be published as part of the National Waste Management Plan for England. Until then, PPS10 remains in place. However, local authorities taking decisions on waste applications should have regard to policies in the NPPF so far as relevant.

Planning Policy Statement 10: Planning for Sustainable Waste Management has not been replaced by the NPPF and is a material consideration in the determination of this application.

An analysis of the extent to which policies in the WLP and the TDLP are consistent with the NPPF is set out in Appendix 1 to this report.

The TDLP is a material consideration as part of the emerging Development Plan.

The Waste Development Document: Preferred Approach was published for consultation in 2011 (now known as the Replacement Waste Local Plan (RWLP)) and is also a material consideration as part of the emerging Development Plan.

The NPPF states (Annex 1):

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

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

The RWLP has yet to reach ‘submission stage’. It is therefore too early in the development of the RWLP for it to hold any significant weight in decision making.

The Tendring District Local Plan Proposed Submission Draft is considered to hold more weight than the RWLP since it is at pre-submission stage; however neither plan can be said to hold significant weight.

Need

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

Waste Local Plan Policy W3C (Need) requires waste developments with a capacity of over 25,000tpa to demonstrate a need for the development in the

context of waste arising in Essex and Southend. Where the proposal has a capacity of over 50,000tpa conditions may be imposed to restrict the source of waste to that arising within the Plan area. It is considered that such a condition could be imposed in the event that permission is granted.

As explained further in the report, Essex and Southend Waste Disposal Authorities have identified a need for 6 waste transfer facilities to support the delivery of the Joint Municipal Waste Management Strategy for Essex (JMWMS).

At the heart of these documents is the need to move the management of waste up the waste hierarchy.

WLP Policy W6A (Integrated Waste Management) also requires, in summary, that the Waste Planning Authority should work with the Waste Disposal Authority to support and promote initiatives to reduce, reuse and recycle waste in an environmentally acceptable manner.

The existence of the JMWMS is considered to present a strategic need for the development in accordance with WLP Policy W3C. The appropriateness of the proposed location and environmental acceptability in accordance with WLP Policy W6A will be considered further in the report.

Principle

The Waste Development Document: Preferred Approach was published for consultation in 2011 (now known as the Replacement Waste Local Plan (RWLP)).

The RWLP refers to the 2011 Capacity Gap Report², which shows that under both forecast scenarios, there should be a small surplus of waste transfer capacity at the end of the plan period (the year 2031). However, there are only eight waste transfer stations currently receiving Municipal Solid Waste and having regard to the Waste Disposal Authorities' requirements, there is an identified need for a network of six new waste transfer stations (5 in Essex, 1 in Southend) required early in the Plan period to support the delivery of the Municipal Waste Management Strategies.³ The JMWMS states that (under the heading of 'Best Practicable Environmental Option') *"In order to minimise transport distances and associated environmental impacts, the Partnership envisages a network of transfer stations to which District and Borough Councils would be able to transport waste before it is bulked up and taken to a biotreatment facility."*

On behalf of the Waste Disposal Authority, Consultants were engaged in 2007 to undertake 'system modelling' to identify the optimal number and location for the

² Limited weight should be attributed to the Waste Capacity Gap Report as it has not yet been independently tested at Examination in Public.

³ Information about the Joint Municipal Waste Management Strategy for Essex and the 6 waste transfer stations can be found at:

<http://www.essex.gov.uk/Environment%20Planning/Recycling-Waste/Waste-Strategy/Pages/Waste-transfer-stations.aspx>.

transfer stations. The consultants were specifically engaged to determine what infrastructure would be required to ensure that the collection systems integrate with the supporting disposal and recycling infrastructure. For this initial modelling work district/borough boundaries were effectively ignored so that the number and location of the transfer stations would not be constrained. In developing the model three distinct cost drivers were included, namely:

1. the primary journey costs associated with the collection of the waste by the districts/boroughs;
2. the secondary journey costs covering two separate elements of the transfer station costs (including both the capital and operating costs of the facility) and;
3. the cost of the onward transfer of the waste after bulking.

Following an initial search for suitable land, the five transfer stations network (excluding Southend) was distilled into general locations based around an Epping/Harlow, Southend, Great Dunmow, Braintree and Colchester/Tendring configuration

The Essex Waste Management PFI Outline Business Case (July 2009)⁴ follows on from this work and specifies a network of 6 facilities (inclusive of Southend) to meet the municipal waste management demands of the county in the future.

The RWLP identifies 4 specific sites as suitable for use as MSW transfer stations. No specific sites were identified in the Colchester or Tendring areas but the RWLP notes that a further two MSW transfer facilities are required in the vicinity of Braintree and Colchester/Tendring.

The Waste Capacity Gap Report⁵ has been updated (May 2013) and now does not single out transfer capacity for specific consideration. However, the Report concludes that new transfer capacity may be required depending on geographic issues and justification on a local basis. It states:

'The distribution of waste management facilities should also be related to the distribution of waste arisings. Waste arisings reflect density of population and urban areas can therefore be used as a proxy for quantities of waste arisings, from both households and businesses. Conversely, it is undesirable to locate waste management facilities in areas of open countryside, especially where there are specific environmental designations.'

The balance therefore needs to be struck by understanding the optimum size of facilities in order that they are economic, in terms of the quantity of material that they can process combined with the impact and cost of transporting feedstock.

⁴ http://www.essex.gov.uk/Environment%20Planning/Recycling-Waste/Waste-Strategy/Documents/091127_Full_OBC_v3.5.pdf

⁵ Limited weight should be attributed to the Waste Capacity Gap Report as it has not yet been independently tested at Examination in Public.

This approach also applies to transfer stations similarly, since if treatment and disposal facilities are nearby transfer facilities may not be required. The need for transfer facilities is related to the economic viability of the overall operation as well as environmental considerations such as transport distances. New transfer capacity may be required depending on geographic issues, and justified on a local basis.'

This approach fits with one of the key planning objectives of PPS10, which is to 'help secure the recovery or disposal of waste without endangering human health and without harming the environment, and enable waste to be disposed of in one of the nearest appropriate installations.'

The Waste Disposal Authority has chosen to put forward the proposal site for the bulking up of Colchester and Tendring's municipal waste in line with the JMWMS.

The RWLP has yet to reach 'submission stage'. It is therefore too early in the development of the RWLP for it to hold any significant weight in decision making. Thus, the current proposals should be considered against the requirements of the Adopted Waste Local Plan and any other material considerations.

WLP Policy W3A (BPEO) requires, in summary, that the WPA considers the consistency with the goals and principles of sustainable development, best practicable environmental option, conflict with other options further up the waste hierarchy and conformity with the proximity principle (although this has been replaced by PPS10). The policy also requires promotion of the waste hierarchy and the identification of specific locations for waste management facilities.

According to the JMWMS and the benefits put forward by the applicant as explained further in the report, the proposed development would comply with WLP Policy W3A.

With regard to location, the proposal site is outside the development boundaries and is by default located in 'the countryside' as defined by the Tendring District Local Plan. TDLP Policy QL1 (Spatial Strategy) requires, in summary, that development proposals will be concentrated within development boundaries and only development which is consistent with countryside policies will be permitted outside such boundaries.

The proposed development is therefore considered to be contrary to TDLP Policy QL1.

According to the NPPF guidance outlined previously in the report, the Tendring District Local Plan Proposed Submission Draft is considered to hold more weight than the RWLP since it is at pre-submission stage; however neither plan can be said to hold significant weight.

TDLPS Policy SD5 (Managing Growth) requires that outside Settlement Development Boundaries, the Council will seek to protect and enhance the character and openness of the countryside. This will be achieved by refusing

planning permission for development unless a site is specifically allocated for a particular form of development or land use on the Local Plan Policies Map and Policies Map Insets or the applicant or developer can demonstrate that the proposed development meets all of the following criteria:

- a. the development is necessary, with a genuine prospect of being delivered;
- b. the development cannot, for practical or economic reasons, be located on land within defined Settlement Development Boundaries;
- c. the development would not conflict with the Council's definition of sustainable development; and;
- d. the development would not cause any adverse impacts that would outweigh the benefits of the development, when assessed against other relevant policies in this Local Plan.

It is considered that point (a) has been met due to the requirement in the JMWMS. PPS10 states that it is important for development documents to take into account the development needs of the JMWMS. The Companion Guide to PPS10 also states: 'In the case of waste disposal facilities, applicants should be able to demonstrate that the envisaged facility will not undermine the waste planning strategy through prejudicing movement up the waste hierarchy. Otherwise, if the proposal is consistent with PPS10 and the core strategy there is no need to demonstrate 'need'.'

In addition, WLP Policy W7E (Materials Recovery Facilities), in summary, supports waste transfer stations at locations subject to WLP Policy W8B (alternative sites).

Following on from this, WLP Policy W8B, in summary, permits large-scale waste management facilities in areas of degraded, contaminated or derelict land, where it is shown that the proposed facility would not be detrimental to the amenity of any nearby residential area, if the locations shown in Schedule 1 of the Waste Local Plan are shown to be less suitable or not available.

Even if the proposal site could be said to be 'degraded' (it is not considered to be contaminated or derelict) in part, this would only amount to a very small part of the overall site, the majority of which is agricultural land classified as 'best and most versatile' according to the applicant's search of the County-wide Agricultural Land Classification maps. The part of the site which is proposed to be developed also encroaches onto the agricultural land as it is not confined to the previously developed land. TDLP Policy EN4 (Protection of the Best and Most Versatile Agricultural Land) requires that areas of poorer quality land should be developed first where development of agricultural land is unavoidable. Development is not permitted on best and most versatile land unless 'special justification' can be shown. The NPPF also seeks the use of poorer quality land in preference to that of higher quality. Notwithstanding consideration of this 'special justification' the proposal site therefore appears to be almost wholly inappropriate according to WLP Policy W8B, even if the Schedule 1 sites can be shown to be less suitable or not available.

A site search report which has been included with the application. The report

includes a geographical area of search, chosen by the applicant, concentrated between junction 25 of the A12 (Marks Tey interchange) and the A120/A133 interchange at Frating, taking in the northern suburbs of Colchester. The approach to the site search is considered to be appropriate in this case.

Of the 6 sites in Schedule 1 of the Waste Local Plan, only two are in the Colchester area (namely, Land East of Warren Lane, Stanway and Whitehall Road Extension, Colchester). The site search report takes into account these two sites together with 25 other potential sites in the search area. Seven sites progressed beyond the first 'sieving' stage. This 'sieving' stage required potential sites to be a suitable shape of at least 1.3ha in size and to be commercially available on a freehold or leasehold basis. In response to Tendring District Council's comments regarding Cuckoo Farm, it is noted that an area of land at Axial Way in the Cuckoo Farm Employment Area was identified in the search report. It failed stage 1 due to a breakdown in negotiations with the landowner. However, the proposal site off the A120 was identified as most suitable due to its lack of environmental constraints, central location within the area of search and direct accessibility from the A120.

The applicant has therefore complied with the requirement to show that the Schedule 1 sites are less suitable or not available. However, as mentioned previously, this can only be attributable to a very small area of the application site since the remainder is greenfield land. Consideration of the proposal must therefore be balanced against what is (in part) an inappropriate site when considered against the location constraints of Policy W8B of the Waste Local Plan and the more up-to-date guidance contained in PPS10 and the NPPF.

Section 38(6) of the Planning and Compensation Act 2004 requires that '*if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise*'.

Accordingly it is considered that the proposal does not comply with development plan policy. Whether this conflict with development plan policy is outweighed by any material considerations will be considered further.

The Companion Guide to PPS10 states that '...planning applications that come forward for sites that have not been identified, or are not located in an area identified, in a DPD [a Development Plan Document adopted in accordance with the Planning and Compulsory Purchase Act 2004] as suitable for new or enhanced waste management facilities, may help implement the planning for waste strategy and should not be lost simply because they had not previously been identified. The key test is their consistency with PPS10 and the waste planning authority's core strategy. Where they are consistent they should be considered favourably.'

This requirement for consistency with the core strategy becomes a circular argument since the RWLP has already been established as being at too early a stage to carry any significant weight; the reference to the 'core strategy' would therefore be the WLP; however the NPPF and PPS10 contain more up to date

guidance. The NPPF and PPS10 will therefore be considered further in the report. It is the intention that the RWLP will be consistent with the NPPF and PPS10.

Paragraph 16 of PPS10 requires, inter-alia, that the core strategy should both inform and in turn be informed by any relevant waste management strategy. In the absence of an adopted core-strategy, weight should therefore be applied to the requirements of the JMWMS when the application. Furthermore, paragraph 17 of the NPPF lists 12 core planning principles that under-pin decision making. One core land-use planning principle is that “planning should:

“proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities”.

Again, in the absence of an adopted Replacement Waste Local Plan, significant weight should be attached to the NPPF. As the proposed development would meet the waste management infrastructure needs of the Colchester and Tendring, the JMWMS (including Outline Business Case) and Waste Capacity Gap report provide the background evidence, having objectively assessed the waste management needs of the county. Therefore the proposed development would be compliant with the aforementioned core planning principle.

WLP Policy W8B also requires the criteria of WLP Policy W8A (Proposed Sites) to be met. These criteria will be considered further in the report.

Turning back to criterion (b) of TDLPS Policy SD5 (as set out earlier), the applicant’s site search report does not search all of the defined settlement development boundaries. It has identified an area of search, chosen due to its proximity to the major urban areas it would serve (including Colchester, Frinton/Walton, Clacton and Harwich). However, since this search area has been defined for practical and economic reasons, as required by criterion (b), it is considered that it complies with TDLPS Policy SD5 in this respect.

The suitability of this search will be considered further in the report. Criterion (c) will be considered further in the report. The balancing exercise of benefits against adverse impacts required by criterion (d) will also be considered further in the report.

The NPPF does not contain specific waste policies, since national waste planning policy will be published as part of the National Waste Management Plan for England. Until then, PPS10 remains in place. However, local authorities taking decisions on waste applications should have regard to policies in the NPPF so far as relevant.

The NPPF sets out a presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social and environmental. These dimensions should be sought jointly and simultaneously through the planning system.

With respect to the proposed development, the economic role has been explained by the applicant as reducing the transport distances of waste delivering vehicles and associated fuel savings. Tendring District and Colchester Borough refuse collection fleets currently take their waste to the landfill site at Warren Lane in Stanway, Colchester. The diversion of these vehicles to the proposed WTS would mean the Colchester vehicles travel further but the Tendring vehicles would reduce mileage by 28,000 miles per year saving over 7,000 gallons per annum of fuel. There would also be a mileage saving when compared to the mileage the vehicles would travel if going directly to the proposed facility at Courtauld Road in Basildon. This facility is proposed to be operational in June 2014. The applicant has calculated that the Waste Transfer Station would reduce vehicle miles by approximately 320,000 miles per annum and save over 101,000 gallons of diesel per annum compared to direct delivery to the facility in Basildon.

The Joint Municipal Waste Management Strategy for Essex estimates that the introduction of the overall strategy would save the Essex tax payer £750 million over the next 25 years when compared to current methods of waste disposal.

The application also states that the proposed WTS would generate an estimated 4 full time equivalent jobs during the construction phase and 4 full time equivalent jobs once operational.

The social role would be achieved through the effective management of municipal waste. The JMWMS seeks to move waste up the waste hierarchy by reducing reliance on landfill. The proposed development would assist in the achievement of the JMWMS and thus be of benefit to the health and well-being of the wider community across Tendring and Colchester.

The applicant has also fully implemented a comprehensive community engagement exercise, in accordance with the Adopted Statement of Community Involvement. The design and layout of the proposed development has been formulated taking into account queries made during this exercise, making the process more inclusive of the local community.

The environmental role will be considered further in the report.

TDLPS Policy SD1 (Presumption in Favour of Sustainable Development), in summary, states that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out

of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

- any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole, or;
- specific policies in that Framework indicate that development should be restricted.

Accordingly, weight should only be applied to the policies in the Adopted TDLP provided they are fully compliant with the NPPF and it follows that the more up-to-date approach in the NPPF (and PPS10) should be given more weight where appropriate.

C LANDSCAPE & VISUAL IMPACT

TDLP Policy QL9 (Design of New Development) and TDLPS Policy SD9 (Design of New Development) require, in summary, all new development to make a positive contribution to the quality of the local environment and protect or enhance local character.

TDLPS Policy SD10 (Sustainable Construction) requires, in summary, developments to demonstrate how they are sustainable and have been designed to respond appropriately to the challenges of climate change. The policy also states that the Council will work with ECC to consider the need for facilities for the handling and transportation of waste.

The main visual receptors to the site are considered to be the two residential properties to the north of the site and, to a lesser extent, the commercial coach depot, and traffic travelling along the A120.

The development has been designed to take account of the site's setting in a rural area. The main building is suggested by the applicant to resemble a modern agricultural structure. It would include vertical larch timber boards over single skin metal cladding sheets on the south west elevation, with dark green corrugated metal cladding to the rear and gable ends and exposed concrete push walls. The roof would be grey vertical profiled sheeting. Glass reinforced plastic roof lights are proposed at 6m intervals along the roof to allow natural light into the building.

The finished floor level of the building would be 35.5m AOD, which equates approximately to existing ground levels.

