

# Development and Regulation Committee

<b>10:30</b>	<b>Friday, 24 March 2017</b>	<b>Committee Room 1, County Hall, Chelmsford, CM1 1QH</b>
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**Quorum: 3**

**Membership:**

Councillor R Boyce  
Councillor J Abbott  
Councillor K Bobbin  
Councillor M Ellis  
Councillor A Erskine  
Councillor C Guglielmi  
Councillor J Jowers  
Councillor S Lissimore  
Councillor J Lodge  
Councillor M Mackrory  
Councillor Lady P Newton  
Councillor J Reeves

Chairman

**For information about the meeting please ask for:**

Matthew Waldie, Committee Officer

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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)

		<b>Pages</b>
<b>1</b>	<b>Apologies for Absence</b> The Committee Officer to report receipt (if any).	
<b>2</b>	<b>Declarations of Interest</b> To note any declarations of interest to be made by Members in accordance with the Members' Code of Conduct	
<b>3</b>	<b>Minutes</b> To approve the minutes of the meeting held on 24 February 2017	<b>7 - 18</b>
<b>4</b>	<b>Identification of Items Involving Public Speaking</b> To note where members of the public are speaking on an agenda item. These items may be brought forward on the agenda.	
<b>5</b>	<b>Minerals and Waste</b>	
<b>5.1</b>	<b>Land at Martells Quarry, Ardleigh</b> To consider report DR/11/17, relating to the continued restoration of a former quarry void by means of landfill. Land at Martells Quarry, Slough Lane, Ardleigh. Ref: ESS/30/16/TEN	<b>19 - 70</b>
<b>5.2</b>	<b>Good Friday Operations</b> To consider report DR/12/17, relating to continuation of use of a waste recycling facility, without compliance with Condition 3 (Operating Hours), in allowing a certain number of vehicle movements on Good Friday 14 April 2017. Land at Greenacres, Packards Lane, Wormingford. Ref: ESS/18/17/COL	<b>71 - 92</b>
<b>6</b>	<b>Information Items</b>	
<b>6.1</b>	<b>Programme of Periodic Reviews of Mineral Planning Permissions</b> To update Members on the current status of the MPA's programme of Periodic Reviews of mineral planning permissions (also known as ROMPS). Report DR/13/17	<b>93 - 98</b>

- 6.2 Land at Gean Trees, Great Horkesley 99 - 102**  
To note report DR/14/17, relating to the enforcement of planning control in respect of an unauthorised development on land at Gean Trees, The Causeway, Great Horkesley, Colchester, Essex CO6 4EJ.  
Ref: ENF/0656
- 6.3 Applications, Enforcement and Appeals Statistics 103 - 104**  
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.  
Report DR/15/17
- 7 Date of Next Meeting**  
To note that the date of the next committee is scheduled for Friday 21 April 2017.
- 8 Urgent Business**  
To consider any matter which in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

### **Exempt Items**

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

To consider whether the press and public should be excluded from the meeting during consideration of an agenda item on the grounds that it involves the likely disclosure of exempt information as specified in Part I of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

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

- 9 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.

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**Minutes of the meeting of the Development and Regulation Committee, held in Committee Room 1 County Hall, Chelmsford, Essex on Friday, 24 February 2017****Present:**

Cllr R Boyce (Chairman)	Cllr S Lissimore
Cllr K Bobbin	Cllr J Lodge
Cllr M Ellis	Cllr M Mackrory
Cllr A Erskine	Cllr J Reeves
Cllr C Guglielmi	Cllr C Seagers
Cllr J Jowers	

**1 Apologies for Absence**

Apologies were received from Cllr J Abbott and Cllr Lady Newton (substituted by Cllr C Seagers).

**2 Declarations of Interest**

Cllr Lissimore declared that she is Deputy Cabinet Member for Education and Lifelong Learning.

**3 Minutes**

The minutes of the meeting held on 27 January 2017 were agreed and signed by the Chairman.

**4 Identification of Items Involving Public Speaking**

There were no public speakers identified.

**Minerals and Waste****5 Highwood Quarry Little Canfield**

The Committee considered report DR/08/17 by the Acting Head of County Planning.

The Members of the Committee noted the contents of the Addendum attached to these minutes.

The Committee was reminded that two applications had been submitted to the meeting held on 27 January: ESS/35/16/UTT, and ESS/34/16/UTT, and that the application to vary the condition relating to the height of the soil washing plant had been resolved to be granted. However, the planning applications relating to variations of conditions to allow early hours HGV movements had been resolved to be refused by the Committee. In line with Committee Protocol, the exact wording for the refusal of the decision was being taken at this meeting to allow officers to present appropriate advice as to the clarity and reasonableness of the reasons for the refusal to the Committee.

The Committee noted the Considerations as set out in the Report.

The resolution was moved, seconded and following a unanimous vote in favour it was

Resolved

A Planning Application ESS/35/16/UTT

That planning permission for variation of condition 16 of ESS/45/15/UTT be **granted**,

1. The wording of condition 16 to be amended to

*No mineral or waste processing plant shall exceed a height of 94m Above Ordnance Datum, except for the soil washing plant which shall not exceed a height of 97m Above Ordnance Datum, as shown on drawing no. 14.103.D.004 entitled "Indicative Elevations of Proposed Plant" dated Sept 2014.*

2. That all other conditions of ESS/45/15/UTT be updated and re-imposed as appropriate.

B Planning Application ESS/35/16/UTT

That planning permission be **refused** for variation of condition 6 of ESS/45/15/UTT for the following reasons:

- 1) The introduction of HGV movements before 7:00am would introduce industrial operations at the site at an inappropriate time of day causing harm to the rural environment and no justification has been demonstrated to outweigh this harm, contrary to Policy S7 of UDLP and Paragraphs 28 and 109 of the NPPF.
- 2) The introduction of HGV movements before 7:00am would cause harm to local amenity and no justification has been demonstrated to outweigh this harm contrary to UDLP policy GEN 4 WLP policies W10E and W10F and RWLP policy 10 the NPPF and the NPPW.

C Planning Application ESS/34/16/UTT

That planning permission be **refused** for variation of condition 4 of ESS/52/13/UTT for the following reasons:

- 1) The introduction of HGV movements before 7:00am would introduce industrial operations at the site at an inappropriate time of day causing harm to the rural environment and no justification has been demonstrated to outweigh this harm, contrary to Policy S7 of UDLP and Paragraphs 28 and 109 of the NPPF.
- 2) The introduction of HGV movements before 7:00am would cause harm to local amenity and no justification has been demonstrated to outweigh this harm contrary to UDLP policy GEN 4, MLP policy DM1 and the NPPF.

## County Council Development

### 6 The Chase, Newhall, Harlow

The Committee considered report DR/09/17 by the Acting Head of County Planning. Members noted the Addendum to the agenda.

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:

- Principle of development
- Sustainable transport & highways impact
- Design, site layout and landscaping
- Flood risk
- Impact on natural environment
- Impact on historic environment
- Impact on residential amenity.

In response to points raised, it was noted:

- Although there was no provision of a dropping off area at the school, there were parking bays in the street, there were likely to be shops built across the street, with parking, and there were plans to build a community centre next to the school, also with parking.
- The Network Assurance team within Essex Highways had been consulted. They advised that the local parking partnership followed a policy of non-intervention for the first five years post adoption on new developments on the basis that the development should accord with current parking standards and any requirements for parking restrictions should be identified and funded by the developer as an integral part of the development.
- The potential use of a part of the recreation field as a drop-off area would require a major redesign
- The application is constrained by the Sustainable Travel Policy; it has been assessed and meets the criteria.
- Although it would not be reasonable for the Committee to seek conditions relating to specific matters such as the policing of traffic by the school, the provision of access to parking at the community hall or steering Harlow District Council's deliberations, it would be reasonable for the Committee to raise certain concerns and Members agreed that their concerns should be expressed in an informative
- Access to the first floor of the building would be provided by both stairs and a lift.

Various points were made and views expressed by Members:

- It was encouraging to receive an application that preceded the development around it
- It was good to see that flood provision had been included

- The school may have been designed on the basis of the vast majority of pupils arriving on foot or scooter/bicycle, but the reality was that a large number would come by car. Suitable provision for dealing with the sort of problems experienced by schools should have been planned in from the beginning
- The provision of a drop off zone was not without its own potential problems with drivers parking there
- There was no suitable space for coaches to wait in.

There being no further matters raised by Members, the resolution was proposed and seconded. Following a vote of eight in favour and three against, it was

### **Resolved**

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 3 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 submitted by way of application reference CC/HLW/56/16 validated on 14 December 2016 including the following drawings and documents:

#### Drawings Prepared by ASTUDIO Architecture

PL-00-GA-000600	Rev. D	Site Location Plan
PL-00-GA-000610	Rev. D	Block Plan
PL-00-GA-001120	Rev. E	Ground Floor Plan
PL-01-GA-001121	Rev. E	First Floor Plan
PL-02-GA-001122	Rev. C	Roof Plan
A-EL-002000	Rev. F	North West and North East Elevations
A-EL-002001	Rev. E	South West and South East Elevations
A-SEC-003000	Rev. E	Primary School Sections

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A-SEC-003001	Rev. D	Early Years Sections
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Drawings prepared by Wynne-Williams Associates Landscape Architects

1639_LL_102	Rev. P01	External Definition
1639_LSe_401	Rev. P00	Sports Pitch Sections
1639_LSe_402	Rev. P00	Sports Pitch Sections Sheet 2
1639_LL_101	Rev. P02	Sports Pitch Layout
1639_LL_103	Rev. P01	Main Layout Plan
1639_LL_104	Rev. P02	Open Space Layout
1639_LP_302	Rev. P01	Planting Plan Sheet 1
1639_LP_303	Rev. P01	Planting Plan Sheet 2
1639_LSe_404	Rev. P00	Site Sections
1639_LL_110	Rev. P00	Site Location Plan

Documents:

- Planning Statement, prepared by Strutt and Parker, dated December 2016
- Design and Access Statement, prepared by ASTUDIO Architects, dated 09/12/16
- Heritage Statement, prepared by Architectural Management, dated December 2016
- Transport Assessment, prepared by Journey Transport Planning, dated December 2016
- Framework Travel Plan, prepared by Journey Transport Planning, dated December 2016
- Flood Risk Assessment and Drainage Strategy, prepared by Rossi Long Consulting, dated December 2016 and additional information including permeable paving calculations received by email from Strutt & Parker on 19/01/2017

Extended Phase 1 Survey, prepared by Richard Graves Associates, dated September 15 The Memorandum of Understanding signed by the Head of Infrastructure Delivery, dated 23 February 2017.and in accordance with any non-material amendment(s) as may be subsequently approved in writing by the County Planning Authority.

### **3. Bicycle Parking**

Prior to first occupation of the proposed building, a minimum of 52 covered bicycle stands and 100 pupil scooter parking stands shall be erected on site at the locations indicated on drawing Number 1639\_LL\_103 Rev. P01 Main Layout Plan. Within one month of commencement of development on site, detailed design drawings for the covered bicycle stand and covered scooter stand shall be submitted for the prior written approval of the County Planning Authority and the development shall be carried out and implemented in accordance with the approved details.

### **4. Archaeology**

No development or preliminary groundworks of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the County Planning Authority.

### **5. Detailed Surface Water Drainage Scheme**

No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the County Planning Authority. The scheme should include but not be limited to:

- Discharge to the ground. Additional infiltration testing should take place to support the detailed strategy. Should it be found at that stage that infiltration is not possible an alternative discharge strategy based on greenfield discharge should be agreed by the local authority.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance

routes, FFL and ground levels, and location and sizing of any drainage features.

A written report summarising the final strategy and highlighting any minor changes to the approved strategy. The scheme shall subsequently be implemented prior to first occupation of the proposed school and nursery buildings.

**6. Scheme to minimise off-site surface and ground water flooding during construction**

No development shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the county planning authority. The scheme shall subsequently be implemented as approved.

**7. Surface Water Drainage System - Maintenance Plan**

Prior to first occupation of the proposed school building a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the County Planning Authority.

**8. Surface Water Drainage System - Maintenance Logs**

The applicant or any successor in title shall maintain yearly logs of maintenance which should be carried out in accordance with the Maintenance Plan approved under Condition 7. These shall be available for inspection upon a request by the County Planning Authority.

**9. Arboricultural Survey**

No development shall take place until a full Arboricultural survey and report in accordance with BS5837:2012 has been submitted to and approved in writing by the County Planning Authority.