The design put forward in the application is one of 9 considered by the applicant throughout the design process. The scheme allows vehicle manoeuvring to be within the south-west area of the site away from the nearest residential properties. The building is proposed with a 1m high landscaped bund along the north eastern and western boundaries to assist in integrating it into the landscape and screening it from the properties in Bromley Road. In addition, the active frontage of the building would face towards the A120 boundary and away from the nearest

residential properties, with access for maintenance only around the rear of the building. Vehicular and two pedestrian access doors would all be located on the south west elevation. An area of tree planting has been incorporated along the boundary with the A120 to assist in screening views from the highway, including views of the proposed building and proposed movement of vehicles

The development design aims to meet BREEAM 'Very Good' status.

The proposal includes ancillary developments which have also been considered within the overall design. The design of the sprinkler tank has been proposed to mimic an agricultural silo, thereby assisting in blending it into the landscape when viewed from the A120. The welfare building and weighbridge office would be finished in dark green to complement the main building.

It is noted that the NPPF attaches great importance to the design of the built environment. It requires that planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative. It is, however, proper to seek to promote or reinforce local distinctiveness.

The ECC urban design specialist has recommended conditions relating to the colour of the roof, detailing of timber cladding, eaves and stack design. It is considered that this could be accommodated in a condition should permission be granted.

A Landscape and Visual Impact Assessment has been included with the application.

The landscape itself does not have any special designation. The existing boundary trees and hedges are proposed to be retained and reinforced. ECC's Tree Officer has recommended exclusion of ash and aspen from the planting schedule, appropriate pit design for proposed planting and providing a post-planting management plan. It is also considered that the proposed felling of an oak is not necessary. It is considered that these requirements could be incorporated into an appropriately worded landscaping condition in the event that permission is granted, requiring that a revised landscape plan is submitted prior to the commencement of the development including, amongst other matters, the retention of the oak tree.

Overall the Landscape and Visual Impact Assessment concludes that visual significance of the development would be low in the wider landscape. The visibility of the scheme from close and medium distance viewpoints would be mitigated through planting predominantly native fast growing tree species at heights of 4m+.

In response to the comments by Tendring District Council relating to the 'prominent' location, it is considered that there would be no significant detrimental visual impact due to the proposed design and landscaping.

ECC's Landscape Officer has raised no objection to the proposals.

Therefore, the landscape is considered to be capable of accommodating the proposed development without significant adverse landscape or visual impact. It is also considered to take into account sustainability, in compliance with TDLPS Policy QL9 and TDLPS Policy SD10. Additionally, it is considered that the development would not cause any adverse landscape or visual impacts that would outweigh the benefits of the development, as required by point (d) of TDLPS Policy SD5 (as set out earlier in the report).

This also contributes to the environmental role of sustainable development as required by the NPPF.

D IMPACT ON AMENITY

WLP Policy W10E (Development Control Criteria), in summary, permits waste management development where satisfactory provision is made in respect of the effect of the development on the amenity of neighbouring occupiers from noise, smell, dust and other potential pollutants.

TDLPS Policy Q11 (Environmental Impacts and Compatibility of Uses) requires all new development to be compatible with surrounding land uses and minimise adverse environmental impacts. Development should not have a materially damaging impact on the amenity of occupiers of nearby properties.

TDLPS Policy COM23 (General Pollution), in summary, does not permit development which would have a significant adverse effect on health or amenity.

TDLPS Policy SD9 requires, in summary, new development to be compatible with surrounding uses and minimise any adverse environmental impacts, including on the amenity of occupiers of nearby properties, and the impacts of noise, smell, dust, light, heat, vibration, fumes or other forms of pollution or nuisance.

It is noted that PPS10 requires that 'in considering planning applications for waste management facilities waste planning authorities should consider the likely impact on the local environment and on amenity', but also that 'controls under the planning and pollution control regimes should complement rather than duplicate each other and conflicting conditions should be avoided.'

Odour and Dust

TDLPS Policy COM20 (Air Pollution/Air Quality), in summary, does not permit development with the potential to contribute significantly to air pollution unless mitigation is proposed.

The application includes an Odour Assessment. It predicts odour emissions from the proposed development using odour measurements taken by the consultancy at undisclosed similar sites.

All vehicles arriving at the site would be sheeted or enclosed, with un-sheeting taking place within the building. Waste handling would take place only inside the proposed building with the automatic high speed roller shutter doors closed. In

terms of how this would work operationally, the weighbridge operator would, in cooperation with loader vehicle drivers within the main building, direct the delivery vehicle through an appropriate door, which would close automatically once the vehicle has been driven inside.

Food waste would be loaded immediately into sealed Roll On Roll Off (RORO) containers. Waste would be stacked against the internal push walls by the front loading shovel to reduce surface area of waste and keep the building floor clean. Staff would also use hose reels to wash down the floor and control dust arisings. It is considered that a condition could be imposed, in the event that permission is granted, to require a dust management scheme which could include details of frequency of washing down.

Waste is proposed to be removed from the building daily (except in unusual circumstances such as a machinery failure when the waste may be kept on site for up to 3 days only) by articulated lorries and RORO vehicles. Such vehicles would be sheeted prior to exiting the building. The driver would then activate a roller shutter door to enable the vehicle to exit and the door would automatically close once the vehicle has exited.

In addition, the building itself would be equipped with a fan-based air extraction system. It would disperse extracted air via the discharge stack at a rate of 74,393 m³/hour (2.5 air changes per hour) during daytime operation. The fan speeds could be reduced and are proposed to extract at a rate of 1 air change per hour during night time.

It is also proposed that a misting system would be installed to suppress air borne dust, and that this system could be used to spray odour suppression solutions if required.

The Odour Assessment concludes that the proposed development would not generate odours above the Environment Agency benchmark and would cause no significant loss of amenity at any commercial or residential receptor in the vicinity of the site.

It is noted that comments have been received from representees relating to the need for a carbon/bio filter to control odour. ECC's consultant has commented that this would not be necessary as odour would be adequately minimised without such measures.

The application does not include details of dust management outside the proposed building. It is therefore considered that a scheme could be required by condition should permission be granted.

Lighting

TDLP Policy COM21 (Light Pollution), in summary, does not permit development which would cause unacceptable visual intrusion; cause unacceptable disturbance to the area or wildlife; or cause a danger to highway or pedestrian safety. Lighting must minimise glare and light spillage.

The application includes a Lighting Report detailing a mix of column-type fittings and building mounted floodlights. All lighting would be appropriately positioned to ensure no upward light spill and ensure no safety implications for the A120 highway.

A representation has been received raising concern over light levels from the existing development on site and asking that the proposals reduce these levels. The existing light levels have not been assessed as part of the application. However, proposed light levels have been shown to be acceptable. The Lighting Consultant has raised no objection subject to the incorporation of backlight shields, which it is considered could be required by condition in the event that permission is granted.

Noise

TDLP Policy COM22 (Noise Pollution), in summary, requires noisy development to be located away from sensitive developments unless mitigation is proposed.

The application includes a Noise Assessment. It takes into account potential noise sources including moving vehicles, the loading shovel inside the building, stationary vehicles and fixed plant including the wash down bay and ventilation stack.

Without mitigation, the proposals were found to have marginal noise impact at nearby residential dwellings according to the standards set by Tendring District Council's Environmental Health Officer. Therefore, additional mitigation by inline attenuation is proposed to the ventilation system. It is noted here that ECC's Noise Consultant has commented that the development would adhere to the British Standard even without the proposed additional mitigation.

ECC's Noise Consultant has also provided advice on one of the representations received. The representation included a noise assessment carried out in 2008 which recommended the installation of a noise barrier to mitigate traffic noise from the A120 to the receptor. The Consultant has stated that the Noise Assessment has used the correct approach in utilising predictions of noise levels emanating from the proposed site only. The Consultant has also confirmed that the traffic associated with the proposed development would not result in perceptible noise increase from the A120, and that the use of water jets has been included in the Noise Assessment which has demonstrated no adverse impact. It is however considered that exact details of the washer and splash guards could be required by condition in the event that planning permission is granted.

Representations have been received regarding the proposed opening hours of the facility. The application proposes operating hours of:

- 06:00 – 20:00 hours Monday to Friday
- 08:00 – 16:00 Saturday and Sunday and bank holidays (except Christmas

Day, Boxing Day and New Year's Day when the site would be closed).

The reasoning for the proposed hours is to maximise the collection day and to allow for operational flexibility. The destination for the bulked waste would be likely to be (but would not be restricted to) the treatment facility at Courtauld Road in Basildon, which is permitted to accept waste during the following hours:

07:00 – 20:00 hours Monday to Friday

07:00 – 16:30 hours Saturday

08:30 – 16:30 hours Sunday.

In order to maximise the use of the treatment facility the proposed WTS would need to be open for approximately 1 hour prior to the opening of the treatment facility to allow sufficient time for waste to be loaded and transported.

The proposed WTS would also transfer waste from the Recycling Centres for Household Waste (RCHWs) across the County. RCHWs accept waste from the public and are naturally at their busiest during weekends and bank holidays. As such there is a requirement to ensure that the opening hours during these periods are as flexible as possible and to allow waste to be removed quickly so that RCHWs don't become full which can impact on queuing traffic surrounding the sites.

In addition, it is increasingly becoming the practice of local authorities to move away from the traditional 'bank holiday collection catch up methodology' which is when collections do not take place on a Bank Holiday but are carried out on the following Saturday (or other week day). The proposed WTS would need to be open during Bank Holidays to allow such collections to take place (except during the Christmas period).

Municipal Waste also includes street cleansing waste. In some areas of Essex such operations take place 7 days per week. As such, the proposed WTS would need to be open to accept this waste.

Although the noise and lighting consultant consultants have raised no objection to the proposed operational hours, it is considered that they should be restricted as much as possible to protect amenity in what is largely a rural area. Therefore, it is considered that operating hours could be reduced to end at 1930 hours Monday-Friday. This would still allow the facility to operate with time for waste to be transported to Courtauld Road.

Therefore the proposed operating hours are considered to be acceptable in this particular case, subject to the further restriction by 30 minutes on weekday evenings as explained earlier in the report, and the development is considered to comply with WLP Policy W10E, TDLP Policies Q11, COM20, COM21, COM22 and COM23, and TDLPS Policy S9. Additionally, it is considered that the development would not cause any adverse amenity impacts that would outweigh the benefits of the development, as required by point (d) of TDLPS Policy SD5 (as set out on page 14 of the report). It is further considered that the proposed conditions relating to dust, light and opening hours would ensure adequate control over the

development without duplicating the pollution control regime, as required by PPS10.

This also contributes to the environmental role of sustainable development as required by the NPPF.

E TRAFFIC & HIGHWAYS

TDLP Policy QL10 (Designing new Development to meet Functional Needs) requires, in summary, all new development to have practicable access and to ensure that the highway network can safely accommodate the additional traffic generated by the proposal.

TDLP Policy TR1a (Development Affecting Highways), in summary, requires that development affecting highways is considered in relation to the road hierarchy and the physical and environmental capacity of the transport system to accommodate the traffic generated.

WLP Policy W4C (Access) primarily requires, in summary, access for waste management sites to be via a short length of existing road to the main highway network.

WLP Policy W10E (Development Control Criteria), in summary, permits waste management development where satisfactory provision is made in respect of the impact of road traffic generated by the development on the highway network, among other requirements.

TDLPS Policy SD9 requires, in summary, that any additional road traffic from new development must not have a materially damaging impact on air, land, water, amenity, health or safety through noise, smell, dust, light, heat, vibration, fumes or other forms of pollution or nuisance.

A Transport Assessment has been included with the application, in accordance with TDLP Policy TR1 (Transport Assessment) which requires such an assessment for all major developments.

As stated previously in the report, vehicular access to and egress from the site would be via the existing access off and on to the A120 directly to the site.

It is noted that Tendring District Council, Ardleigh Parish Council and the Local Member have all raised concerns over traffic impact on the surrounding highway network and particularly on the nearby roundabouts where vehicles would need to turn.

Peak hour traffic flows associated with the proposed development would be 41 movements between the hours of 1400 – 1500, which would not coincide with the local road network peak hour periods of 0800-0900 and 1700-1800 hours.

The existing truckstop/haulage depot site would cease should permission be granted for the proposed development. The truckstop/haulage depot generates 5

HGV movements in the morning (AM) highway network peak hour and 7 HGV movements in the afternoon/evening (PM) peak hour. The proposed development would generate less; with a proposed 2 HGV movements during the weekday highway network AM peak hour and 4 during the PM peak hour. This equates to 1 vehicle movement every 30 minutes and 15 minutes respectively during the AM and PM peak hours (when the nearby junctions are at their busiest).

The Transport Assessment concludes that the proposed development traffic impact would be neutral (at 0.1% of the A120 traffic flows) and would therefore have no significant impact on the operation of the A12 Ardleigh and A133 Frating roundabouts. The proposed development traffic impact would also be less than the existing impact associated with the truckstop/haulage depot during AM and PM peak hours, and less than the capacity of the truckstop/haulage depot during the proposed development peak hour (between 1400 – 1500 hours).

The application states that there would be a saving of 1600 vehicle miles per day if the proposed WTS is built, when compared with Colchester and Tendring refuse collection vehicles having to travel directly to the south of the County.

The existing slip lanes serving the site are also in excess of the standards required by the Design Manual for Roads and Bridges. They are capable of safely accommodating the volume and type of vehicles proposed.

The application proposes 12 parking spaces for staff including 2 disabled bays. A total of 6 employees are stated in the application. This would therefore provide adequate space for staff.

The Highway Authority has raised no objection subject to all vehicles visiting the proposal site utilising the existing A120 slip roads only and no vehicles using the private access located between the proposal site and Bromley Road/Slough Lane. It is considered that this could be restricted via condition should permission be granted.

The Highways Agency has responded with no comment to make.

There would be no impact on the functioning of the private quarry access or the coach depot.

Given the responses from these consultees, the minimal impact that the proposed development would have on the highway network, it is considered that there can be no objection to the scheme on highway grounds in planning terms. The access and proposed vehicle movements are considered to be suitable and, as such, the proposed development is therefore considered to comply with TDLP Policies QL10, TR1A and TR1, WLP Policies W4C and W10E, and TDLPS Policy SD9. It is also considered that the development would not cause any adverse highway or traffic impacts that would outweigh the benefits of the development, as required by point (d) of TDLPS Policy SD5 (as set out on page 14 of the report).

This also contributes to the environmental role of sustainable development as required by the NPPF.

F WATER & FLOOD IMPACT

WLP Policy W4A (Flood Control), in summary, permits waste management only where there would not be an unacceptable risk of flooding on site or elsewhere as a result of effect on surface water; where there would not be adverse effect on the water environment as a result of surface water runoff; and where existing and proposed flood defences are protected.

WLP Policy W4B (Water Pollution), in summary, permits waste management development only where there would not be unacceptable risk to the quality or flow of surface and groundwaters.

TDLP Policy COM23 (General Pollution), in summary, does not permit development which would significantly affect health, environment or amenity through release of pollutants to surface or ground water.

TDLP Policy Q11 (Environmental Impacts and Compatibility of Uses), in summary, requires all new development to be compatible with surrounding land uses and minimise adverse environmental impacts. Development is permitted only if it does not have a materially damaging impact on water including ground water.

A Flood Risk Assessment (FRA) and Drainage Strategy has been included with the application.

It shows that the site is located in Flood Zone 1 (low risk). According to the NPPF, all forms of development are appropriate in this zone.

Surface water runoff is proposed to be disposed of via SuDs in the form of infiltration trenches and basins. Foul water is proposed to be discharged to on site treatment facilities with disposal of treated effluent by infiltration.

The FRA shows that the development would not be subject to significant risk of flooding or present an increase in flood risk elsewhere.

In addition, a Land Contamination Assessment has been undertaken which concludes that there are no known contamination issues on site and there would be no significant risk to human health, groundwater, water supply pipes, or the environment. As such, no remediation measures have been recommended.

The Environment Agency has raised no objection to the proposed scheme subject to the imposition of a condition requiring further details of surface water drainage, which it is considered could be required by condition in the event that permission is granted.

Therefore it is considered that the proposed development would comply with WLP Policies W4A and W4B, TDLP Policies COM23 and Q11 and TDLPS Policy SD9, and there would be no adverse impacts on water or flooding that would outweigh the benefits of the development, as required by point (d) of TDLPS Policy SD5 (as set out on page 14 of the report).

This also contributes to the environmental role of sustainable development as required by the NPPF.

G ECOLOGICAL IMPACT

TDLP Policy Q11 (Environmental Impacts and Compatibility of Uses), in summary, requires that all new development should be compatible with surrounding land uses and minimise adverse environmental impacts. It should not lead to material loss or damage to areas of ecological value.

TDLP Policy EN6 (Biodiversity), in summary, does not permit development proposals unless the existing local biodiversity is protected and enhanced. Conditions will be sought to protect biodiversity and to provide compensation, mitigation and long-term management as appropriate.

TDLPS Policy PLA4 (Nature Conservation and Geo-diversity), in summary, states that consideration will be given to the potential for new wildlife habitats in new development.

TDLP Policy EN6b (Habitat Creation), in summary, states that consideration will be given to the potential for new wildlife habitats and suitable management of them in new development.

WLP Policy W10E, in summary, permits waste management development where satisfactory provision is made in respect of the effect of the development on nature conservation, among other considerations.

The application site comprises an area of hardstanding and buildings surrounded by arable land. The built area is itself enclosed by a thick hedgerow and the surrounding arable land is defined by a further thick hedgerow along the south-western A120 boundary and a thin hedgerow with trees along the north-eastern and eastern boundaries. There is a small area of poor semi-improved grassland adjacent to the private access way to the north.

An Ecological Assessment has been included with the application. It concludes that the existing habitats on site are mainly of site significance only, with the exception of the thick hedgerow which is considered to be of local importance. The existing hedgerow surrounding the existing built area would need to be removed. The Assessment recommends that vegetation clearance is carried out outside the bird-nesting season unless a suitably qualified ecologist can confirm no nesting birds are present. It is considered that this could be required by condition in the event that permission is granted.

The Assessment also notes that the development offers the potential for biodiversity enhancement due to the proposed landscaping.

The trees along the northern and eastern perimeter have the potential for use by foraging bats. A specific consideration within the Lighting Report is that lighting would be directed away from the boundary trees so as to minimise impact on

foraging bats.

The Assessment recommends fruit and nut bearing species in the landscape scheme to provide for dormice. It is considered that a landscape scheme to include these considerations could be required by condition should permission be granted.

A representation has been received stating that Bee Orchids are a protected species found on site in summer. ECC's Ecologist has considered this comment and stated that Bee Orchids are not legally protected in England. It is possible that they are present on site but there are no records to show this. However, the landscape plan accompanying the application would leave the margins of the site unaffected and scrub planting would provide better habitat than the existing arable land, presenting a benefit to Bee Orchids should they be present.

Further, ECC's Ecologist has raised no objection subject to a condition securing proposed enhancements and long-term management of the site. It is considered that an appropriately worded condition could be imposed in the event that permission is granted.

It is therefore considered that the proposed development would comply with TDLP Policies Q11, EN6 and EN6b, TDLPS Policy PLA4 and WLP Policy W10E and it is considered that the development would not cause any adverse ecological impacts that would outweigh the benefits of the development, as required by point (d) of TDLPS Policy SD5 (as set out on page 14 of the report).

This also contributes to the environmental role of sustainable development as required by the NPPF.

H HUMAN RIGHTS

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

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

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

7. CONCLUSION

Aside from the locational policy objection of the Waste Local Plan, the development has been shown to have minimal impact on landscape, amenity, traffic, water and ecology, in compliance with point d) of TDLPS Policy SD5. It

would also be ideally located in proximity to the source of the waste it would serve in the Colchester and Tendring areas. Accordingly, the development would meet the waste management needs of the JMWMS and conform with a key core land-use principle of the NPPF, as it would provide the waste management infrastructure to meet that identified need.

There is further considered to be a need for a waste transfer facility in the general area, in accordance with WLP Policies W3C and W6A.

However, the inappropriate (according to the WLP and TDLP) location in the countryside on mainly greenfield land needs to be considered. The proposed development would not be located on wholly degraded, contaminated or derelict land and this is considered to be contrary to TDLP Policy QL1 and WLP Policies W8B, W7E and W8A in terms of location.

In accordance with the Planning Acts, planning permission should be refused for development not in accordance with the development plan unless material considerations indicate otherwise.

As stated in the report, the applicant has not assessed all of the Settlement Development Boundaries in the district of Tendring. The reasoning for this is due to a geographical area of search along the A12/A120 corridor which was considered practical and economic from the applicant's point of view. In this particular case, it is considered that this approach is acceptable to ensure the source of waste would be managed in the nearest appropriate installation in compliance with PPS10. Therefore, in terms of point b) of TDLPs policy SD5, the proposed development is considered to be in compliance.

PPS10 promotes consideration of non-allocated sites but places great emphasis on the use of brownfield land, which this site is not in its totality. The proposed built area would be estimated to more than double the existing built area. The NPPF also conveys core planning principles to encourage the effective use of land by reusing land that has been previously developed; and to recognise the intrinsic character and beauty of the countryside. The NPPF also seeks the use of poorer quality agricultural land in preference to higher quality.

On the other hand, as discussed in the report, the NPPF also contains a presumption in favour of sustainable development. This takes into account economic, social and environmental elements. It is considered that these 3 'strands' have been proven through the submitted application details, in compliance with WLP Policy W3A, point c) of TDLPs Policy SD5 and TDLPs Policy SD1.

PPS10 also states that the particular locational needs of waste management facilities, 'together with the wider environmental and economic benefits of sustainable waste management, are material considerations which should be given *significant*⁶ weight in determining whether proposals should be given planning permission.'

⁶ The author's emphasis

To reiterate the NPPF, the presumption in favour of sustainable development means:

- ‘Approving development proposals that accord with the development without delay, and;
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF; or
 - Specific policies in the NPPF indicate development should be restricted’.

Although Tendring District Council has confirmed that its Adopted Plan is out of date and not in accordance with national policy, this does not necessarily mean that policies in their entirety should be treated as being obsolete. The TDLPS can hold little weight in decision making due to its pre-submission stage in the plan-making process.

The Waste Local Plan is considered to be largely in accordance with the NPPF⁷ however significant weight should be attached to the NPPF and PPS10 being more up-to date. As such, even though the proposal does not comply with TDLP Policy QL1 and WLP Policies W8B, W7E and W8A (in terms of location) greater weight should be applied to the waste management needs of Essex both in respect of the need for transfer facilities in accordance with the JMWMS/Waste Capacity Gap report (2013) and the need to move waste management further up the waste hierarchy, away from landfill. This need, combined with the lack of other available alternative sites is considered to outweigh the locational requirements of TDLP Policy QL1 and WLP Policies W8B, W7E and W8A, policies which have in any case been weakened by introduction of the NPPF and PPS10.

Each of the amenity effects are examined in the report. As identified, there is considered to be no significant ‘harm’ in terms of amenity impact, landscape or visual impact, highway impact, water or flood impact, or ecology impact which would result from the proposed development, in compliance with TDLP Policies QL9, QL10, Q11, COM20, COM21, COM22, COM23, TR1a, TR1, EN6 and EN6b, TDLPS Policies SD9, SD10 and PLA4 and WLP Policy W4A, W4B, W4C and W10E.

The applicant has put forward an assessment of alternative sites which conforms to the requirements of the WLP. Economic and social arguments have been put forward and are accepted. The development would assist in meeting the JMWMS and in moving waste up the hierarchy in accordance with PPS10.

Therefore, whilst the proposal is to build on an area of high quality agricultural

⁷ See Appendix 1

land, it is considered that the particular locational needs of the development in proximity to the source of waste have been proven. The proposal is therefore in accordance with PPS10 and within the exception allowed under TDLP Policy EN4. On balance, applying the presumption in favour of sustainable development, and in particular sustainable waste management development, in this case it is considered that there are material considerations to justify a departure against development plan policy that outweigh the policy approach to the 'non-allocated' location.

8. RECOMMENDED

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

1. COM1 – Commencement within 5 years
2. COM3 – Compliance with submitted details including adherence to the submitted surface water drainage scheme
3. POLL1 – Surface water drainage.
4. HIGH2 – Vehicular access from existing A120 slip roads only. No vehicles shall use the private access located between the proposal site and Bromley Road/Slough Lane.
5. NSE1 - Noise limits
6. NSE3 – Monitoring noise levels
7. LGHT1 – Fixed lighting restriction other than that submitted.
8. LGHT2- Use of lighting restriction.
9. ECO5 - Biodiversity Mitigation and Enhancement Plan
10. ECO3 – Protection of legally protected species (Tree and hedge removal outside of bird-nesting season unless ecologist confirms none present).
11. LAND1 – Landscape Scheme omitting Ash and Aspen, including appropriate pit design, retention of Oak, and post-planting management plan.
12. LAND2 – Replacement Landscaping
13. DET1 – Details of external appearance including fences
14. WAST1 – Waste type restriction and tonnage of 115,000 tpa.
15. WAST7 – Essex and Southend-on-Sea's Waste Only.
16. Hours of operation:
 - 06:00 – 19:30 hours Monday to Friday
 - 08:00 – 16:00 hours Saturdays, Sundays and Bank/Public Holidays (except Christmas Day, Boxing Day and New Year's Day when the site shall be closed).
17. GEN1 – Advance submission of details of cabinet power washer and vehicle wash and splash guards prior to beneficial occupation.
18. DUST1 – Dust suppression scheme.

BACKGROUND PAPERS

Consultation replies
Representations

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

The proposed development would not be located adjacent to or within the screening distance to a European site.

Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required.

EQUALITIES IMPACT ASSESSMENT

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

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

The Waste Planning Authority has participated in pre-application engagement with the developer and other consultees for some time prior to the submission of the planning application, offering advice where appropriate to assist in the application process. The community engagement process was also overseen in accordance with Essex County Council's Adopted Statement of Community Involvement.

Throughout the determination of the application, the Waste Planning Authority has liaised with the applicant to resolve issues arising from the consultation process and to reach an appropriate resolution.

LOCAL MEMBER NOTIFICATION

TENDRING – Tendring Rural West

Consideration of consistency of Policies

Tendring District Local Plan

Ref	Policy	Consistency with NPPF
QL1	<p>The spatial strategy for Tendring to 2011 follows established national and regional principles for sustainable development.</p> <p>a. Most new development will therefore be concentrated at the larger urban areas of Clacton and Harwich, where accessibility to employment, shops, and other facilities and services is maximised, and there is a choice of means of transport. These towns also contain the largest supply of previously developed land, for use in general preference to greenfield sites.</p> <p>b. In the smaller towns and villages, limited development consistent with local community needs will be permitted.</p> <p>c. Development will be concentrated within the following settlement development boundaries, as defined on the proposals maps.</p> <p>Outside these and other specific land allocations in this Plan, only development which is consistent with countryside policies will be permitted.</p> <p>TOWNS Clacton Brightlingsea Harwich Lawford, Manningtree and Mistley Frinton/Walton Colchester Fringe</p> <p>VILLAGES Aingers Green Little Clacton Alresford Ramsey Ardleigh St. Osyth Beaumont-cum-Moze Point Clear Bradfield Tendring Elmstead Market Tendring Green Frating Green and Balls Green Thorpe-le-Soken Great Bentley Thorrington Great Bromley Weeley Great Holland Weeley Heath</p>	<p>The NPPF takes precedence (Tendring District Council state that the above plan 'is now considered to be out of date and not in accordance with national planning policy.')</p>

	Great Oakley Wix Kirby-le-Soken Wrabness	
QL9	<p>All new development should make a positive contribution to the quality of the local environment and protect or enhance local character. Planning permission will only be granted if the following criteria are met:</p> <ul style="list-style-type: none"> i. new buildings, alterations and structures are well designed and should maintain or enhance local character and distinctiveness; ii. the development relates well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials; iii. the development respects or enhances views, skylines, landmarks, existing street patterns, open spaces and other locally important features; iv. the design and layout of the development incorporates important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings (as well as opportunities to enhance such features e.g. habitat creation); and v. boundary treatments and hard and soft landscaping are designed as an integral part of the development reflecting the function and character of the development and its surroundings. <p>In the case of large, complex or sensitive sites, applications for planning permission must be accompanied by a Design Statement.</p>	As above.
QL10	<p>All new development should meet functional requirements. Planning permission will only be granted if the following criteria are met, or can be shown not to apply to the proposed development:</p> <ul style="list-style-type: none"> i. access to the site is practicable and the highway network will be able to safely 	As above.

	<p>accommodate the additional traffic the proposal will generate;</p> <p>ii. circulation within the site and convenience of access to the development reflects the hierarchy of transport users set out in Policy QL2;</p> <p>iii. the design and layout of the development maintains and/or provides safe and convenient access for people with mobility impairments;</p> <p>iv. the development contributes to community safety by incorporating or providing measures to minimise opportunities for crime and anti-social behaviour;</p> <p>v. buildings and structures are orientated to ensure adequate daylight, outlook and privacy;</p> <p>vi. provision is made for functional needs including private amenity space, waste storage, separation and recycling facilities, servicing, vehicle and cycle parking; and</p> <p>vii. the site will be served by utility services and other infrastructure necessary for the development proposed.</p> <p>Any measures necessary to meet the above requirements are to be established by the applicant/developer.</p>	
QL11	<p>All new development should be compatible with surrounding land uses and minimise any adverse environmental impacts. Development will only be permitted if the following criteria are met:</p> <p>i. the scale and nature of the development is appropriate to the locality;</p> <p>ii. the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties;</p> <p>iii. the development will not lead to material loss or damage to important environmental assets such as buildings of architectural interest, the historic environment, water courses, important archaeological sites and monuments and areas of conservation, recreation,</p>	As above.

	<p>ecological or landscape value;</p> <p>iv. the development, including any additional road traffic arising, will not have a materially damaging impact on air, land, water (including ground water), amenity, health or safety through noise, smell, dust, light, heat, vibration, fumes or other forms of pollution or nuisance; and</p> <p>v. the health, safety or amenity of any occupants or users of the proposed development will not be materially harmed by any pollution from an existing or committed use.</p> <p>Where appropriate, compensatory and/or mitigation measures will be required to resolve or limit environmental impacts.</p>	
COM20	<p>i. Planning permission will not be granted for developments that have the potential to contribute significantly to levels of air pollution unless adequate mitigating measures against the adverse effects on air quality are proposed.</p> <p>ii. Planning permission will not be granted for sensitive development in areas identified as suffering from high levels of existing air pollution unless adequate mitigating measures against the adverse effects on air quality are proposed.</p> <p>iii. Planning permission will not be granted for development which leads to the making of an Air Quality Management Area.</p>	As above.
COM21	<p>Planning permission will not be granted for external lighting for any development if any of the following apply:</p> <p>a. its use would cause unacceptable visual intrusion;</p> <p>b. its use would cause an unacceptable disturbance to the surrounding area or to the local wildlife;</p> <p>c. its use would cause a danger to highway or pedestrian safety.</p> <p>Where permission is granted, lighting schemes will be required to minimise pollution from glare and light spillage. This will be achieved through the use of</p>	As above.

	good design, screening and deflection measures, and the nature, intensity and hours of operation of the lighting will be carefully controlled.	
COM22	<p>Planning permission will not be granted for noise sensitive developments such as hospitals, schools and housing unless one of the following conditions is met:</p> <ul style="list-style-type: none"> i. the development is located away from existing sources of noise; or ii. mitigation measures are proposed which will adequately mitigate the adverse effects of noise at all times and in all circumstances. <p>Noisy developments should be located away from sensitive developments unless adequate provision has been made to mitigate the adverse effects of noise likely to be generated or experienced by others.</p>	As above.
COM23	<p>Planning permission will not be granted for development which would have a significant adverse effect on health, the natural, built or historic environment or amenity by reason of releases of pollutants to surface or ground water, land or air including smell and odours, fumes, smoke, soot, ash, grit or dust.</p>	As above.
EN4	<p>Where development of agricultural land is unavoidable, areas of poorer quality agricultural land should be used in preference to that of higher quality agricultural land, except where other sustainability considerations suggest otherwise. Development will not be permitted on the best and most versatile land (namely land classified as grades 1, 2 OR 3a as defined by the Agricultural Land Classification) unless special justification can be shown.</p>	As above.
EN6	<p>Development proposals will not be granted planning permission unless the existing local biodiversity and geodiversity is protected and enhanced. In exceptional circumstances, where the planning benefits are considered to</p>	As above.

	<p>outweigh the protection or enhancement of local biodiversity and geodiversity, appropriate compensating measures to outweigh the harm caused by the development must be provided.</p> <p>Where appropriate, conditions or planning obligations will be sought to protect the biodiversity interest of the site and to provide appropriate compensatory or mitigation measures and long term site management, as necessary.</p>	
EN6b	<p>Consideration will be given to the potential for new wildlife habitats in new development. Where these are created, measures may be taken to ensure suitable permanent management, and public access. In these matters, the Council may be guided by the Essex Biodiversity Action Plan.</p>	As above.
TR1a	<p>Proposals for development affecting highways will be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic and to the effects on the transport system including the physical and environmental capacity to accommodate the traffic generated.</p>	As above.
TR1	<p>A Transport Assessment will be required for all major developments. In addition a transport assessment will be required for all smaller developments, which are considered likely to have transport implications.</p> <p>Where the Transport Assessment indicates that the development will have materially adverse impacts on the transport system, planning permission will be refused unless measures to reduce the impacts to acceptable levels are provided.</p>	As above.