The report shall include the following:

- a) a plan that shows the position, crown spread and root protection area in

accordance with section 5.5 of BS5837:2012 of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on the plan.

b) details of each surveyed tree in a separate schedule in accordance with section 4 of BS5837:2012

c) a schedule of tree works for all the retained trees specifying pruning and other remedial or preventative work. All tree works shall be carried out in accordance with BS3998:2010.

d) details and positions of the ground protection in accordance with section 2 of BS5837:2012.

e) details and positions of Tree Protection Barriers identified separately where required for different phases of construction work [e.g. demolition, construction, hard landscaping] in accordance with section 6.2 of BS5837:2012. The Tree Protection Barriers shall be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.

f) details and positions of the Construction Exclusion Zones in accordance with section 6.2 of BS5837:2012.

g) details and positions of the underground service runs in accordance with sections 4.2 and 7.7 of BS5837:2012.

h) details of any changes in levels or the position of any proposed excavations, including those on neighbouring or nearby ground in accordance with paragraph 5.4.2 of BS5837:2012.

i) details of any special engineering required to accommodate the protection of retained trees [e.g. in connection with foundations, bridging, water features, surfacing] in accordance with section 7.5 of BS5837:2012.

j) details of the methodology to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of retained trees.

k) details of the methodology to be employed for the installation of drives and paths within the RPAs of retained trees in accordance with the principles of "No-Dig" construction.

l) details of the methodology to be employed for the access and use of heavy, large, difficult to manoeuvre plant [including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc] on site.

m) details of the methodology to be employed for site logistics and storage, including an allowance for slopes, water courses and enclosures,

with particular regard to ground compaction and phototoxicity

n) details of the method to be employed for the stationing, use and removal of site cabins within any root protection areas in accordance with section 6.2 of BS5837:2012.

o) details of tree protection measures for the hard landscaping phase in accordance with section 5.6 of BS5837:2012.

p) the timing of the various phases of the works or development in the context of the tree protection measures.

The development shall be implemented in accordance with the approved scheme.

#### **10. No surface water discharge onto public highway**

There shall be no discharge of surface water onto the Highway.

#### **11. Boundary Landscape Treatment**

Within one month of commencement of construction on site a detailed scheme of landscape treatment for the boundaries and immediate areas adjacent to the Roundhouse, the Farmhouse and neighbouring housing shall be submitted for the prior written approval of the County Planning Authority. The plans shall be drawn to a scale of not less than 1:200; details shall include finished levels and contours, soil and plant specifications, schedules of plants, plant sizes and proposed numbers.

*Note this condition is has been applied notwithstanding the submitted landscape plans 1639-LP-302/303 P01.*

The approved scheme of landscape treatment shall be implemented in full in accordance with the approved details in the first planting season following the commencement of development.

Any planting removed, dying or becoming seriously damaged or diseased within ten years of planting shall be replaced within the first available planting season thereafter (on a 1:1 basis for the first five years) with planting of similar size and which shall then be planted in the first

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available planting season.

## **12. Management of Boundary Planting**

Prior to first occupation of the proposed school buildings, a scheme for the management and maintenance of the soft landscape areas covering a minimum period of 10 years, shall be submitted for the prior written approval of the County Planning Authority. The scheme shall be implemented in full in accordance with the approved details.

Any planting removed, dying or becoming seriously damaged or diseased within ten years of planting shall be replaced within the first available planting season thereafter (on a 1:1 basis for the first five years and at the discretion of the County Planning Authority for the second five years) with planting of similar size.

## **13. Biodiversity/Ecology**

No development or preliminary groundworks of any kind shall take place until the applicant has undertaken a pre-construction ecological survey in accordance with details that shall have been previously submitted and approved in writing by the County Planning Authority. If protected species are identified during the survey a scheme of mitigation/translocation shall be submitted to and approved in writing by the County Planning Authority and the approved scheme implemented prior to any development or preliminary groundworks.

## **14. Bin Storage Details**

Prior to first occupation of the proposed building, the bin storage structures shall be installed at the locations indicated on drawing Number 1639\_LL\_103 Rev. P01 Main Layout Plan. Within one month of commencement of development on site, detailed design drawings for the proposed structures shall be submitted for the prior written approval of the County Planning Authority and the development carried by implemented in accordance with the approved details.

## **15. External Lighting Design**

No fixed lighting shall be erected or installed on-site until details of the location, height, design, luminance and operational hours have been

submitted to and approved in writing by the County Planning Authority. That submitted shall include an overview of the lighting design including the maintenance factor and lighting standard applied together with a justification as why these are considered appropriate. The details to be submitted shall include a lighting drawing showing the lux levels on the ground, angles of tilt and the average lux (minimum and uniformity) for all external lighting proposed. Furthermore a contour plan shall be submitted for the site detailing the likely spill light, from the proposed lighting, in context of the adjacent site levels. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage on adjoining properties and highways.

The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

## **16. Ecological Management Plan**

An ecological management plan (EMP) shall be submitted to, and be approved in writing by, the local planning authority prior to occupation of the development to secure the long-term success of the wildflower grassland proposed to be created on site. The content of the Plan shall include the following.

- a) Aims and objectives
- b) Prescriptions for management actions.
- c) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- d) Details of the body or organization responsible for implementation of the plan.
- e) Ongoing monitoring and remedial measures.

The approved plan shall be implemented in accordance with the approved details.

## **17. Removal of Permitted Development Rights**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no school buildings hereby approved shall be extended and no new development shall be erected on the site without the benefit of express planning permission.

**Information Items**

- 7 Applications, Enforcement and Appeals Statistics**  
The Committee considered report DR/10/17, applications, enforcement and appeals statistics, as at end of the previous month, by the Acting Head of County Planning.

The Committee NOTED the report.

- 8 Date of Next Meeting**  
The Committee noted that the next meeting would be held on Friday 24 March 2017 at 10:30am in Committee Room 1.

There being no further business the meeting closed at 11.27am.

**Chairman**

**DR/11/17**

committee DEVELOPMENT & REGULATION

date 24 March 2017

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**MINERALS AND WASTE DEVELOPMENT**

Proposal: **The Continued Restoration of Former Quarry Void by means of landfill**

Location: **Land at Martells Quarry, Slough Lane, Ardleigh**

Ref: **ESS/30/16/TEN**

Applicant: **Recycled in Ardleigh**

Report by Acting Head of County Planning

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Enquiries to: Terry Burns Tel: 03330 136440

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





## 1. BACKGROUND & SITE

Martells landfill site (also known as the Ardleigh landfill site) occupies some 18.7 hectares of what was a former sand and gravel extraction void that was finally worked out in the late 1990's although parts of the site had active landfilling in the late 1980's. The site's most recent permission, ESS/56/96/TEN, was approved in July 1997 and provided for the winning of silica sand and restoration through infilling with commercial and industrial waste. This permission was time limited and required restoration to be achieved by July 2014.

A separate unimplemented permission, ESS/17/14/TEN, exists for the provision of a gas flare system on the northern landfill site boundary.

The adjoining land benefits from a more recent mineral extraction permission, ESS/18/07/TEN. The mineral permission covers land to the west of the landfill site which forms the extraction void; land immediately behind the landfill weighbridge and the mineral processing plant area north of Slough Lane. The mineral permission was in essence a follow on to the mineral extraction approved under ESS/56/96/TEN and permits mineral extraction and infilling with inert waste until 2032. The land area behind the weighbridge is now included within this present application.