Essex and Southend Waste Local Plan

Ref	Policy	Consistency with NPPF
W3A	The WPAs will:	Paragraph 6 of the NPPF sets out

	<p>In determining planning applications and in all consideration of waste management, proposals have regard to the following principles:</p> <ul style="list-style-type: none"> • Consistency with the goals and principles of sustainable development; • Whether the proposal represents the best practicable environmental option for the particular waste stream and at that location; • Whether the proposal would conflict with other options further up the waste hierarchy; • Conformity with the proximity principle. <p>In considering proposals for managing waste and in working with the WDAs, WCAs and industrial and commercial organisations, promote waste reduction, re-use of waste, waste recycling/composting, energy recovery from waste and waste disposal in that order of priority.</p> <p>Identify specific locations and areas of search for waste management facilities, planning criteria for the location of additional facilities, and existing and potential landfill sites, which together enable adequate provision to be made for Essex, Southend and regional waste management needs as defined in policies W3B and W3C.</p>	<p>that the purpose of the planning system is to contribute to the achievement of sustainable development. PPS10 supersedes 'BPEO'. PPS10 advocates the movement of the management of waste up the waste hierarchy in order to break the link between economic growth and the environmental impact of waste. One of the key planning objectives is also to help secure the recovery or disposal of waste without endangering human health and without harming the environment, and enable waste to be disposed of in one of the nearest appropriate installations.</p> <p>See reasoning for Policy W8A.</p> <p>Policy W3A is considered to be consistent with the NPPF and PPS10.</p>
W3C	<p>Subject to policy W3B, in the case of landfill and to policy W5A in the case of special wastes, significant waste management developments (with a capacity over 25,000 tonnes per annum) will only be permitted when a need for the facility (in accordance with the principles established in policy W3A) has been demonstrated for waste arising in Essex and Southend. In the case of non-landfill proposal with an annual capacity over 50,000 tonnes per annum, restrictions will</p>	<p>Paragraph 3 of PPS 10 highlights the key planning objectives for all waste planning authorities (WPA). WPA's should, to the extent appropriate to their responsibilities, prepare and deliver planning strategies one of which is to help implement the national waste strategy and supporting targets and are consistent with obligations required under European</p>

	<p>be imposed, as part of any planning permission granted, to restrict the source of waste to that arising in the Plan area. Exceptions may be made in the following circumstances:</p> <ul style="list-style-type: none"> • Where the proposal would achieve other benefits that would outweigh any harm caused; • Where meeting a cross-boundary need would satisfy the proximity principle and be mutually acceptable to both WPA5; • In the case of landfill, where it is shown to be necessary to achieve satisfactory restoration. 	<p>legislation and support and complement other guidance and legal controls such as those set out in the Waste Management Licensing Regulations 1994.</p> <p>Therefore, as Policy W3C is concerned with identifying the amount of waste treated and its source the policy is considered consistent with the requirements of PPS10.</p>
W4A	<p>Waste management development will only be permitted where:</p> <ul style="list-style-type: none"> • There would not be an unacceptable risk of flooding on site or elsewhere as a result of impediment to the flow or storage of surface water; • There would not be an adverse effect on the water environment as a result of surface water run-off; • Existing and proposed flood defences are protected and there is no interference with the ability of responsible bodies to carry out flood defence works and maintenance. 	<p>Paragraph 99 of the NPPF states that 'Local Plans should take account of climate change over the longer term, including factors such as flood risk, coastal change, water supply and changes to biodiversity and landscape. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure'. In addition Annex E of PPS10 highlights at section <i>a. protection of water resources</i> that 'Considerations will include the proximity of vulnerable surface and groundwater. For landfill or land-raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The suitability of locations subject to flooding will also need particular care'.</p> <p>Therefore, as policy W4A seeks to only permit development that</p>

		would not have an adverse impact upon the local environment through flooding and seeks developments to make adequate provision for surface water run-off the policy is in conformity with PPS10 and the NPPF.
W4B	Waste management development will only be permitted where there would not be an unacceptable risk to the quality of surface and groundwaters or of impediment to groundwater flow.	See above.
W4C	<ol style="list-style-type: none"> 1. Access for waste management sites will normally be by a short length of existing road to the main highway network consisting of regional routes and county/urban distributors identified in the Structure Plan, via a suitable existing junction, improved if required, to the satisfaction of the highway authority. 2. Exceptionally, proposals for new access direct to the main highway network may be accepted where no opportunity exists for using a suitable existing access or junction, and where it can be constructed in accordance with the County Council's highway standards. 3. Where access to the main highway network is not feasible, access onto another road before gaining access onto the network may be accepted if, in the opinion of the WPA having regard to the scale of development, the capacity of the road is adequate and there would be no undue impact on road safety or the environment. 4. Proposals for rail or water transport of waste will be encouraged, subject to compliance with other policies of this plan. 	<p>Paragraph 21 (i) of PPS10 highlights that when assessing the suitability of development, the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery seeking (when practicable and beneficial) to use modes other than road transport.</p> <p>Furthermore, Paragraph 34 of the NPPF states that 'Decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised'.</p> <p>Policy W4C is in conformity with paragraph 34 in that it seeks to locate development within areas that can accommodate the level of traffic proposed. In addition the policy seeks to assess the existing road networks therefore, being in accordance with the NPPF and PPS10.</p>
W6A	The WPAs will seek to work with WDAS/WCAS to support and promote public, private and voluntary sector initiatives to reduce, re-use and recycle waste arisings in an environmentally	PPS 10 at paragraph 3 highlights the key planning objectives for waste management development. two of the objectives are as follows;

	<p>acceptable manner in accordance with the policies within this Plan.</p>	<ul style="list-style-type: none"> – Help deliver sustainable development through driving waste management up the waste hierarchy, addressing waste as a resource and looking to disposal as the last option, but one which must be adequately catered for; – Provide a framework in which communities take more responsibility for their own waste, and enable sufficient and timely provision of waste management facilities to meet the needs of their communities. <p>Therefore, policy W6A is in conformity with the requirements of PPS10.</p>
W7E	<p>To facilitate the efficient collection and recovery of materials from the waste stream, in accordance with policy W3A, the WPAs will seek to work with the WDAs/WCAs to facilitate the provision of:</p> <ul style="list-style-type: none"> • Development associated with the source separation of wastes; • Material recovery facilities (MRF's); • Waste recycling centres; • Civic amenity sites; • Bulking-up facilities and waste transfer stations. <p>Proposals for such development will be supported at the following locations:</p> <ul style="list-style-type: none"> • The waste management locations identified in Schedule 1 (subject to policy W8A); • Other locations (subject to policies W8B and W8C); • In association with other waste management development; • Small scale facilities may be permitted at current landfill sites, provided the development does not unduly prejudice the agreed 	<p>See explanation notes for Policy W3C, W8A and W8B as these are relevant and demonstrate conformity with the NPPF and PPS10.</p>

	<p>restoration timescale for the site and the use ceases prior to the permitted completion date of the site (unless an extension of time to retain such facilities is permitted).</p> <p>Provided the development complies with other relevant policies of this plan.</p>	
W8A	<p>Waste management facilities will be permitted at the locations shown in Schedule 1 provided all of the following criteria, where relevant, are complied with:</p> <ul style="list-style-type: none"> • There is a need for the facility to manage waste arising in Essex and Southend (subject to policy W3C); • The proposal represents the Best Practicable Environmental Option (BPEO) for the particular waste stream, having regard to any alternative options further up the waste hierarchy; • The development complies with other relevant policies of this Plan, including the policy/ies in Chapter 7 for the type(s) of facility proposed; • Adequate road access is provided in accordance with policy W4C. Access by rail or water will be supported if practicable; • Buildings and structures are of a high standard of design, with landscaping and screening provided as necessary; and • Integrated schemes for recycling, composting, materials recovery and energy recovery from waste will be supported, where this is shown to provide benefits in the management of waste which would not otherwise be obtained. 	<p>PPS10 at paragraph 17 identifies that 'Waste planning authorities should identify in development plan documents sites and areas suitable for new or enhanced waste management facilities for the waste management needs of their areas. Waste planning authorities should in particular:</p> <ul style="list-style-type: none"> – allocate sites to support the pattern of waste management facilities set out in the RSS in accordance with the broad locations identified in the RSS; and, – allocate sites and areas suitable for new or enhanced waste management facilities to support the apportionment set out in the RSS. <p>The WPA has identified strategic sites within the Waste Local Plan under policy W8A which seek to support the pattern of waste management and that are suitable for new or enhanced strategic waste management facilities. PPS10 requires that needs for sustainable waste management are met and those identified by the JMWMS supersede those municipal waste management needs identified in the Waste Local Plan. PPS10 requires that sites and areas suitable for new or enhanced waste management facilities for the waste management needs of the area is assessed. In this respect more</p>

		<p>weight should be applied to PPS10 in respect of meeting waste management needs than Policy W8A.</p> <p>See also W8B.</p>
W8B	<p>Waste management facilities (except landfill to which policies W9A and W9B apply) will be permitted at locations other than those identified in this plan, provided all of the criteria of policy W8A are complied with where relevant, at the following types of location:</p> <ul style="list-style-type: none"> • Existing general industrial areas; • Areas allocated for general industrial use in an adopted local plan; • Employment areas (existing or allocated) not falling into the above categories, or existing waste management sites, or areas of degraded, contaminated or derelict land where it is shown that the proposed facility would not be detrimental to the amenity of any nearby residential area. <p>Large-scale waste management development (of the order of 50,000 tonnes per annum capacity or more, combined in the case of an integrated facility) will not be permitted at such non-identified locations unless it is shown that the locations identified in Schedule 1 are less suitable or not available for the particular waste stream(s) which the proposal would serve.</p>	<p>Policy W8B is concerned with identifying locations for sites that have not been identified within the Plan as preferred sites of waste related developments. By setting a criteria for non-preferred sites this allows for the protection of the natural environment in conformity with the third strand of the three dimensions of sustainable development. Additionally, in conformity with paragraph 17 of the NPPF, the policy contributes to the conservation and enhancement of the natural environment. The NPPF goes on to state that 'Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework'. Nonetheless, paragraph 17 of the NPPF requires objectively assessed needs to be met and whilst the environmental protection approach W8B is consistent with the NPPF/PPS10, the policy also relies solely on the schedule 1 sites identified in W8A and is therefore out of date in this respect.</p>
W10A	<p>When granting planning permission for waste management facilities, the WPA will impose conditions and/or enter into legal agreements as appropriate to ensure that the site is operated in a manner acceptable to the WPA and that the development is undertaken in accordance with the approved details.</p>	<p>PPS10 states that 'It should not be necessary to use planning conditions to control the pollution aspects of a waste management facility where the facility requires a permit from the pollution control authority. In some cases, however, it may be appropriate to use planning conditions to control other aspects of the development. For example, planning conditions</p>

		<p>could be used in respect of transport modes, the hours of operation where these may have an impact on neighbouring land use, landscaping, plant and buildings, the timescale of the operations, and impacts such as noise, vibrations, odour, and dust from certain phases of the development such as demolition and construction’.</p> <p>Furthermore, paragraph 203 of the NPPF states that ‘Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition’.</p> <p>Policy W10A inter alia only seeks to impose conditions and/or enter into legal agreements when appropriate to ensure that the site is operated in an acceptable manner. Therefore, the policy is in accordance with the requirements of the NPPF and PPS10.</p>
W10E	<p>Waste management development, including landfill, will be permitted where satisfactory provision is made in respect of the following criteria, provided the development complies with other policies of this plan:</p> <ol style="list-style-type: none"> 1. The effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants (the factors listed in paragraph 10.12 will be taken into account); 2. The effect of the development on the landscape and the countryside, particularly in the AONB, the 	<p>Policy W10E is in conformity with the NPPF in that the policy is concerned with the protection of the environment and plays a pivotal role for the County Council in ensuring the protection and enhancement of the natural, built and historic environment. The policy therefore, is linked to the third dimension of sustainable development in the meaning of the NPPF.</p>

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

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DR/26/13

Committee DEVELOPMENT & REGULATION

Date 28 June 2013

MINERALS AND WASTE DEVELOPMENT

Proposal: **Use of the site as an end of life vehicles de-pollution and treatment facility with the associated storage of material and plant.**

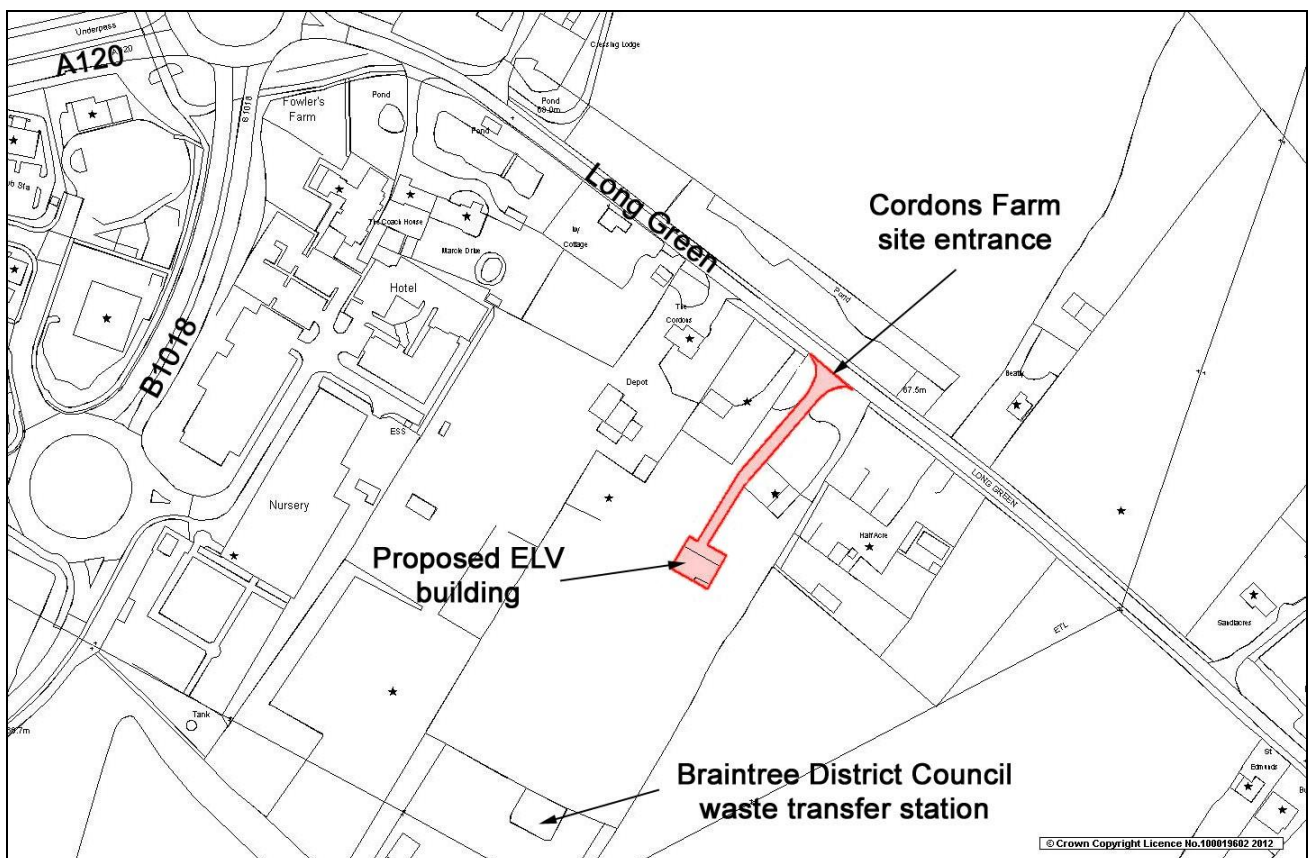
Location: **Cordons Farm, Long Green, Cressing, Braintree, Essex, CM77 8DL**

Reference: **ESS/06/13/BTE**

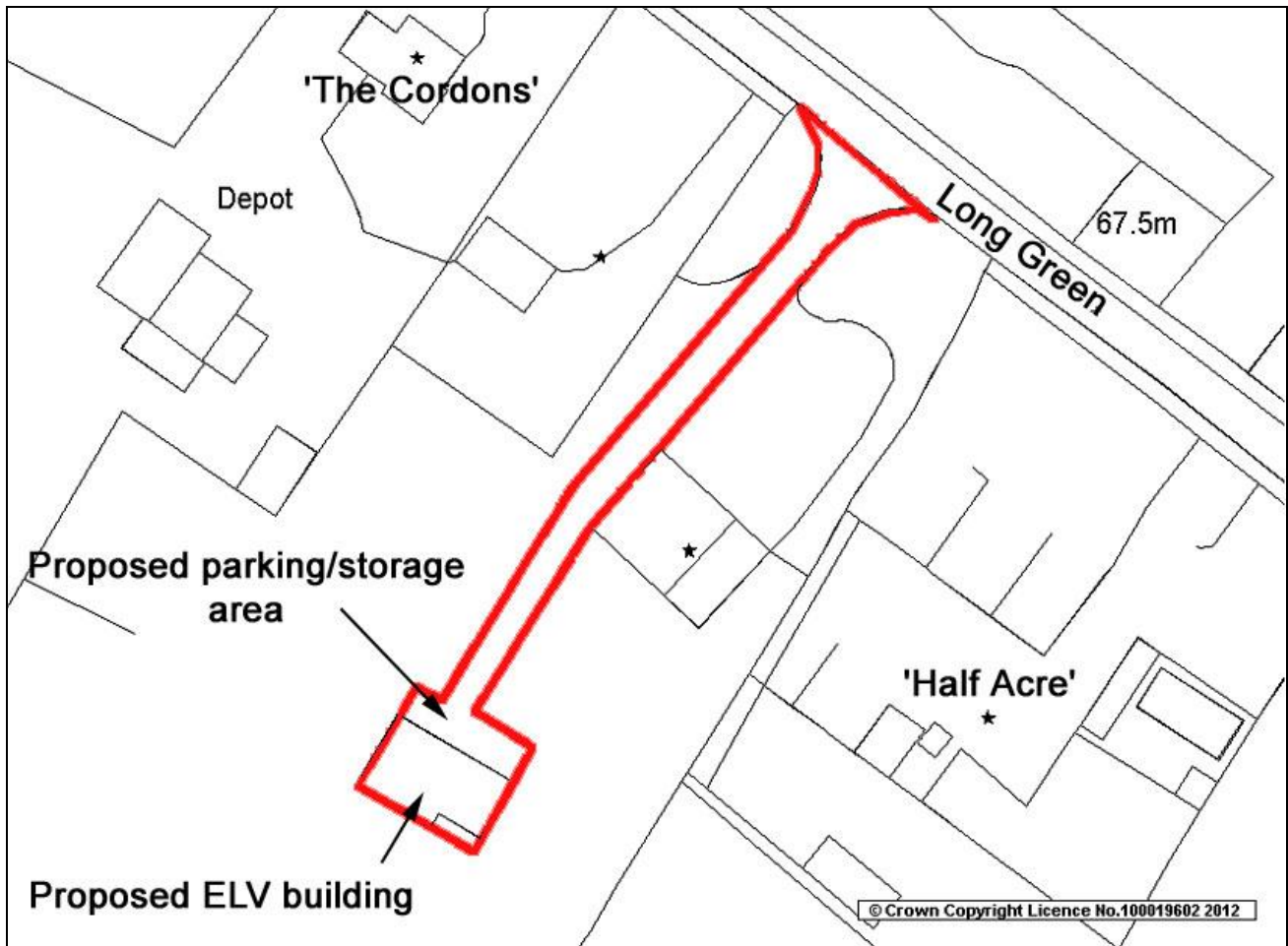
Applicant: **Kingwell Holdings Ltd.**

Report by Head of Planning, Environment and Economic Growth

Enquiries to: Tom McCarthy Tel: 01245 437507



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1. SITE & BACKGROUND

Cordons Farm is a mixed use site which in the majority, at present, is occupied by haulage and waste related operators. Braintree town centre is approximately 2.5 miles to the north west and the site is accessed via Long Green to the east of the A120.