Both the adjoining mineral operator and landfill operators co-use the internal site access track.

Land adjacent to the mineral processing plant is occupied by the Martells Industrial estate that houses a number of businesses mostly waste management related, including scrap metal and inert waste recovery.

The history of this present application has been long and convoluted and began as far back as 2012 with the then agents seeking a Scoping request under the Environmental Impact Assessment Regulations 2011 for the continuation of landfilling of ESS/56/96/TEN. A formal Scoping Opinion was issued that confirmed an Environmental Statement would be required for any future application for the renewal of the then extant permission. As time passed a new agent was engaged and a planning application and supporting statement was submitted in October 2014 that included the provision of revised restoration levels. An incomplete Scoping request was submitted in March 2015 and it wasn't until January 2016 that a formal Scoping Opinion was able to be issued.

As a result of the Scoping Opinion, the planning application, the subject of this report, was submitted in July 2016. During the processing of the application the applicant has been working to the "spirit" of ESS/56/96/TEN which had lapsed during the intervening period. Both the Waste Planning Authority (WPA) and Environment Agency (EA) have been undertaking regular site monitoring visits and been in discussion with both the applicant, the agent as well as the landowner and agent during the course of the consultation period.

### The Site

The application site is located south of Slough Lane some 1.2 kilometres south of Ardleigh and approximately 4 kilometres north west of Colchester. Access into the landfill site is taken from a southern entrance off Slough Lane and comprises a concreted bellmouth stretching back for about 50 metres. A wheelwash is located at the entrance. The track then continues for the rest of its length as a hard cored unbound surfaced track. The track continues south east past the site office/weighbridge and turns south westwards to run along what is the landfill's north-western boundary. The track then divides with one arm turning eastwards to enter the active landfill area passing on its left an insitu clay stockpile and on its right a further site office and temporary gas flare. At the junction the track also continues southwards to gain access to the active mineral extraction pit.

The land area behind the site weighbridge and bounded to the north by Slough Lane was incorporated within the ESS/18/07/TEN permission for use as a waste recycling facility. This recycling facility was for the recycling of solid, inert and commercial and industrial waste although that part of the permission has not been implemented. For the purpose of this application it should be noted that the present applicant originally made reference in the initial stages of this present application for continuing that recycling facility as part of their application. Reference to this aspect of the proposal has been removed from this present application.

The landfill proper comprises a mosaic of 9 dedicated cells (separate areas of the void that have been formed into individual areas for receiving waste). The applicant notes that restoration of the land commenced in the 1980's. Cells 1-4 were infilled in the 1990's are located on the west of the application area and situated underneath the historic insitu clay stockpile. Cells 5-6 and part of 7 were completed

late 1990's. Land within the south west of the landfill has been brought up to restoration level. Cells 7, 8 and 9a have accepted wastes under the present operators tenure of the site. Active infilling is now taking place in the south east corner of the site in cell 9b.

Across the landfill site, less the land beneath the clay stockpile, a programme of gas/leachate management pipework has been installed as part of the site's landfill permitting requirements regulated by the EA. Leachate is generally recirculated through the cells whilst landfill gas is flared off. The operator has been investigating the opportunity for using the gas through the national grid although it is understood that the local distribution system does not have the capacity to take additional loads at present.

The landfill site is situated in a generally flat agricultural landscape. Agricultural fields exist and border the footprint from the north west through to the north east; some woodland and agricultural fields exist to the east and round to the south. To the south west and west lies the adjacent mineral extraction area.

The landfill footprint is generally well screened being for the most part situated below ground level whilst those elements of the site offices/weighbridge above ground are screened by hedgerow vegetation from users of Slough Lane. The gas flare and office within the landfill proper are screened by the site topography and the clay stockpile from outside views which are principally from Ramage House located to the north east.

Other properties around the site footprint include:

- George Hall and Ramage House some 230 and 250 metres respectively to the north east;
- Ardleigh Park 230 metres to south;
- Park Farm and Park Farm Cottages some 230 metres to south east;
- The Lodge 290 metres to the south;
- White House 500 metres to the south
- Coronation Cottages some 220 metres to the north west.
- (One of the landowners live in Park Farm Cottages whilst occupiers of Coronation Cottages are situated immediately adjacent Slough Lane and the Martells Industrial Estate).

HGV's access the landfill site from the A120 and Slough Lane via a private access/barrier system located off the east bound A120. Under the previous permission traffic generation was restricted to some 120 HGV movements a day (60 in/60 out) weekdays and on Saturdays to 60 movements (30 in/30 out). Operating hours were Monday to Friday 08.00 – 18.00 and Saturdays 08:00 – 13:00. The present application seeks similar vehicle movement numbers as well as allowing for extended hours on the use of the internal site office near the gas flare being permitted for use between the hours of Monday to Friday 08:00 – 22:00 and Saturdays 08:00 – 17:00.

As part of the applicant's public engagement process for the application, the applicant has engaged with local residents and offered to attend a parish council meeting. The parish did not take up the offer.

Historically the landfill site did hold a liaison meeting. However it is understood that lack of involvement from local residents and the fact that issues being raised by the EA at the meetings were primarily not planning issues the meetings petered out.

In terms of the present application the applicant's agent has stated that in the Martell's case the history of landfilling has been inconsistent as well as seeing variations in the waste types being deposited. This has resulted in an inconsistent settlement rate across the site being experienced. For background the agent confirms that settlement of wastes had been identified in the then Waste Management Papers used by the industry as considering a 15% settlement being expected from waste infilling. Post the 1996 Landfill Tax change that saw waste material types change as more brick, concrete and soils were diverted away from landfill, the rate of settlement being experienced has increased with a more common 25 -35% now being recognised as reflecting a typical settlement rate. The settlement aspect is also being influenced in the better management of leachate/gas removal aspects.

The applicant proposes to achieve the previously approved post-settlement levels, which accommodated a domed landform feature with a maximum contour height of 40 metres Above Ordnance Datum, by addressing these varying settlement rates. The applicant confirms that the updated void capacity figures since the submission of the application show the landfill void as some 65,000 m<sup>3</sup> void space remaining (and with all areas of the landfill where waste would need to be placed the void would be around 100,000m<sup>3</sup>). Infilling had been previously permitted at some 120,000 tonnes per annum of non-hazardous residual commercial and industrial wastes. The site does not take municipal or putrescible wastes.

At the levels of input being undertaken the life of the site has been recalculated since the preparation of the application was undertaken such that it is now considered the site would be infilled by 2018 followed by final site restoration in 2023.

As per the previously approved scheme the operator would continue with the cell programme constructing these out of clay for the base and sides with a similar clay cap or equivalent type material. Clay would be compacted to achieve no less than 1 metre capping (in line with their site Permitting requirements). Inter-cell bunds of clay together with a leachate management collection system comprising a layer of gravel would be provided to allow waste handling and subsequent leachate/gas management.

Typical site plant would remain as existing including landfill compactor; loading shovel; tracked excavator; dumper and bulldozer.

Site management practices include the daily covering of the wastes which the applicant notes reduces pest and bird impacts. Putrescible waste is not accepted although the applicant notes that elements of organic waste invariably occur within the wider waste stream and birds are attracted at such sites even if no prolific food source is present.

The site has in place leachate/gas monitoring points and these are maintained in

line with their site Permitting regime.

As part of the application the applicant has undertaken modelling of the site through a Computer Assisted Design (CAD) programme to inform the role and experience of how the cells have responded to settlement.

## **2. PROPOSAL**

The applicant notes that for:

- Cells 1-4 these are completed but not capped. Insitu clay stockpile placed above them. Centre plateau formed due to compaction from the clay.
- Cells 5-7 completed and capped. Cell 5-6 are settling in line with previously consented scheme, upper slopes of cells 5-6 and all of 7 though are settling greater such that a plateau is forming above cell 7 and below the envisaged post settlement landform.
- Cell 8 has been completed with intermediate capping, lower flank is acceptable although upper slopes and central area have settled below the envisaged post settlement landform. Noticeable “ponding” occurring.
- Cell 9a partially completed and temporary cap installed.
- Cell 9b current cell.

Across the site the applicant considers that Cells 1-4 and 5-7 lower slopes are settling consistently with previous predictions and no remodelling required. However, the main issue is the large expanse of flatter area (upper slopes of cells 1-4; 7 and 8) all settled below the predicted post settlement levels and further risk of ponding but also in slope falls there being damage and failure of the leachate/gas management system. It is considered to be more risk in cells 7 and 8 given these are the latest completed cells.

Overall, a “do nothing” approach would not therefore be considered appropriate. The applicant notes that older Cells 1-6 and the lower sections of Cell 7 have achieved a 15% settlement consistent with the waste types received. Also these cells are largely on the fringe of the landfill and noticeably shallower than the central cells of 8 and upper section of 7.

The proposed remediation proposed would be:

- Cells 1-4 (where dynamic compaction from clays has been experienced) as the cells have not been capped it would be possible to remediate with additional cover requiring about 600 – 2000 mm of cover (about 28,000m<sup>3</sup>) using subsoils and fine qualifying material.
- Cells 5-7 again largely settling in line with previously consented scheme. Cell 5-6 flanks consistent with previous scheme. Cell 7 though falls below post settlement and has already been capped. Proposed remediation to use sub soils amounting to some 6,800m<sup>3</sup>.
- Cell 8 has been temporary capped and lower flank settling broadly in line with previously consented scheme. Upper areas settled in excess of predicted post settlement levels. Proposed remediation to remove temporary cap given the cells closeness to current active cells, and remediate with waste infilling.

- Cell 9a and 9b current areas of working. Inputs substantially different from earlier cells and the previously approved settlement model would not have taken account of this waste type. Raised levels would need to take place to accommodate the post settlement levels previously envisaged.

As part of the earlier Scoping exercise the applicant had indicated that in height terms the cells would be raised a maximum over relevant parts of the site by between 1 and 3 metres settling to previously approved post settlement levels. The applicant has supplied a soil composition proposal that has identified the need across the site for some 18.7 hectares to be returned to agriculture. That the previous permission accommodated the provision of subsoil of 600mm depth. Following discussion with the landowner issues were raised concerning the wish for the land to be returned to arable farming; the depth of soils; how ploughing would take place in relation to the engineered landfill cap and gas/leachate management infrastructure.

Following talks the applicant has proposed the reinstatement of the sub soil to accommodate a depth of 1000mm. Topsoil quality would be governed by the relevant British Standard "Specification for Topsoil" with the reinstated topsoil being to a minimum standard of Class B "General Purpose Grade". The agent states that DEFRA 2009 guidance on "Sustainable use of soils in construction" states topsoil does not perform well at depths of 400mm due to natural compaction. Guidance advises between 150 - 400mm as being desirable. The proposal is to use some 300mm topsoil requiring some 5626m<sup>3</sup>.

A Landfill Restoration Drainage Strategy Report was prepared in respect of comments from the Flood Authority. This report confirmed, in respect of the proposed restoration layers above the engineered cap, that the restoration would result in a domed feature with shallow slopes replicating the undulating adjoining land to the east and south. Runoff would be intercepted on the north, west and southern perimeter by existing ditches. A new swale would be provided along the east and all would then feed through to the existing groundwater fed lagoon on the west. This lagoon it was noted already feeds the adjoining mineral activities.

The strategy considered the method of restoration would return the site to a suitable agricultural use. It was considered that the proposed capacity is available to attenuate runoff and the site would not increase local flood risk and allow runoff to drain to groundwater in a sustainable manner. The strategy notes the need to maintain, in perpetuity, the drainage lines and the management of the reeds and that it is understood the lagoon would remain as open water feature to be available for runoff receipt.

In respect of future integrity of the soils the report notes that an important aspect would be the nature of the ploughing regime to follow contours and minimise erosion of the surface.

The applicant has identified two platform areas within the clay stockpiling location to assist receipt and blending of soils/soil making material with the clay. These areas have been separately identified and would accommodate soil stockpiles up to a maximum of 6 metres above surrounding land level. (These areas need identifying separately for the purposes of the tax system and definitions of what are

recovery and waste interpretations on material imports). The applicant confirms that the platforms would naturally lower with, and as the surrounding clay stockpile was utilised.

As part of the supporting Environmental Statement the applicant has undertaken assessments of:

Noise: Consultants have visited the site and reading taken to assess the change in noise levels from any increase in height difference from those previously approved. The noise readings were taken incorporating the working of the compactor, visiting vehicles and towing of vehicle by the tracked shovel.

A number of surrounding properties identified including Park Farm House; Park Farm Cottages and Ardleigh Park. Park Farm House was taken as being the representative sensitive location with intervening land identified as being uniformly level and in agricultural use. Calculations were undertaken to consider the elevated operational levels replicating per settlement levels resulting in noise generation of less than 1 dB (LAeq T). Such difference being considered not detectable.

The conclusion was that a survey of plant undertaken and predicted noise difference being less than 1 dB as being minimal and not perceptible.

Litter/Dust/Odour: The assessment noted that with this being an existing site that issues of litter, dust and odour could be better assessed. The site is covered by an Environmental Permit and site operates to an Odour Management Plan regulated by the Environment Agency.