The area to which this application relates is an existing building to the north of Cordons Farm, as a whole. This building which is currently vacant has previously had a number of uses. Most recently the building was used as a vehicle workshop. The entire northern half of the site is covered by a Certificate of Lawful Development (CLEUD) for a haulage depot. The CLEUD is not restrictive in terms of vehicle movements and, for reference, a few change of use applications which are similarly unrestricted have since been granted by Essex County Council (ECC) and Braintree District Council. One of which is a skip hire business which was granted planning permission to operate, with restrictions, in an area to the west of the building to which this application relates in 1994.

The use of the southern part of Cordons Farm (further south than the building to which this application relates) as a waste transfer station is long established with permission originally being issued by ECC in 1993 (planning application reference: ESX/32/93/BTE). In 2005 permission was issued by Braintree District Council to

make amendments to the site layout and to erect a green waste building onsite (planning application reference: 05/02512/FUL). As existing both ESX/32/93/BTE and 05/02512/FUL have been implemented in full and run concurrently on the site.

In 2011 permission was granted by ECC for a materials recycling centre for sorting and storing waste materials and the storage of up to 14 ISO containers, plant and equipment (planning application reference: ESS/55/11/BTE). The intention was that this application would supersede the previous consents for the use and permit an enlarged facility that would fully cater to the needs of Braintree District Council. Whilst this permission has been granted, the consent has yet to have been implemented with a number of pre-commencement conditions still needing to be discharged.

In terms of background, a similar application, for an end of life vehicle de-pollution and treatment facility on Cordons Farm was submitted by the applicant in June 2012 (application reference: ESS/38/12/BTE). This application was subsequently withdrawn, in December 2012, owing to land ownership issues which ultimately resulted in a change in area to which operations were proposed to be undertaken from.

2. PROPOSAL

This application seeks to use an existing building located in the northern half of Cordons Farm as an end of life vehicle de-pollution and treatment facility. The entire operations are proposed to be undertaken from within the confines of the building and as such no new built development would occur should planning permission be granted.

End of life vehicles would be sourced from various outlets and, upon delivery to the site, stripped in the existing building. Additional storage space and car parking is proposed in front of the building, towards the main Cordons Farm entrance.

It is anticipated that on average 10 vehicles would be de-polluted per day however, it is suggested the site would have capacity to process up to 20 vehicles per day. The overall throughput of the site is proposed to be less than 25,000 tonnes of waste per annum with a maximum of 40 vehicle movements per day resulting from operations undertaken.

The facility is proposed to be open 07:00 – 19:00 Monday to Friday, 07:00 – 16:00 on Saturdays and at no time on Sundays, Bank or Public Holidays.

To clarify, this application/operation is not related to the Braintree District Council permitted waste recycling centre. The applicant currently operates from a facility in the north-east corner of Cordons Farm. This is the depot for the business that provides equipment and services in the fields of: site clearance, forestry mulching, wood waste incineration, waste timber processing, excavator flail clearance and air burners. This proposal would represent a new venture for the applicant.

3. POLICIES

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

<u>Policy</u>	<u>WLP</u>	<u>BLP</u>
Sustainable Development, National Waste Hierarchy & Proximity Principle	W3A	
Highways	W4C	
Scrap Yards and Vehicle Dismantling Facilities	W7F	
Alternative Sites	W8B	
Small Scale Alternative Sites	W8C	
Material Considerations: Policy Compliance and Effects of the Development	W10E	
Industrial and Environmental Standards		RLP 36
Galleys Corner Special Policy Area		RLP 58
Panners Roundabout Special Policy Area		RLP 59
Development Likely to Give Rise to Pollution or the Risk of Pollution		RLP 62
Waste Reprocessing Facilities		RLP 75

With regard to the above, it is noted that Braintree District Council adopted its Local Development Framework – Core Strategy (BCS) in 2011. The BCS sets out the overall spatial vision and objectives, spatial strategy and core policies for Braintree which the BLP should assist/help achieve. In view of the scale of the proposal and the relevant policies in this BLP it is not considered that the more strategic policies of the BCS, in context of this application, are materially relevant. The guidance contained and the vision is a determining factor to this application, as expressed in the policies of the BLP, but it is considered little merit/relevance can be found in assessing this application against the strategic policies of this document. No relevant policies within the BLP were replaced by policies within the BCS.

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

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

development should be restricted.

Paragraph 215 of the Framework states that, for policies adopted before 2004, which is considered to apply to the WLP and BLP (given this was not adopted via the Planning and Compulsory Purchase Act 2004), due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The level of consistency of the policies contained within the WLP and BLP, referred to above, is considered further in this report, as appropriate, and also shown in Appendix 1.

As a note to the above the Framework does not contain specific waste policies, since national waste planning policy will be published as part of the National Waste Management Plan for England. Until such a time the Waste Planning Policy Statement (PPS 10) remains the most up-to-date source of Government guidance for determining waste applications and as such reference to this Statement, in addition to the Framework, will also be provided, as relevant in the body of this report/appraisal.

4. CONSULTATIONS

BRAINTREE DISTRICT COUNCIL – No objection subject to foul and surface run-off details being approved; areas of hardstanding being constructed in porous materials laid on a permeable base where possible; the recommendations of the noise impact assessment being carried out; and the hours of operation being limited to those stated within the application form.

ENVIRONMENT AGENCY – No objection.

HIGHWAY AUTHORITY – No objection.

THE COUNCIL'S NOISE CONSULTANT – Indicative calculations show an exceedance of the 0db background noise rating at nearby residential receptors for Saturday working. Conditions in relation to the submission of a noise mitigation strategy and maximum permitted noise levels are recommended.

ECC comment

The above refers to the noise rating at receiver 1 (The Cordons) and receiver 2 (Half Acre), the two closest properties to the facility. The difference above 0db is +2db and +4db for Saturday working only. No such increase is noted from Monday to Friday working.

CRESSING PARISH COUNCIL – Object to the proposal on the basis of non-conformity with local planning policy; the scale of the proposal; proposed hours of operation; on site contamination; potential issues with a recent consent issued for a new hotel at Ivy Cottage along Long Green; and general inaccuracies/inconsistencies in the application form and supporting details. Concern has also been raised by the Parish Council about the screening opinion issued by ECC in relation to if this proposal represented EIA development. In particular it is considered cumulative effect and contamination should have been

more thoroughly considered/assessed prior to adoption of the opinion that EIA was not required.

ECC Comment

Within the consultation response received from the Parish Council it is noted that reference is made to the generic 75,000 tonnes throughput Environmental Permit which the applicant has suggested they would be applying for. The Environment Permit is a separate consent, to planning permission, issued by the Environment Agency. Whilst a site may have a Permit for a 75,000 tonnes throughput, the planning application applies for a 25,000 tonnes per annum throughput that could be restricted should planning permission be granted.

LOCAL MEMBER – BRAINTREE – Braintree Eastern – Any comments received will be reported.

5. REPRESENTATIONS

33 properties were directly notified of the application. The application was also advertised in the local press and on site. 11 letters of representation have been received. These relate to planning issues covering the following matters:

Observation

Any vehicle movements which are permitted for uses on Cordons Farm should also be applied to 'The Cordons' – the adjacent yard.

Concerns about unfair business rates in the area.

When the waste use was originally granted in 1993 it was intended to be small scale with limited vehicle movements in the interest of highway safety and amenity.

Excessive hours of operation.

Congestion on the A120; Panners/Galleys Corner roundabout; and through Cressing village.

The application is contrary to BLP and WLP policies.

Contrary to the application form there is indeed a water course within 20m of the

Comment

All applications are considered on their own merits.

This representation has been forwarded to Braintree District Council for review and action as appropriate. This is not a material planning consideration.

See appraisal.

See appraisal.

See appraisal.

See appraisal for comments in respect of policies considered to represent the 'development framework'.

The applicant has suggested that the nearest watercourse is in fact 20.4m

site.	from the site. To further appease any concerns the Environment Agency has been consulted on the application and as part of their statutory function considers any potential implications with regard to surface run-off and watercourse pollution. Such issues would also be covered in an Environmental Permit.
No flood risk assessment has been undertaken.	The site is not in area of flood risk and does not require a flood risk assessment based on the sequential test.
Noise impact and concerns over the accuracy of the submitted noise assessment.	See appraisal.
Alternative sites which are available in Braintree, Witham and Chelmsford are more appropriate.	As the application is for a facility with a capacity of 25,000 tonnes, in accordance with WLP policy W8B, there is no policy requirement for the applicant to undertake a land review and/or demonstrate that there are no other more suitable sites available (required for large scale waste management development in excess of 50,000tpa).
Conditions in relation to the number of vehicles stored on site and no overnight storage are suggested.	See appraisal.
Odour and dust impact.	See appraisal.

Some representations received expressed concern about a potential future ECC waste management facility (application currently pending determination). The above table attempts to catch concerns expressed about accumulation of uses and impacts however comments which solely related to the proposed waste management facility and the impact of this, in isolation, are not considered relevant to the determination of this application.

6. APPRAISAL

The key issues for consideration are:

- A Need & Policy Context
- B Operations
- C Potential Impact on the Environment & Amenities

D Cumulative Impact of Waste Uses

A NEED AND POLICY CONTEXT

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

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

Planning Policy Statement 10 (PPS 10) (Planning for Sustainable Waste Management) encourages waste to be managed as per the principles set out in the waste hierarchy. The waste hierarchy promotes, in this order; prevention of waste; re-use of waste; recycling of waste and then any other recovery. It states that the disposal of waste is the least desirable solution and only suitable when none of the above is appropriate. Given that the proposal is in essence a recycling operation, it is considered that the proposal is in compliance with the objectives of PPS 10 and WLP policy W3A.

The Essex County Council and Southend-on-Sea Borough Council Waste Development Document Capacity Gap Report Update (May 2013) identifies 83 permitted end of life vehicle (ELV) treatment and metal recycling sites (MRS). Of all the facilities identified in the Report (273) ELV/MRS are the most common type of facility within the plan area. The 2013 Update does not however, unlike the 2011 Update, provide a breakdown of capacity from such facilities in relation to expected demand/need. Nevertheless, for reference, in 2011 47 ELV facilities existed and it was envisaged that there was already a surplus supply of such facilities¹.

As guided by PPS 10, Waste Planning Authorities (WPAs) should not however require applicants for new or enhanced waste management facilities to demonstrate a quantitative or market need for their proposal, subject to the proposal being consistent with the development plan. In relation to unallocated sites, which this site is, PPS 10 at paragraph 24 details new or enhanced waste management facilities should be considered favourably when consistent with (inter-alia):

- i. the policies contained within PPS 10; and
- ii. the waste planning authority's core strategy (local plan);

WLP policy W7F details that scrap yards and vehicle dismantling facilities will only be permitted within industrial locations as defined in policy W8B. In the supporting text to this policy it is suggested that vehicle breakers/dismantling yards have

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

traditionally been unsightly open-air facilities, subject to few environmental controls. More recently, with greater environmental controls being imposed on scrap yards, together with changes in vehicle design which allows for greater recovery of all component parts, more sophisticated vehicle dismantling facilities have been established. The advantages of such facilities are that they allow for the efficient recovery of metals for recycling and bulking up can reduce the overall number of vehicle movements. Conversely, in terms of disadvantages any such facility may locally increase vehicle movements and impacts can be noted on the local amenity (dust, noise and visual amenity, especially if outdoor storage is involved).

WLP policies W8B and W8C identify types of location other than those in Schedule 1 of the WLP at which waste management facilities would be permitted. WLP policy W8B is generally targeted towards facilities with a capacity of 25,000-50,000 tonnes per annum and suggests that areas suitable for such development include employment areas (existing or allocated) or existing waste management sites where the proposed facility would not be detrimental to the amenity of any nearby residential area. In addition WLP policy W8C, which is generally directed towards sites with a capacity below 25,000 tonnes per annum, also suggests such development would be acceptable in more urban locations subject to the development mainly being located within existing buildings not requiring significant adaption, not prejudicing the openness or character of the rural locations and not result in the re-placement of buildings purely for operational reasons/requirements.

In view of this although it is considered WLP policies W8B and W8C conform with the Framework (see below and Appendix 1) reference to PPS 10 and the locational criteria within Appendix E is also considered appropriate.

WLP policy W8B relates to assessing proposed sites that have not been identified within the Plan as preferred sites for waste related development. By setting a criteria for non-preferred sites this allows for the protection of the natural environment in conformity with the third dimension of sustainable development, as defined within the Framework. Additionally, in providing a criterion based assessment it is considered that the policy objectively seeks to appraise sites in context of the considerations detailed within paragraph 17 of the Framework. WLP policy W8C similarly to the above allows for a criterion based assessment of smaller scale sites which again is considered replicates many of the issues within paragraph 17 of the Framework and Annex E of PPS 10.

Waste recycling is an established use on this site (Cordons Farm) even though the area in the BLP is not formally allocated as such or as employment land. The area is designated within the Galleys Corner and Panners Roundabout special policy areas as defined in the BLP. In respect of this BLP policies RLP 58 and RLP 59, respectively, state that very strict control is to be exercised over development in this area, in order to limit the spread of the built up area of Braintree towards Tye Green and Great Notley. BLP policy RLP 58 goes on to state that uses will be restricted to transport related development, existing garden centres and existing haulage depots along Long Green. Further to the above, BLP policy RLP 75 details that, inter-alia, waste reprocessing facilities would be permitted in employment policy areas subject to there being no unacceptable adverse impact

on adjoining uses by reason of noise, dust or other airborne pollutants and there being no adverse impact on the surrounding road network either in terms of road safety or capacity.

Initially looking at land-use and whether this site represents a suitable location for a waste use, BLP policies RLP 58 and RLP 59 are important. These policies, as alluded to above, seek to restrict certain types of development in this area and check urban sprawl towards Tye Green and Great Notley. As a change of use application it is not considered that this application significantly impacts on urban sprawl. Should planning permission be granted there would be no further development on the land/area in question. However, it is accepted that it could be considered that the use would intensify activities on this site. As existing, the CLEUD, issued by Braintree District Council, which covers the entire north of Cordons Farm, details the use as a haulage depot with no restriction on vehicle movements. Braintree District Council have not raised an objection to the proposal on the basis of it being contrary to the designation and in view of the other permitted waste uses on site, the extent and details of the CLEUD it is therefore considered that such a waste use could be considered akin to the existing permitted uses detailed within the policies.

Furthermore at the Framework's heart is the concept of a presumption in favour of sustainable development. At paragraph 14 for plan making it is detailed that this means that local plans should allow '...flexibility to adapt to rapid change, unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.'

In view of the above it is considered that BLP policies RLP 58 and RLP 59 could be considered over-restrictive and contrary to the presumption if there was not certain flexibility in the permitted uses in this area. Paragraph 19 of the Framework goes on to detail the Government's commitment to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

As a new venture for the applicant it has been suggested that up to eight new full-time positions would be created. In this context it is considered that there would be an economic benefit to the proposal in compliance with the Framework, especially as the existing building is currently vacant.