The nature of covering wastes and tipping into banded cells would reduce the potential for litter generation. The site has litter fencing installed and undertakes regular litter picking as and when litter is generated.

The nature of the waste accepted at the site minimises the potential for odour generation. Use of rapid cover of waste reduces the potential for odour generation and before the wastes start to decompose.

The assessment acknowledged that dust could be generated from the haul road where the standard “dampening down” actions could take place. Such actions could also take place within the cell arrangements.

Assessment acknowledged that potential new odour sources would be considered to be limited to the final operating areas as previous site areas were now complete and capped.

Air Quality: The assessment noted that as a result of increased gas generation a larger capacity gas flare was installed.

Flood Risk Assessment: The assessment addressed the existing surface water drainage; the overlying hydrological regime; the underlying hydrological conditions and historic flooding records.

The assessment noted that the site lies within the catchment of the River Colne with the nearest watercourse being an un-named tributary to Salary Brook located some 540 metres north west of the application footprint. This tributary was found to flow through some ponds and ditches on the opposite side of Slough Lane. There are 2 small lakes adjacent the site, remnants of former mineral workings. One lake located to the north east has no connection to the application land. The lake to the north west forms the outfall for non-contaminated site drainage. The assessment noted that all site surface water is diverted away from the cells. Surface water is discharged via balancing lagoon and attenuation channels and then to the brook. This procedure would continue under the present proposal. There are no records of historic flooding in the locality.

In terms of hydrogeological information, boreholes identify the site as having underlying clays with interspersed sand and gravels overlying chalk. Groundwater levels follow the topography with the land demonstrating relatively flat levels of some 1 -2 degree slopes.

The application site is not identified as being located either within the Environment Agency Source Protection Zone or groundwater Vulnerability Zone.

The assessment considered that the proposed post settlement heights would be limited to plus 3 metres temporary landform change that would not affect the hydrological regime.

The assessment considered that there would be likely temporary increased surface water runoff from the steeper central site slopes. However, due to the scale of the site and the minor scale of changes that any rise in levels propagated over the wider area would result in shallow adjustments to slope angles.

The assessment noted that the existing landfill site experiences major landform changes. This aspect leads to runoff changes on a larger scale than that proposed for the final landform. Onsite water management has been designed for this aspect and would accommodate such on post restoration.

The assessment noted that the proposed application does not alter area of land to be regraded and therefore no increase in surface water runoff generated over the site.

### Landscape and Visual

The assessment considered the:

- Landscape Character
- Local Landscape uses
- Local Heritage
- Previous site uses
- Impact of new planting.

The assessment considered potential receptors as local (within 200 metres); intermediate (200 -1000 metres) and distant (beyond 1000 metres).

The application footprint was recorded as being within the Northern Thames Basin National Character Area and within the County's Landscape Character Assessment as Tendring Plain characterised as large flat farmland plateau dominated by arable agriculture and small narrow valleys.

There are 2 recorded Sites of Special Scientific Interest (SSSI) located on the northern site boundary and on part of the internal haul road and comprise locations of geological interest (glacial and inter glacial deposits) that are buried features and would remain unaffected by the site activities.

It was noted that vegetation is limited to site boundary with some shrub vegetation and small trees whilst immediately north of the weighbridge are located some mature trees and hedgerows which assist site screening.

The assessment considered viewpoints from outside vantage points comprising 2 near field viewpoints and six intermediate distance locations on a triangle of roads with the application site situated in the centre.

The viewpoints were:

- From the site entrance off road where there are no footpaths or street lighting. This location was considered low value and low sensitivity.
- Park Farm farmyard where the site landform is visible but not dominant. Medium value and medium sensitivity.
- South of Park Farm. The view was partially obscured by 2 hedgerows providing more of a barrier in the summer. Viewpoint more from passing vehicles, considered medium value and low sensitivity.
- Park Farm cottages which is similar to (iii) above but from back gardens. Medium value and high sensitivity.
- Location on the B129, a public road location looking south west to application area hedgerows obscure views and was considered medium value and low sensitivity.
- Slough Lane south of site. The landform has been altered by intervening mineral extraction activities. Low value and medium sensitivity.
- Bromley Road looking north. Views are obscured by hedgerows and trees. Medium value due to open landscape and low sensitivity.
- Slough Lane north of site entrance. Views obscured by boundary vegetation. No vistas across the landscape. Value and sensitivity low.

The assessment confirmed that site boundary vegetation would be retained. Internal fields would be created and the landscape would accommodate a slightly domed landform with a difference of some 5 metres between centre and edge. At pre settlement levels created by the importation aspects and create no additional impact than what already occurs to the ongoing landfilling practices. Whilst the dome effect would be visible its settling would further reduce the impact. The assessment considered that the change from landfill to agriculture would have a high positive effect and therefore a major benefit to the landscape character. Conclusion was that key landscape features are wide flat undulating agricultural plateau. Fields bounded by hedgerows, long standing mineral working in the landscape. Viewpoints are from roads, workspaces and a residential property. Many are at distance with the application land forming a minor landscape

component.

The proposed development would have a positive beneficial impact returning the land back to a characteristic agricultural use.

Impacts on viewpoints were divided between minor benefit and neutral. The site restoration would have a large positive benefit and given the distance to receptors the proposals impacts would be less than significant.

### Cultural Heritage

Identified existing features in the landscape and consideration given to both important heritage assets in wider landscape as well as potential effects on the heritage in conjunction with significance and setting as a result of proposal.

The assessment noted that the mineral and industrial nature of the site has been present in some form since the mid 1950's.

There are no World Heritage Sites nor Battlefields or Registered Parks and Gardens in this search area.

There is a Scheduled Monument, Iron Age cemetery, within 200 metres and a Listed Building, Ardleigh Park, within 500 metres.

Archaeological searches identified primarily spot finds and crop marks within 500 metres.

In terms of Ardleigh Park, which is a 18<sup>th</sup> Century Grade II house set in extensive grounds. Separated from the application land by 2 mature hedgerows and a field. Some site landforms are visible from the location particularly from the upper windows.

The proposal to restore the land back to agriculture would therefore have a beneficial impact by removing the landform feature.

The heritage asset cannot be seen in the same view, from public vantage points, as the application site but the landfill site can be seen from the asset. From the asset the landfill has a low impact. The magnitude of the impact is considered imperceptible or none.

In terms of the scheduled monument, the cemetery, this is located south east of Ardleigh and 200 metres north of the application footprint. This location is fully buried under agricultural fields and would be unaffected by the proposal.

Crop marks extend across the scheduled monument and previously part of the application site. This area covers the majority of the north and east of the application land and relates to crop marked fields of which there are no more present within the application land.