B OPERATIONS

PPS 10 Annex E details a list of locational criteria to determine if sites are suitable or unsuitable for waste uses. The locational criteria includes: protection of water resources; land instability; visual intrusion; nature conservation; historic environment and built heritage; traffic and access; air emissions, including dust; odours; vermin and birds; noise and vibration; litter; and potential land use conflict – many of which are replicated within WLP policies W8B, W8C and W10E and

BLP policies, RLP 36, RLP 62 and RLP 75. Some of the above have already been appraised in the previous section but specifically looking at operations which would result from the facility, planning permission is sought for a 25,000tpa facility. It has been suggested that upon delivery to the ELV building, the battery and spare wheel would initially be removed with good tyres being stored for onward sale and scrap tyres separated out for baling and further recycling. Following through the process; the catalytic converter and balancing weights would then be removed followed by the draining of all liquids. The remaining car shell would then be recycled at a licensed site as scrap metal. End of life vehicles would be sourced from various outlets; dealership, garages and private citizens (with appropriate V5 documentation) with no more than 10 cars proposed to be stored on site at any one time.

The site would, should permission be granted, be subject to an Environmental Permit issued by the Environment Agency. The Environment Agency has been consulted on the application and has raised no objection in principle to the development. This application is being considered with the suggested maximum 25,000 tonnes per annum throughput and has been assessed in terms of impact on the locality on this basis. Should permission be granted, a condition could be imposed limiting the site throughput to a maximum 25,000 tonnes per annum.

Specifically in relation to highway impact, access to the site is via Long Green from the A120 north of the site. The proposed access from Long Green is not proposed to be amended by this application. The site is directly in front of the access so vehicles would drive straight towards the site and proposed parking area in front of the building. It is proposed that vehicles would be brought into the workshop from the western doors and leave de-polluted through the doors on the eastern elevation. Based on a thirty minute turn-around of time, the maximum quantity of cars de-polluted per day would be less than twenty. On an average scale of activities, it has been suggested that the maximum vehicle movements, from the proposal, would be 20 in and 20 out (40 movements per day in total). Four car and one LGV parking spaces are proposed to be created in front of the facility.

In respect of the above WLP policy W4C details that access for waste management sites will normally be by short length of existing road to the main highway network. Where access to the main highway network is not feasible, access onto another road before gaining access onto the network may be accepted if, in the opinion of the Waste Planning Authority having regard to the scale of the development, the capacity of the road is adequate and there would be no undue impact on road safety or the environment. The Highway Authority has raised no objection to the development on the basis of the vehicle movements stated in the supporting information. In view of the existing CLEUD, other consents on site and that there would be limited use by large HGV it is further considered it would be unreasonable to require improvement works to the access purely because of a change of use. It is therefore considered that the proposal complies with WLP policy W4C.

C POTENTIAL IMPACT ON THE ENVIRONMENT AND AMENITY

WLP policy W10E states that, inter-alia, developments would only be permitted

where satisfactory provision is made in respect of the amenity of neighbouring occupiers, particularly from noise, smell and dust. Similarly BLP policy RLP 36 details that planning permission will not be granted for new development, extensions and changes of use, which would have an unacceptable impact on the surrounding area as a result of noise, smell, dust, health and safety, visual impact, traffic generation, contamination to air, land or water, nature conservation or light pollution. The issues considered by these policies are factors to which a number of the letters of objection received raised in respect of the proposal.

As a change of use application there would be no physical change in appearance of the site. No additional lighting and/or landscaping is proposed as part of this application. Works have already been undertaken internally to the building, in readiness for operations, however that done has been done so under permitted development rights. The building to which operations would be undertaken from is a single pitch brick built warehouse. Of limited design quality the building is rendered and painted white with large steel front opening doors on either sides and three windows on the south elevation and one window on the north elevation. Internally the building has been bunded to secure all contaminate and the concrete floor sealed. There is no foul sewer on site, all liquids resulting from the ELV process would be decanted into bunded tanks within the building and stored as per the Regulations. Concern has been expressed about drainage and surface run off. The submitted details demonstrate that the ELV process would be kept completely separate from the existing drainage provision on site. Should an accident/spillage occur onsite this would be isolated within the facility and cleaned appropriately preventing any potential discharge to the main sewer. Rain and surface water are piped, as appropriate, to soak-aways adjacent to the building. The consultation response received from Braintree District Council specifically requests a condition requiring details of the foul and surface water run off details to be approved. This has been suggested to ensure all contaminates are separated from main drainage. The Environment Agency has been consulted on the submitted details and has confirmed it is satisfied with the details/information submitted. In consideration of this and that such controls would further be controlled through any Environmental Permit issued it is considered an additional condition on the planning permission is unnecessary.

The entire de-pollution process would take place within the confines of the building and, whilst there would be some outdoor storage of material, it is not considered that this impact would be significant enough to warrant a refusal of permission purely on landscape grounds. In terms of the outdoor storage of waste (including cars awaiting de-pollution), to prevent any adverse additional landscape impact, conditions could nevertheless be imposed, should permission be granted, restricting the height of stockpiled material to help mitigate any visual impact

BLP policy RLP 62 states that planning permission will not be granted for development which could give rise to polluting emissions to land, air and water, or harm to nearby residents including noise, smell, fumes, vibration or other similar consequences unless adequate preventative measures have been taken to ensure there would be no harm caused to land use. A noise assessment has been submitted as part of the application. The conclusions of this report are that external noise levels are between the regions specified as 'unlikely to cause

complaints' and 'of marginal significance' at all times. In order to reduce noise impact it is proposed that workshop doors would be kept closed, forklift trucks would be fitted with white noise sirens as opposed to tonal beeps; and generally all staff and visitors would be made aware of the noise sensitivity of the site. The Council's noise consultant has noted that on Saturday's at two sensitive receptors, should planning permission be granted and operations undertaken, an increase in background noise level would result. No objection has been raised by Braintree District Council with regard to noise however it is noted that such concerns have been raised in numerous representations received from the public in respect of the proposal.

The Framework does not contain specific noise guidance, other than in relation to mineral development, but does in general terms aim to prevent development causing any undue noise impact. Whilst the proposal would result in a noise increase above background levels it is nevertheless noted that any increase around 5db, within British Standard 4142, is considered only of marginal significance. A scheme to mitigate noise nuisance on a Saturday, when levels are predicted to be above background noise levels (LA90), and limit noise impact, could nevertheless be imposed should planning permission be granted.

Dust and odour are not likely bi-products of ELV de-pollution and particularly in relation to dust there would be no shearing or defragmentation undertaken on site. The Environment Agency has concurred with this view.

The proposed scale of the facility is relatively small and it is not considered that the any potential subsequent impacts, namely; noise and an increase in vehicle movements (traffic) would be of more than local significance. Furthermore, it is noted that the site would also be subject to an Environmental Permit, issued by the Environment Agency, which would stipulate conditions to prevent harm to the environment or human health from the actual site operations/practice. As such it is considered the proposal complies with WLP W10E and BLP policies RLP 36, RLP 62 and RLP 75.

D CUMULATIVE IMPACT OF WASTE USES

A number of representations received raised concern over an accumulation of waste uses on this site which together it is believed would change the character of the area. All proposals have to be considered on their own merits however given the number of representation which have raised it is felt in the interests of clarity that this should be appraised.

Applications are assessed in context of their impact and if it is deemed that there would be a significant direct or indirect impact as a result of the proposal, which cannot be mitigated, the application may be refused.

Planning policy interpretation has to remain consistent to allow the public and industry alike to have confidence in the system. The Framework is a key guiding document for the determination of planning policies. Planning authorities are being directed to approve sustainable development, when it meets the objectives of the Framework, without delay. Whilst the concerns raised about the cumulative impact

are appreciated without due reason the planning authority cannot recommend refusal of an application on the basis of what might happen/or different scenarios. Each application should be determined on its own merits with any future uses being determined on their own merits at that time.

7. CONCLUSION

It is acknowledged there is a clear need to reduce the amount of waste going to landfill through recycling. However, planning policy aims to ensure that proposals are nevertheless appropriate to their surrounding area in the context of the potential associated impacts.

In determining the appropriateness of the proposed development itself the overarching consideration must be whether or not it constitutes sustainable development and if net gains within the economic, social and environmental roles, as defined by the Framework, would be achieved.

This is a change of use application and should planning permission be granted, no permanent structures/development would result. The proposed maximum throughput of the facility is relatively small (25,000 tonnes per annum) and subject to the imposition of suitable conditions it is considered the physical landscape impact is likely to be quite small. All de-pollution activities would be undertaken within the building and therefore it is further considered that any increase in noise and dust are unlikely to be significant. Given the expressed concerns however it is recommended that a condition be attached to any permission limiting the throughput and hours of operation to that applied for. The Highway Authority has also not raised any objection on highway safety or capacity grounds.

It is considered that the proposal would directly benefit the economic dimension of sustainable development, as defined in the Framework, in job creation and indirectly in its environmental capacity through recycling. In respect of this and that the change of use would not significantly impact on local amenity it is considered that the proposal complies with WLP policies: W3A, W4C, W7F, W8B, W8C and W10E and BLP policies RLP 36, RLP 40, RLP 62 and RLP 75.

8. RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. COM1 – Commencement within 5 years.
2. COM3 – Compliance with Submitted Details.
3. The throughput of material at the site shall not exceed 25,000 tonnes per annum. The operator shall maintain records of their monthly and annual throughput which shall be made available to the Waste Planning Authority within 14 days of a written request.
4. Prior to any operations being undertaken on a Saturday a scheme to reduce the predicted noise level, from activities undertaken, shall be submitted to and

approved by the Waste Planning Authority. The scheme shall include measures, practices and/or any mitigation proposed to reduce noise impact on a Saturday. The development shall be implemented in accordance with the approved scheme.

5. Except for temporary operations, the noise rating level, L_Ar,T (free field) at nearby residential properties, derived in accordance with BS 4142: 1997, attributable to the operation of all fixed and mobile plant and machinery installed or otherwise used at the premises shall not exceed the background noise level (L_A90).
6. Operations authorised by this permission, including vehicles entering or leaving the site, shall be restricted to the following durations:

07:00-19:00 hours Monday to Friday
07:00-16:00 hours Saturday

and shall not take place on Sundays or Bank or Public Holidays.

7. ELV1 – Processing in Storage Bays (Building)
8. Any vehicles and/or materials stored within the ‘Operational Area’ of the Parking Plan, plan number KH/01, submitted as additional information on 17/05/2013, shall not exceed a height of 2 metres when measured from ground level.
9. ELV3 – Restriction of Sale of Vehicle Parts
10. No baling, shearing and/or fragmenting of metals shall take place on site.

BACKGROUND PAPERS

Consultation replies
Representations

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

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

EQUALITIES IMPACT ASSESSMENT

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

body of the report.

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

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

LOCAL MEMBER NOTIFICATION

BRAINTREE – Braintree Eastern

APPENDIX 1

POLICY	POLICY WORDING	CONFORMITY WITH THE FRAMEWORK
Essex and Southend Waste Local Plan 2001		
W3A	<p>The WPAs will:</p> <ol style="list-style-type: none"> 1. In determining planning applications and in all consideration of waste management, proposals have regard to the following principles: <ul style="list-style-type: none"> • Consistency with the goals and principles of sustainable development; • Whether the proposal represents the best practicable environmental option for the particular waste stream and at that location; • Whether the proposal would conflict with other options further up the waste hierarchy; • Conformity with the proximity principle. 2. In considering proposals for managing waste and in working with the WDAs, WCAs and industrial and commercial organisations, promote waste reduction, re-use of waste, waste recycling/composting, energy recovery from waste and waste disposal in that order of priority. 3. Identify specific locations and areas of search for waste management facilities, planning criteria for the location of additional facilities, and existing and potential landfill sites, which together enable adequate provision to be made for Essex, Southend and regional waste management needs as defined in policies W3B and W3C. 	<p>Paragraph 6 of the Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development.</p> <p>PPS10 supersedes 'BPEO'.</p> <p>PPS10 advocates the movement of the management of waste up the waste hierarchy in order to break the link between economic growth and the environmental impact of waste.</p> <p>One of the key planning objectives is also to help secure the recovery or disposal of waste without endangering human health and without harming the environment, and enable waste to be disposed of in one of the nearest appropriate installations.</p> <p>See reasoning for Policy W8A.</p> <p>Therefore, Policy W3A is considered to be consistent with the Framework and PPS10</p>
W4C	<ol style="list-style-type: none"> 1. Access for waste management sites will normally be by a short length of existing road to the main highway network consisting of regional routes and county/urban distributors identified in the Structure Plan, via a suitable existing junction, improved if 	<p>Paragraph 21 (i) of PPS10 highlights that when assessing the suitability of development the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use</p>

	<p>required, to the satisfaction of the highway authority.</p> <p>2. Exceptionally, proposals for new access direct to the main highway network may be accepted where no opportunity exists for using a suitable existing access or junction, and where it can be constructed in accordance with the County Council's highway standards.</p> <p>3. Where access to the main highway network is not feasible, access onto another road before gaining access onto the network may be accepted if, in the opinion of the WPA having regard to the scale of development, the capacity of the road is adequate and there would be no undue impact on road safety or the environment.</p> <p>4. Proposals for rail or water transport of waste will be encouraged, subject to compliance with other policies of this plan.</p>	<p>modes other than road transport.</p> <p>Furthermore, Paragraph 34 of the Framework states that 'Decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised'.</p> <p>Policy W4C is in conformity with paragraph 34 in that it seeks to locate development within areas that can accommodate the level of traffic proposed. In addition the policy seeks to assess the existing road networks therefore, being in accordance with the Framework and PPS10.</p>
W7F	Scrap yards and vehicle dismantling facilities will only be permitted within industrial locations as defined in policy W8B.	See explanation notes for Policy W8B as this is relevant in demonstrating conformity with the Framework and PPS10.
W8B	<p>Waste management facilities (except landfill to which policies W9A and W9B apply) will be permitted at locations other than those identified in this plan, provided all of the criteria of policy W8A are complied with where relevant, at the following types of location:</p> <ul style="list-style-type: none"> • Existing general industrial areas; • Areas allocated for general industrial use in an adopted local plan; • Employment areas (existing or allocated) not falling into the above categories, or existing waste management sites, or areas of degraded, contaminated or derelict land where it is shown that the proposed facility would not be detrimental to the amenity of any nearby residential area. <p>Large-scale waste management development (of the order of 50,000</p>	<p>Policy W8B is concerned with identifying locations for sites that have not been identified within the Plan as preferred sites of waste related developments. By setting a criteria for non-preferred sites this allows for the protection of the natural environment in conformity with the third strand of the three dimensions of sustainable development. Additionally, in conformity with paragraph 17 of the Framework, the policy contributes to the conservation and enhancement of the natural environment. The Framework goes on to state that 'Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework.</p>

	tonnes per annum capacity or more, combined in the case of an integrated facility) will not be permitted at such non- identified locations unless it is shown that the locations identified in Schedule 1 are less suitable or not available for the particular waste stream(s) which the proposal would serve.	
W8C	<p>Notwithstanding policy W8B proposals for smaller-scale waste management facilities (generally with a capacity below 25,000 tonnes per annum) and except landfill to which policies W9A and W9B apply, will also be permitted at other locations provided all the criteria of policy W8A are complied with, where relevant, at urban locations where they serve the local community, subject to protection of residential amenity and in rural locations where they would:</p> <ul style="list-style-type: none"> • Be mainly located within existing buildings not requiring significant adaptation or extension or, in the case of green waste composting, at the types of location listed in policy W7B; • Not prejudice the openness or character of the rural location; and • Not, in the case of farm buildings or hardstandings, result in a need to be replaced with other buildings or hardstandings. <p>In addition, temporary waste recycling and composting facilities may be permitted at current mineral working and landfill sites, subject to policies W7B and W7D.</p> <p>Development required for the provision of sewage and sludge treatment processes will be considered on its merits and expected to conform to this policy as far as is practicable.</p>	<p>Paragraph 17 of the Framework seeks the conservation and enhancement of the natural environment. The Framework states that 'Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework.</p> <p>Paragraph 29 of PPS10 states that 'In considering planning applications for waste management facilities waste planning authorities should consider the likely impact on the local environment and on amenity (see Annex E). Annex E of PPS10 sets out a number of locational criteria in summary similar to Policy W8C.</p> <p>Therefore, as Policy W8C sets out locational criteria for sites in accordance with PPS10 and prefers to develop land of lesser environmental value as required by the Framework the policy is consistent with National Planning Policy.</p>
W10E	Waste management development, including landfill, will be permitted where satisfactory provision is made in respect of the following criteria, provided the development complies with other policies of this plan:	Policy W10E is in conformity with the Framework in that the policy is concerned with the protection of the environment and plays a pivotal role for the County Council in ensuring the protection and enhancement of the