In respect of crop mark finds, the assessment confirmed there related to the application land, related to very early finds in the 1950's and since then mineral

extraction and landfilling has taken place. The proposal would not disturb any further land.

In conclusion it is noted that in terms of the archaeology this is outside the site boundary and would not be affected by the proposal. For heritage assets the proposal is small scale and designed to fit into existing landscape character. Heritage assets would remain screened.

### Traffic

This considered the application as being one principally for an extension of time. The assessment considered the site access arrangements; the proportion of existing and proposed trips generated by the site and impact on the local highway. The assessment noted that Slough Lane as being some 5.5 metres wide with no accompanying footpaths or street lighting.

Site traffic leaves Slough Lane southwards to intersect with Bromley Road before access is taken onto the A120 via slip road near the existing Ardleigh Waste Transfer Station.

The assessment considered traffic accident data for the period November 2009 – February 2015. This information identified 4 accidents attributable to avoidable accidents and not road safety issues.

The assessment noted that currently there are permitted some 100 HGV movements per day (50 in/50out) during the time extension to 2020 a total of up to 100 imports would be required equivalent to 5 additional vehicles per hour or 1 every 12 minutes.

Between 2020 – 2022 with the soil importing HGV's would reduce to 25 per day with the last 2 years import volumes would be half of the current maximum. The assessment considered that the existing traffic routeing would be continued. It was noted that there was only one residential property along the route. Since the traffic assessment the agent has confirmed that at the time of the submission it was the intention to increase the traffic numbers by the additional volumes noted above. Since that time the previous traffic volumes of 100 movements a day (50 in/50 out) are considered to be the appropriate level for the infilling remaining.

The conclusion was that the proportionate increase is low and no significant impact on existing highway capacity expected.

### Ecology

The assessment identified the baseline conditions and included a desk top study; site visit and habitat survey including Protected species and faunal surveys.

The assessment noted that this application situation involved recording what was in place as a result of the landfilling as opposed to a pre development phase as is the norm.

The assessment found limited vegetation with shrub and bramble on previously disturbed areas. There were a number of adjoining ponds and that no floral species of note were recorded.

The assessment considered the nature of the site infrastructure as not being suitable for bat use nor were the onsite trees of likely bat interest. Site perimeter hedgerows as opposed to internal site operations may be of interest to foraging bats. Birds may use the trees for nesting/foraging with ground vegetation considered of little bird interest.

The site is noted as being intensively managed so little interest for reptiles. Ponds may have species interests but pathways for ingress into the application land are limited.

On site grassland is not considered of any significant intrinsic ecological value being species poor and subject to an intensive management regime. The assessment considered no specific mitigation needed. The proposal offers opportunity to provide ecological habitat than currently exists. Potential planting could enhance bat foraging opportunities as well as nesting and foraging birds.

The Ecology report considered mitigation measures to include:

- Retention of hedgerow trees.
- Avoidance of night time lighting and if required that such lighting does not illuminate perimeter trees.
- Any presence of protected species found moving onto site then appropriate qualified ecologist to investigate and advise on way forward.
- Also considered enhancement measures to include:
- Provision of a wildlife area in arable restoration, this location could be informed through an ecological survey being undertaken before the landform is given over to arable use.
- Field boundaries to be defined by hedgerows using native species.

The ecological report concluded that wildlife in the locality is already accustomed to a high level of disturbance and the presence of protected species on the land is considered to be low.

If the land is reverted to arable use then areas of habitat within the site could be lost to reptiles and so an appropriate ecological survey to identify suitable replacement habitat is recommended, should permission be granted.

### **3. POLICIES**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that consideration be had to the development plan unless other material considerations indicate otherwise. Other material considerations include:

- i) The National Planning Policy Framework (NPPF) March 2012.
- ii) The National Planning Policy for Waste October 2014.
- iii) Essex and Southend Waste Local Plan Adopted September 2001

- iv) Essex County Council Replacement Waste Local Plan Pre Submission document June 2016
- v) Tendring District Local Plan (Adopted November 2007) – as ‘saved’ through a Direction from the Secretary of State. Relevant policies include:
- vi) Tendring District Local Plan: 2013-2033 and Beyond Proposed Submission Draft (November 2012), as amended by the Tendring District Local Plan Pre-Submission Focussed Changes (January 2014).

The following policies of the Essex and Southend Waste Local Plan Adopted September 2001 (WLPA); Essex County Council Replacement Waste Local Plan Submission document June 2016 (WLPS) the Tendring District Local Plan (Adopted November 2007) – (ATDLP) as ‘saved’ through a Direction from the Secretary of State and Tendring District Local Plan: 2013-2033 and Beyond Proposed Submission Draft (November 2012), as amended by the Tendring District Local Plan Pre-Submission Focussed Changes (January 2014) (STDLP) (paraphrased or in quotation marks if set out in full) are of relevance to this application:

Relevant policies within the Essex and Southend Waste Local Plan Adopted September 2001 are:

#### Policy W3A (Best Practicable Environmental Option)

Requires that consideration be given to:

- (a) The goals of sustainable development
- (b) Whether the proposal represents the best practicable environmental option for that particular waste stream
- (c) Whether the proposal conflicts with options further up the waste hierarchy.
- (d) Conformity with proximity principle.

#### Policy W4A (Water Pollution and Flood Control)

Would support waste management development where it would not present an unacceptable risk in respect of it impeding surface water flows; have an adverse effect on the water environment as a result of surface water runoff or existing and proposed flood defences are protected.

#### Policy W4B (Water Pollution and Flood Control)

Would restrict development where there would be an unacceptable risk to the quality of surface or groundwater.

#### Policy W8A (Criteria for waste management facilities)

Supports waste management facilities at specific locations provided relevant criteria are met including:

- (a) There is a need for the facility to manage waste.
- (b) The proposal represents the Best Practicable Environmental Option.
- (c) The development complies with other relevant policies.

- (d) Adequate road access.
- (e) Integrated schemes for recycling, composting, materials recovery and energy recovery would be supported where there are shown to be benefits in the management of waste which would not otherwise be obtained.

#### Policy W8B (Location of waste management facilities).

Provides for waste management facilities to be provided at locations other than those identified in the waste plan where relevant criteria identified in Policy W8A are met. Such other locations, of relevance to this application include existing general industrial areas and areas allocated for general industrial use in adopted local plans.

#### Policy W10A (Planning Conditions and Obligations)

Provides for the Waste Planning Authority to impose conditions as appropriate to ensure the development is operated in an acceptable manner and undertaken in accordance with approved details.

#### Policy W10B (Content of Planning Applications and Material Considerations)

Requires all proposals for waste management to be accompanied by full planning applications to include such aspects as “siting, design and external appearance of buildings, plant, equipment and storage facilities, landscaping and suitable measures to mitigate and control unacceptable adverse effects, including noise and artificial lighting”.