	<ol style="list-style-type: none"> 1. The effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants (the factors listed in paragraph 10.12 will be taken into account); 2. The effect of the development on the landscape and the countryside, particularly in the AONB, the community forest and areas with special landscape designations; 3. The impact of road traffic generated by the development on the highway network (see also policy W4C); 4. The availability of different transport modes; 5. The loss of land of agricultural grades 1, 2 or 3a; 6. The effect of the development on historic and archaeological sites; 7. The availability of adequate water supplies and the effect of the development on land drainage; 8. The effect of the development on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations; and 9. In the Metropolitan Green Belt, the effect of the development on the purposes of the Green Belt. 	<p>natural, built and historic environment. The policy therefore, is linked to the third dimension of sustainable development in the meaning of the Framework.</p>
Braintree District Local Plan Review 2005		
RLP 36	<p>Planning permission will not be granted for new development, extensions and changes of use, which would have an unacceptable impact on the surrounding area, as a result of:</p> <ul style="list-style-type: none"> • noise • smells • dust • grit or other pollution • health and safety • visual impact and • traffic generation • contamination to air, land or water • impact on nature conservation interests • unacceptable light pollution 	<p>RLP 36 is in conformity with the Framework in that the policy is concerned with the protection of the environment and ensuring the protection and enhancement of the natural, built and historic environment. The policy details a number of criterion for consideration linked to the third dimension of sustainable development, as defined within the Framework. Furthermore the Framework at paragraph 110 states that in preparing plans to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment.</p>

	The Council will refuse proposals where access roads would not be adequate to cope with consequential traffic.	
RLP 58	<p>An area at Galleys Corner between Braintree and Tye Green is shown as a special policy area on the Proposals Map. Very strict control will be exercised over development in this area, in order to limit the spread of the built up area of Braintree and to prevent the coalescence of Braintree and Tye Green. Within this area development will be restricted to the following categories of uses:</p> <ol style="list-style-type: none"> 1. Transport related development - motorists' cafe/restaurant, overnight accommodation, petrol filling station. 2. The existing garden centre and ancillary uses. 3. The existing established haulage depots at Long Green. <p>Buildings will not be permitted to cover more than 20% of the site area. The improvement of this area by substantial planting and landscaping will be a requirement of any permission that is granted.</p>	<p>The Framework acknowledges at paragraph 68 that special protection orders/areas can be justified on the grounds of amenity. However the Framework at paragraph 14 details inter-alia that local plans should have sufficient flexibility to adapt to change unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.</p> <p>The Framework has no specific policies/guidance restricting uses in certain areas.</p>
RLP 59	<p>Land to the east of Panners Roundabout between Braintree and Great Notley is shown as a Special Policy Area on Inset Map 1. Within this area, development will be restricted to transport related uses such as a petrol filling station, motel and restaurant. This land makes a particularly important contribution to the physical separation of Braintree and Great Notley and in allocating it as Special Policy Area, development will not be permitted to cover more than 20% of the site area. Substantial planting and landscaping will be required of any permission, with particular attention to be paid to the eastern half of the site and the frontages with the B1256, London Road and A120.</p>	<p>See above discussion.</p> <p>Section 11 and in particular paragraph 109 of the Framework, for reference, does however seek the protection and enhancement of valued landscapes.</p>
RLP 62	Planning permission will not be granted for development including changes of	See discussion with regard to RLP 36 and in particular compliance with

	<p>use which will, or could potentially, give rise to polluting emissions to land, air and water, or harm to nearby residents including noise, smell, fumes, vibration or other similar consequences, unless:</p> <p>i) adequate preventative measures have been taken to ensure that any discharges or emissions, including those which require the consent of statutory agencies, will not cause harm to land use, including the effects on health and the natural environment;</p> <p>and ii) adequate preventative measures have been taken to ensure that there is not an unacceptable risk of uncontrolled discharges or emissions occurring, which could cause harm to land use, including the effects on health and the natural environment.</p>	<p>paragraph 110 of the Framework.</p>
RLP 75	<p>Development proposals involving waste recovery (such as recycling, waste transfer stations and composting) will be permitted in employment policy areas, subject to:</p> <p>i) there being no unacceptable adverse impact on adjoining uses by reason of noise, smell, dust or other airborne pollutants</p> <p>ii) there being no adverse impact on the surrounding road network either in terms of road safety or capacity.</p>	<p>See above comment and discussions in relation to Essex and Southend Waste Local Plan 2001 policies W4C, W7F and W10E. It is considered that the principles of this policy are in compliance with the Framework and PPS 10.</p>

DR/27/13

committee DEVELOPMENT & REGULATION

date 28 June 2013

COUNTY COUNCIL DEVELOPMENT

Proposal: **Change of use from a residential care home (Use Class C2) to a combined day centre for Early Years and Family Solutions (Use Class D1)**

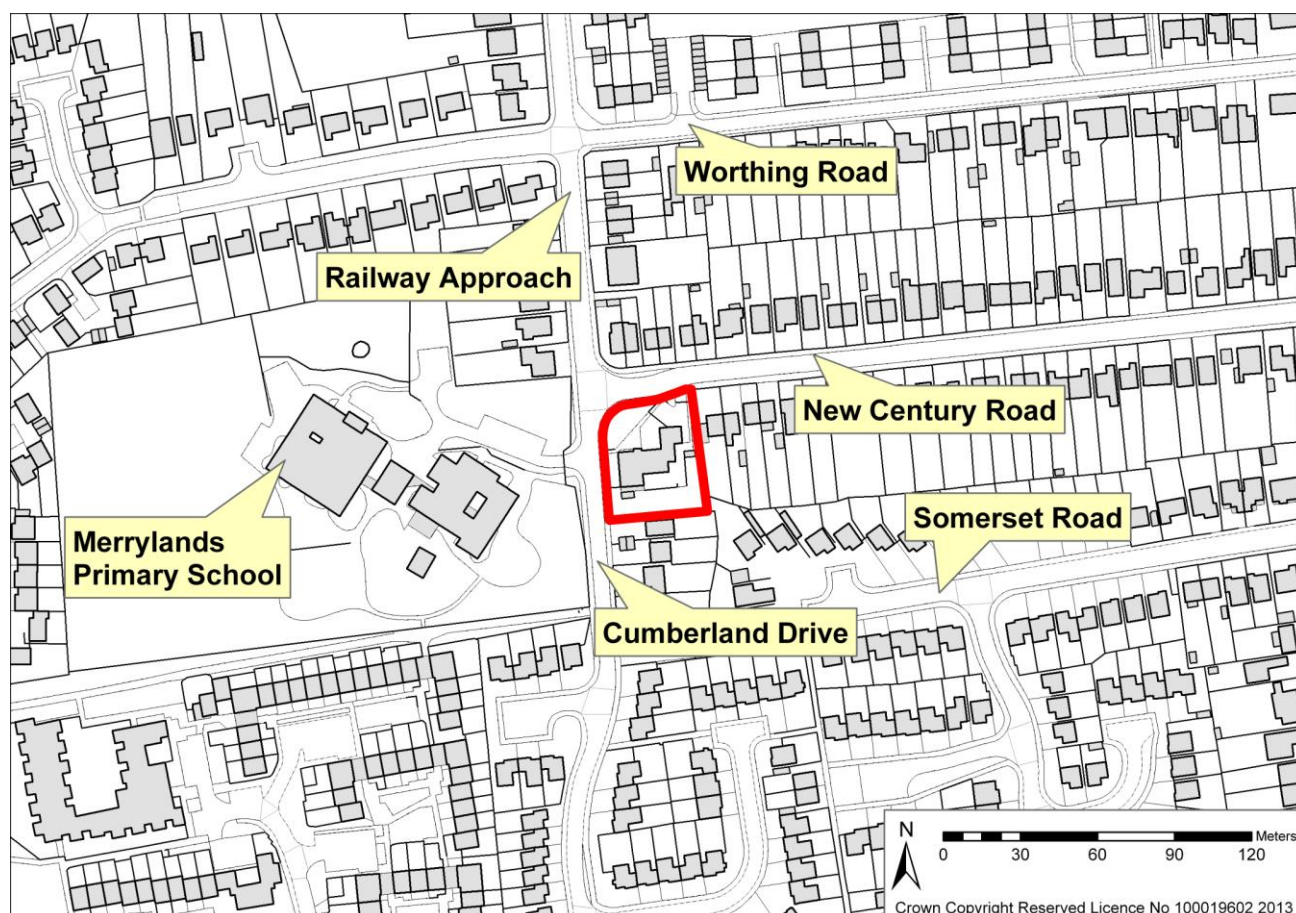
Location: **The Limes, 93 New Century Road, Laindon, Basildon, Essex SS15 6AQ**

Ref: **CC/BAS/14/13**

Applicant: **Essex County Council**

Report by Head of Planning, Environment and Economic Growth

Enquiries to: Rachel Edney Tel: 01245 437503



1. BACKGROUND

There is a very short planning history for the site. The most recent planning application was granted for the reconfiguration and enlargement of the existing car park to 7no. car parking spaces in June 2009 (CC/BAS/27/09).

2. SITE

The Limes is a former residential children's care home located on New Century Road at the junction of Cumberland Drive, to the west of the centre of Laindon.

Merrylands Primary School is to the west of The Limes, on Cumberland Drive. The Limes is in a predominantly residential area with residential properties to the north and east in New Century Road, south east in Somerset Road, south in Cumberland Drive and north west in Railway Approach.

Laindon Railway Station is within a 15-20 minute walk and there are bus stops served by regular bus services on Laindon High Road and Durham Road all within a short walking distance of The Limes.

The Limes building is located centrally on the site with a car parking area to the front of the building and a small grassed area beyond that. There is a paved area to the south and east of the building with a garden to the south.

There are several established trees within the site itself with 2m high close-boarded fencing along the eastern boundary. The western boundary comprises of 2m high and 1m high close-boarded fencing. The north boundary comprises of a 1m high brick wall and 1m high close-boarded fencing.

Vehicular access is via New Century Road with separate pedestrian accesses from New Century Road and Cumberland Drive.

3. PROPOSAL

The Limes was until recently a County Council operated residential care home.

It is proposed to change the use of the building from a residential care home to a combined day centre for Early Years and Family Solutions. The centre would provide support services to improve the outcomes and life chances for children and their families. The Children Centre services would include 'stay and play', parenting classes, budgeting, messy play, healthy eating, training, child and health related activities. Family Solutions is multi-disciplinary work with families with multiple and complex needs and would include 'one to one' support, group work with families and group work with groups with similar needs.

The proposed hours of use are:

Monday to Friday	08:00 to 22:00
Saturdays	09:00 to 16:00

Sundays

09:00 to 16:00

However the main operating hours would be Monday to Friday 08:00 to 18:00 with some occasional evening and weekend use.

4. POLICIES

The following saved policy of the Basildon District Council Local Plan (BDCLP) adopted September 2007 provides the development plan framework for this application. The following policy is of relevance to this application:

	BDCLP
Policy BAS BE12	Development Control

The National Planning Policy Framework (NPPF), published in March 2012, sets out requirements for the determination of planning applications and is also a material consideration.

It is important to note that Basildon Borough Council adopted their Saved Policies post 2004. The NPPF Framework (paragraph 214) states that from the date of publication (27 March 2012) for a 12 month period the determining planning authority can give full weight to the relevant policies of those plans even if there is a limited degree of conflict with the Framework. However this 12 month grace period has expired meaning the Basildon District Council Local Plan Saved Policies fall within the interpretation under paragraph 215.

Paragraph 215 states, in summary, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The level of consistency of the policies contained within the Basildon District Local Plan Saved Policies (2007) is considered further in the report.

5. CONSULTATIONS

BASILDON BOROUGH COUNCIL – Objects on the following grounds:

- proposal would result in an increase in the intensity of the use of the site situated in a residential area;
- proposed Class D1 use would have detrimental impact on living conditions of occupiers of neighbouring properties by reason of parking congestion and noise and disturbance;
- scale of use likely to result in traffic congestion in area especially during start and finishing times of adjacent primary school.

HIGHWAY AUTHORITY – No objection subject to conditions

LOCAL MEMBER – BASILDON – Basildon Laindon Park and Fryerns – In favour in principle of the family solutions project but object to the proposed plan of the service being delivered from The Limes as:

- the area is residential therefore totally inappropriate.

- for many years when The Limes was a Children's Home, residents were subject to all manner of inappropriate behaviours and issues arising from inconsiderate parking to high levels of noise.
- the proposed centre will grow in use over time and promote further parking problems and restrictions for residents. Because of the nature of the business the centre will open 7 days per week offering no respite for residents and the activities will create far too much comings and goings in the area which will affect their quality of life. Residents complained in the past and they now strongly object to this application.
- another location should be sought to deliver the project where it will not have such a negative impact on the local community.

LOCAL MEMBER – BASILDON – Basildon Laindon Park and Fryerns – No comments received.

LOCAL MEMBER – BASILDON – Basildon Laindon Park and Fryerns – Requested that the application was referred to Development & Regulation Committee as it is considered it is a controversial proposal of significant local interest.

LOCAL MEMBER – BASILDON – Basildon Laindon Park and Fryerns – Any comments received will be reported.

JOHN BARON MP – Objects on the grounds that the change of use will have a negative impact on the surrounding residential areas. There is limited parking and the change of use at The Limes will no doubt exacerbate the problem.

6. REPRESENTATIONS

47 properties were directly notified of the application. 8 letters of representation have been received. These relate to planning issues covering the following matters:

<u>Observation</u>	<u>Comment</u>
When The Limes was a children's home suffered from insults and damage to property.	Noted – see appraisal
Building used to be a young offenders home not a children's home.	Noted
People who used the home used to park in Cumberland Drive as insufficient parking was provided	Noted – see appraisal
Brief respite after home closed from loud music, anti-social behaviour and constant police presence	Noted – see appraisal

Concerned that this environment could attract similar problems as before.	See appraisal
Relief when home shut now we will be saddled with problem families 7 days a week.	See appraisal
Lack of facilities for elderly in the borough should take precedence over this development.	See appraisal
Appreciate ECC trying to find good use for former home but suggest building is converted into apartments or demolished and land sold for private dwellings.	See appraisal
Immediate area has number of facilities including bail hostel within 5 minute walk, residential care home caring for mentally ill patients within a minute's walk with another care unit in New Century Road plus 3 other sheltered units in Somerset Road	Noted
Proposed establishment could be in unit built on vacant land, housed in defunct community centre or share a space in the part-time Laindon police station or better installed on social housing estate	See appraisal
Litter along pavement	Noted – not a material planning consideration
Who will take care of giant tree overhanging garden?	See appraisal
Tree in grounds of The Limes adjacent to our property growing out of all proportion. Concerned about potential damage to garden and house foundations	See appraisal
Application forms states there are not any trees or hedges on the site which is incorrect.	This was an error on the application form. It is acknowledged that there are existing trees and hedges on the site. See appraisal
Mains sewer subject to blocking when The Limes was operational	Noted – this is not a material planning consideration

Site Location Plan accompanying application wrongly shows Railway Approach running in front of the school	Noted – other plans submitted as part of the application are correct
New Century Road on driving test route.	Noted
Not opposed to the change of use but have concerns regarding the times of use.	Noted – see appraisal
Proposed evening and weekend use could impact on residential amenity through noise and traffic disturbance.	See appraisal
Proposed occasional evening and weekend use could change and become regular.	See appraisal
Building opposite a school and parking already at breaking point without addition of vehicles of families using centre and any visitors.	See appraisal
Inconsiderate parking by parents dropping off and picking up school pupils blocks residents' driveways and pavements.	See appraisal
Cumberland Drive and New Century Road almost impassible at school dropping off and picking up times	See appraisal
Double decker bus used to transport school pupils on trips has difficulty finding a safe place to park and to allow other traffic to pass.	Noted
During school dropping off and picking up times difficult to use pedestrian crossing outside school	See appraisal
Parents and children don't use crossing outside school but dodge in-between cars	Noted – not a material planning consideration
Increased traffic from increased number of pupils at school makes parking and road safety top of list of priorities	Noted

Increased intake of pupils at school pushed area to brink of chaos and represents safety hazard to other road users and pedestrians at peak flow times.	Noted – see appraisal
Review of area at peak flow times should be undertaken and recorded	Noted
Increased traffic flow could have impact on road safety for school pupils.	Noted – See appraisal
Application takes no account of entrance to Merrylands Primary School being less than 100m from entrance to The Limes.	Noted – see appraisal
School traffic well-known problem in immediate vicinity of the school.	See appraisal
Cars park on zigzag lines of zebra crossing	This is a police matter
Potential impact on already problematic road chaos during morning and afternoon school drop off times.	See appraisal
Child care business adjacent to The Limes with parents dropping off and picking up children.	Noted
Concerns regarding insufficient parking provision at The Limes for staff and visitors and the potential impact on New Century Road/Cumberland Drive/Railway Approach.	See appraisal
Parking spaces provided for permanent staff but nothing for 18 ancillary staff or potential 20 visitors per day.	Noted
Slight improvement after home shut but since the painting of double yellow lines in Durham Road improvement has diminished.	Noted – see appraisal
Additional parking at The Limes could impact on essential vehicle access to Cumberland Drive & the school (e.g	See appraisal

ambulances, fire engines).

Commuters park in local roads and at times residents' can't access own properties.	See appraisal
Local area saturated by traffic	Noted – see appraisal
Large vehicles have difficulty passing and additional facility would be unsustainable and unsafe.	See appraisal
Restricted access for refuse lorries and delivery vans from existing parking	Noted
Inconsiderate parking by staff and visitors to The Limes could result in residents' being blocked in.	See appraisal
No nearby public transport	Noted – see appraisal
Proposed changes detrimental to area and would create very real safety hazard.	See appraisal
Additional parking and traffic resulting from this proposal totally unacceptable	Noted
Cumberland Drive used as shortcut	Noted
Main concern is impact of extra traffic, lack of parking and safety issues in Cumberland Drive school area	Noted – see appraisal
Extra vehicular traffic and parking will exacerbate pre-existing traffic problem.	See appraisal
Centre should be in location with sufficient parking to cater for number of expected visitors per day.	See appraisal
Dangerous parking at T-junction of New Century Road, Cumberland Drive and Station Approach.	Noted – see appraisal
No consideration given to existing car parking for local residents with no off-street parking	Noted
Existing parking restrictions mean	See appraisal

overflow of parking requirements will flow into end of New Century Road.

Even with encouragement to walk many families will inevitably travel by car. See appraisal

With 8 family rooms and anticipated group activities many families will be at The Limes at the same time. See appraisal

No proposals or suggestions as to how immediate area can deal with likely additional traffic and parking requirements. See appraisal

Misleading for application to describe increase from existing no requirements to requirements as being "limited". Noted

What is proposed is the equivalent of transferring a large building from residential to business use and from a few visitors to many. Noted

If permission is granted restrictions should be placed to limit the amount of use at any one time in view of the limited number of parking spaces and restricting use to weekdays excluding evenings. See appraisal

Will security be provided to prevent anti-social behaviour? See appraisal

7. APPRAISAL

The key issues for consideration are:

- A. Need
- B. Policy considerations
- C. Design
- D. Impact on Landscape & Residential Amenity
- E. Traffic & Highways

A NEED

Until February 2012 The Limes was a residential children's care home. However following changes to the way children's services were delivered in Essex all Children's homes in the County were closed.

A number of representations have been received questioning the appropriateness of the proposed change of use in a residential area, particularly with regard to traffic generation and impact on residential amenity. These particular issues will be considered further in the report.

One representation has stated that while it is appreciated that ECC have to find a good use for the building, a better use, more in keeping with the residential area would be to convert the building into apartments or demolish it and sell the land for private dwellings.

Another representation has stated that the Centre could be in a unit built on vacant land or housed on a defunct community centre, share a space in the part-time Laindon Police Station or would be better installed on a social housing estate.

Whilst the above suggestions are noted they are outside the scope of this application which must be determined on its own merits.

A further representation has questioned the need for a day centre for Early Years and Family Solutions suggesting that accommodation for the elderly would be a more beneficial use of the building.

However determining priorities for the provision of community facilities is a matter for the County Council having regard to identified community needs. In this instance the Council has identified the need for a day centre to cater for Early Years and Family Solutions.

The proposed Early Years service would offer both universal (open to all) and targeted (specific needs) support to all families living in the locality. All Centres operate strict safeguarding procedures and carry out risk assessments where necessary. To take advantage of the Family Solutions facility families can self-refer or come via any number of referral routes, including the new early advice and guidance hub. Families would need to meet specific criteria to qualify for support.

It is considered that the need for community facilities such as this is unchallenged, however, whether the location and proposed change of use is appropriate will be considered further.

B POLICY CONSIDERATIONS

The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. There are 3 dimensions to sustainable development: economic, social and environmental.

In summary the social role involves supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment with local accessible services that reflect the community's needs and support its health, social and cultural well-being.

Paragraph 70 of the NPPF states, inter alia, that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments and to ensure an integrated approach to considering the location of housing, economic used and community facilities and services.

It is considered that the proposed change of use of The Limes from a residential care home to a combined day centre for Early Years and Family Solutions would be in accordance with Paragraph 70 of the NPPF as it would provide local accessible services and community facilities for families in the area.

C DESIGN

As the application is for a proposed change of use only there would not be any external changes or major structural changes to the interior of the building.

The ground floor of the building would consist of a shared reception area for visitors to the Children's Centre and Family Solutions together with a secure lobby area, preventing unauthorised access into the main areas and meeting rooms. There would be a separate secure access to the building for use by Family Solutions staff.

The remainder of the ground floor would provide ancillary offices, a drop-in area for visitors to the Children's Centre and private interview and training rooms.

The first floor of the building would provide further ancillary offices and private interview and training rooms for visitors to the centre.

There would be some internal alterations to the ground and first floors to provide the ancillary office spaces and private interview and meeting rooms required to deliver the proposed services.

D IMPACT ON LANDSCAPE & RESIDENTIAL AMENITY

There are no specific policies relating to this type of development within the Basildon District Local Plan Saved Policies (2007), although it is considered that this application would fall under the general Saved Development Control Policy BAS BE12. Although this policy specifically relates to residential development it is considered the criteria can be transferred to development proposals such as this, especially with regard to the potential impacts on the neighbouring residential properties. This policy is considered to be consistent with the direction of the NPPF.

There would not be any changes to the existing landscaping as a result of this application.

A representation has been received relating to a tree in the rear of The Limes

which is considered to be growing out of all proportion and there are concerns that evasive root systems could cause problems with the adjoining garden and potential damage to house foundations.

The applicant has stated that there is no reason why the existing tree on the site cannot be carefully managed and is essentially a tree maintenance issue not directly relevant to the proposed use.

A further representation has stated that existing trees on the site enhance the area but poor tree and litter management have spoilt the area. Again this is not a material planning consideration but it is considered that this is a premises management issue.

Saved Policy BAS BE12 (Development Control) states inter alia that “*planning permission will be refused if it causes material harm to the character of the surrounding area, including the street scene; overlooking; noise or disturbance to the occupants of neighbouring dwellings or overshadowing or over-dominance.*”

The nearest residential properties adjoin the application site to the east in New Century Road, south in Cumberland Drive and south east in Somerset Road. There are also residential properties on the opposite side of New Century Road and to the north west in Railway Approach.

Basildon Borough Council has objected to the proposal as it considers that the proposal would result in an increase in the intensity of the use of the site, which is situated in a residential area and that the proposed D1 use of the site would have a detrimental impact on the living conditions of occupiers of neighbouring properties by reason of noise and disturbance.

Several of the representations received have raised concerns about the proposed opening hours of the Centre and the potential for noise disturbance until late in the evenings during the week and at weekends.

A majority of the services offered by the Centre would take place within the building. However the garden would be used for some activities for children under 5, weather permitting. These activities would be based on learning through play and give opportunities to children who do not have access to a garden area to benefit from this experience and encourage families to make better use of the outdoor environment. Family Solutions could potentially make use of the garden for family events. It is accepted that the outdoor activities could have the potential for some noise disturbance and an impact on residential amenity, however the use would be restricted for specific activities and the garden would not be in constant use which would help reduce the impact on the nearest residential properties. It is further accepted that there could be potential noise disturbance associated with vehicular movements from staff and visitors. However it is anticipated that vehicle movements would be spread throughout the day and therefore disturbance would be relatively low.

The proposed hours of use are 08:00 to 22:00 Monday to Friday, 09:00 to 16:00 Saturdays and Sundays although the standard hours of use would be 8am-6pm,

with occasional evening and weekend use. This would enable parents and carers who work during the day and would otherwise be unable to attend to make use of the available services. Again the occasional evening and weekend use is required for Family Solutions to cater for parents and carers who work through the day. This could mean sessions in the family home or at the centre. It is considered that the proposed occasional evening and weekend use would help reduce the potential impact on residential amenity by way of noise disturbance and vehicle movements.

However in view of the concerns raised by local residents regarding the proposed operating hours of the Centre the applicant has suggested the following revised hours of use:

07:30 to 18:00 Monday, Wednesday and Friday
07:30 to 21:00 Tuesday and Thursday
09:30 to 18:00 on Saturdays

Closed Sundays and Bank Holidays.

Should planning permission be granted a condition could be attached restricting the hours of use.

Another concern raised by several representees relates to previous anti-social behaviour including loud music, abusive language and damage to property. However it is considered that the previous anti-social behaviour can be distinguished from the proposed use and that previously experienced is unlikely to give rise to similar incidents in the future.

It is considered that the proposal would be in accordance with Policy BAS BE12 as it is not considered that the proposed change of use would cause harm to the character of the surrounding area; would not result in the overlooking of neighbouring properties or the overshadowing or over-dominance. Further it is not considered that there would be material harm by way of noise or disturbance to the occupants of neighbouring dwellings.

E TRAFFIC & HIGHWAYS

Saved Policy BAS BE12 (Development Control) states inter alia that “*planning permission will be refused if it causes traffic danger or congestion.*”

Basildon Borough Council objects to the proposal as it considers that the proposed use would have a detrimental impact on the living conditions of occupiers of neighbouring properties by reason of parking congestion and the scale of use is likely to result in traffic congestion in the area especially during the start and finishing times of the adjacent primary school.

The majority of the representations received have made reference to existing traffic problems and road safety issues in the immediate area.

Merrylands Primary School is located on Cumberland Drive to the west of The

Limes. Representations have stated that inconsiderate parking by parents at dropping off and picking up times means that residents' are unable to access their own properties and that Cumberland Drive and the upper part of New Century Road are almost impassable.

The issue of inconsiderate parking by parents is a school management issue as opposed to a planning issue but is not a problem unique to this school. Although it is recognised it causes problems and inconvenience for local residents it is restricted to short periods of time morning and afternoon.

Several representations have also stated that when The Limes operated as a children's home, residents' suffered from inconsiderate parking from staff due to insufficient parking available on site. There are also concerns that inconsiderate parking by staff and visitors to the proposed centre could impact on residents'. This issue again, although not a planning matter, would require management by staff at the Centre to ensure local residents are not inconvenienced.

Concerns have also been raised with regard to access for refuse vehicles, delivery vans and emergency vehicles.

Other representations have stated that as a result of the painting of double yellow lines in Durham Road to the south has resulted in commuters parking in other local roads to avoid paying car parking fees at Laindon Railway Station. Although it is acknowledged that this causes inconvenience to local residents this matter is outside the scope of this application.

There are 7 existing car parking spaces on the site, which includes 1 disabled space.

The current Parking Standards Design and Good Practice adopted September 2009 states that the maximum requirements for Day Care Centres are 1 space per full time equivalent staff + drop off/pick up facilities.

There would be 6 full time staff based at the Centre and 18 members of staff delivering from the centre and outreach in the community. There are 7 existing car parking spaces already provided on the site. It is considered that the existing car parking provision would be in accordance with the EPOA Parking Standards Guidance.

Laindon Railway Station is within a 15-20 minute walk of The Limes and there are bus stops in Durham Road and High Road, served by regular bus services, again within a short minute walk of The Limes.

The Early Years facility would cater for approximately 25 families per day and Family Solutions expect between 10 and 20 visitors per day.

Visitors to the Centre would be encouraged to walk or use public transport although it is acknowledged that some would drive.

The applicant has stated that the traffic patterns associated with the proposed use

would not necessarily coincide with the school start/finish times, such that the proposed use is unlikely to exacerbate any traffic congestion issues associated with the nearby school. Although the proposed use would result in some additional traffic movements compared with the existing situation, the impact of the proposed use in terms of congestion is therefore likely to be significantly less than envisaged by local residents and is unlikely to give rise to issues of highway safety.

The applicant has further stated that in relation to the issue of traffic generation, although the property is currently vacant, the lawful planning use of the property remains a material consideration. Planning permission would not be required to resume a use falling within Use Class C2 with all the attendant traffic generation issues (as well as any issues relating to car parking and residential amenity). It is considered that some representations may have been based on the existing situation with the property vacant. It is considered that there would be differences between the pattern of vehicular movements of the previous and proposed uses and any increase in traffic movements would not be significant. Moreover, there would be some benefits in terms of vehicular benefits in terms of vehicular movements with the proposed use which, unlike to existing use, would require fewer deliveries requiring larger vehicles and involve potentially fewer vehicular movements in the evenings.

The Highway Authority has not raised an objection to the proposal subject to the submission of details regarding powered two wheeler parking facilities and cycle parking facilities and the submission of information for the areas for the loading/unloading/reception and storage of building materials within the curtilage of the site.

Although it is accepted that the proposal would have some effect on traffic generation within the vicinity it is not considered that there are reasons to refuse the application on highway impact grounds and it is not considered that the application conflicts with Saved Policy BAS BE12.

8. CONCLUSION

In determining priorities for the provision of community facilities the need for a combined day centre for Early Years and Family Solutions has been identified within this area. This is not challenged.

As the proposal is for a change of use of The Limes there would not be any changes to the external appearance of the building. Internal alterations are required to provide the ancillary staff accommodation and meeting and training rooms required to enable delivery of the proposed services.

It is accepted that the proposal would have some effect on traffic generation and residential amenity in the area, by way of noise and disturbance. However as most of the proposed activities would take place within the building and the proposed hours of use have been amended to help reduce the potential impact of noise and disturbance it is not considered that this would have a significant detrimental impact on the residential amenity of neighbouring residential

properties, sufficient to warrant refusal of the application.

It is considered that the proposal would be in accordance with Saved Policy BAS BE12 of the Basildon District Council Local Plan adopted September 2007.

It is further considered that the proposal would be in accordance with the NPPF as it would provide local accessible services and community facilities as set out in Paragraph 70 of the NPPF.

9. RECOMMENDED

That pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992, planning permission be **granted** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiry of 5 years from the date of this permission. Written notification of the date of commencement shall be sent to the County Planning Authority within 7 days of such commencement
2. The development hereby permitted shall be carried out in accordance with the details of the application reference CC/BAS/14/13 dated 12 February 2013 and validated on 2 April 2013 together with Site Location Plan Sheet 1 of 2 dated 20 May 2009, Site Location Plan Sheet 2 of 2, Drawing Number Mg374.mcd (Proposed Layout) dated October 2012, email from Emma Blewer, Lambert Smith Hampton dated 27 February 2013 13:49, letter from Paul Freer, Lambert Smith Hampton dated 29 May 2013, email from Paul Freer, Lambert Smith Hampton dated 11 June 2013 10:47 and in accordance with any non-material amendments as may be subsequently approved in writing by the County Planning Authority, except as varied by the following conditions:
3. The development hereby permitted shall only be carried out during the following times

07.30 to 18.00	Mondays, Wednesdays and Fridays
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07:30 to 21:00	Tuesdays and Thursdays
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09:30 to 18:00	Saturdays
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And at no other times or on Sundays, Bank or Public Holidays.

4. No beneficial occupation of the development hereby permitted shall take place until details of powered two wheeler and cycle parking facilities have been submitted to and approved in writing by the County Planning Authority. The details shall include the design, location and number of spaces for powered two wheeler and cycle parking to be provided prior to the beneficial occupation of the development hereby permitted. The development hereby permitted shall be carried out in accordance with the

approved details and shall thereafter be retained and maintained for the duration of the development hereby permitted.

5. No development shall take place until details, of the areas to be used within the site for the purpose of loading/unloading/reception and the storage of building materials, have been submitted to and approved in writing by the County Planning Authority. The development shall be implemented in accordance with the approved details.

BACKGROUND PAPERS

Consultation replies

Representations

Ref: DM/Rachel Edney/CC/BAS/14/13

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

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

Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required.

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

STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER: In determining this application the County Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies, all material considerations, consultation responses and any valid representations that may have been received. Issues of concern have been raised with the applicant and addressed through negotiation and acceptable amendments to the proposals. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

LOCAL MEMBER NOTIFICATION

BASILDON – Laindon Park and Fryerns

DR/28/13

Committee DEVELOPMENT & REGULATION

date 28th June 2013**INFORMATION ITEM****Applications, Enforcement and Appeals Statistics**

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

Enquiries to Tim Simpson – tel: 01245 437031

or email: tim.simpson2@essex.gov.uk

1. PURPOSE OF THE ITEM

To update Members with relevant information on planning applications, appeals and enforcements, as at the end of the previous month, plus other background information as may be requested by Committee.

BACKGROUND INFORMATION

None.

Ref: P/DM/Tim Simpson/

MEMBER NOTIFICATION

Countywide.

SCHEDULE**Minerals and Waste Planning Applications**

No. Pending at the end of previous month

18

No. Decisions issued in the month

1

No. Decisions issued this financial year

6

Overall % age in 13 weeks this financial year

83%

% age in 13 weeks this financial year (NI 157a criteria, Target 60%) **83%**

Nº Delegated Decisions issued in the month **1**

Nº Section 106 Agreements Pending **1***

County Council Applications

Nº. Pending at the end of previous month **6**

Nº. Decisions issued in the month **0**

Nº. Decisions issued this financial year **3**

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

Nº of Major Applications determined within the 13 weeks allowed **0**

Nº Delegated Decisions issued in the month **0**

% age in 8 weeks this financial year (Target 70%) **100%**

All Applications

Nº. Delegated Decisions issued last month **1**

Nº. Committee determined applications issued last month **0**

Nº. of Submission of Details dealt with this financial year **30**

Nº. of Submission of Details Pending **112**

Nº. of referrals to Secretary of State under delegated powers **0**

Appeals

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

Enforcement

Nº. of active cases at end of last quarter **23**

Nº. of cases cleared last quarter **11**

Nº. of enforcement notices issued last month	1
Nº. of breach of condition notices issued last month	0
Nº. of planning contravention notices issued last month	0
Nº. of Temporary Stop Notices Issued last month	0
Nº. of Stop Notices Issued last month	0