#### Policy W10E (Content of Planning Applications and Material Considerations)

- (a) Supports applications for waste management development where provision is made to address, amongst other matters relevant to this application:
- (b) Effects on the amenity of neighbouring occupiers.
- (c) Effects on the landscape.
- (d) Impact on road traffic generation.

#### Policy W10F (Hours of Operation)

Provides for the WPA to impose operating hours in respect of safeguarding local amenity and the nature of the operations.

In the Tendring District Local Plan (Adopted November 2007) – as ‘saved’ through a Direction from the Secretary of State the following policies are of relevance:

#### Policy QL11: (Environmental Impacts)

Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

#### Policy COM23: (General Pollution)

States that permission will be refused for developments that have a significant

adverse effect through the release of pollutants.

Policy EN1: (Landscape Character)

Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

Policy EN13: (Sustainable Drainage Systems)

Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

In the Tendring District Local Plan: 2013-2033 and Beyond Proposed Submission Draft (November 2012), as amended by the Tendring District Local Plan Pre-Submission Focussed Changes (January 2014) the following policies are of relevance:

Policy SP 1 (Presumption in Favour of Sustainable Development)

Provides support for development which improves the economic, social and environmental conditions of the area.

Policy PPL 3 (The Rural Landscape)

The Council would seek to protect the rural landscape and refuse permission where overriding harm to character or appearance including to, amongst other aspects, skylines; prominent views; traditional buildings and native hedgerows.

The Essex County Council Replacement Waste Local Plan Submission document was submitted in June 2016 to the Secretary of State and has since undergone independent examination. The submitted policies, whilst at this juncture are unadopted they reflect the intention of the Waste Planning Authority towards waste related matters. The Proposed Modifications as recommended by the Secretary of State and approved by this Authority are at present out to public comment. The policies referred to below are unaffected by the modifications and should be considered as having weight and therefore remain material considerations in respect of applications of the nature being contemplated in this report.

Relevant policies within this document are:

(a) Policy 1 (Need for Waste Management Facilities).

Over the Plan period (up to 2032) the Plan identifies a shortfall in capacity of up to 1.5 million tonnes per annum by 2031/32 for the management of inert waste.

(b) Policy 6 (Open Waste Facilities)

This policy includes aggregate recycling activities and seeks to collocate such activities at mineral and waste landfill sites where such material is used in conjunction with restoration works.

(c) Policy 10 (Development Management Criteria)

Provides support for waste management development where such development can be demonstrated not to have an unacceptable impact (including cumulative impact with other existing development) on a list of issues, where relevant to this application include:

- (i) Local amenity
- (ii) Water quality
- (iii) Safety and capacity of road network
- (iv) Appearance quality and character of the landscape and visual environment.
- (v) Public open space, the definitive Public Rights of Way network
- (vi) The natural environment
- (vii) The historic environment
- (viii) The character and quality of the area through poor design.

(d) Policy 11 (Mitigating and Adapting to Climate Change)

Requires proposals for waste management development through their construction and operation are required “to minimise their potential contribution to climate change by reducing greenhouse gas emissions, incorporating energy and water efficient design measures and being adaptive to future climatic conditions”.

(e) Policy 12 (Transport and Access)

Provides support for waste management development where it would not have “an unacceptable impact on the efficiency and effective operation of the road network, including safety and capacity, local amenity and the environment.

Proposals for the transportation of waste by rail and/or water will be encouraged subject to other policies in this Plan. Where transportation by road is proposed. This will be permitted where the road network is suitable for use by Heavy Goods Vehicles or can be improved to accommodate such vehicles”.

Policy 12 sets a hierarchy for transport preference of the waste with the movement by rail or water at the top followed by access through an existing junction to the main road network via a suitable section of existing road. A final criterion for creation of a new road access is not relevant to this application.

### **National Policy Statements**

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

The NPPF sets the scene for placing sustainable development at the heart of the planning system. The Government sets a series of core planning principles to be applied at both plan making, as well as at decision making and that these include in relation to this application:

- (i) Seek to secure high quality design and a good standard of amenity in relation to existing occupants of land and buildings.
- (ii) Supporting the transition to a low carbon future in a changing climate and encouraging the use of renewable resources.
- (iii) Contribute to conserving and enhancing the natural environment and reducing pollution.

The NPPF seeks the delivery of sustainable development through the planning system encouraging and supporting economic growth and that this is achieved through proactively meeting the needs of business.

The NPPF seeks to mitigate, through appropriate planning decisions, the potential for noise and other adverse impacts including air quality, arising from a development on health and quality of life.

### National Planning Policy for Waste (NPPW)

The National Planning Policy for Waste was published October 2014 and sets out the national case for the management of wastes. The Introduction to this document states that it is “the Government’s ambition to work towards a more sustainable and efficient approach to resource use and management. Positive planning plays a pivotal role in delivering this country’s waste ambitions through: delivery of sustainable development and resource efficiency .....

The NPPW sets out under the heading of identifying waste management facility needs that Waste Planning Authorities in their preparation of local plans identify such opportunities to meet identified needs of their area for the management of waste streams.

Waste planning authorities should also:

- “undertake early and meaningful engagement with local communities so that plans, as far as possible, reflect a collective vision and set of agreed priorities when planning for sustainable waste management,.....;
  - drive waste management up the waste hierarchy ..... recognising the need for a mix of types and scale of facilities, and that adequate provision must be made for waste disposal;
  - consider the need for additional waste management capacity of more than local significance and reflect any requirement for waste management facilities identified nationally;
  - take into account any need for waste management, including for disposal of the residues from treated wastes, arising in more than one waste planning authority area but where only a limited number of facilities would be required;
  - work collaboratively in groups with other waste planning authorities, and in two-tier areas with district authorities, through the statutory duty to cooperate, to provide a suitable network of facilities to deliver sustainable waste management;
  - consider the extent to which the capacity of existing operational facilities would satisfy any identified need”.

For the determination of planning applications the policy statement requires waste planning authorities to amongst other matters

- “consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B [this referred to appendix sets out locational criteria] and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies;
- ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;
- concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced”

#### **4. CONSULTATIONS**

TENDRING DISTRICT COUNCIL – No objection.

ENVIRONMENT AGENCY (EA) – No objection. The EA state:

“This site currently holds an environmental permit for the disposal of waste in a landfill (EPR-PP3935CU). The permit allows for an annual waste input totalling 60,000 tonnes, waste categories include non-hazardous and inert waste only. We note that section 5.2.1 of the supporting proposal indicates that the level of waste accepted at the site will increase to 120,000 tonnes per annum. This would require the current environmental permit to be varied and environmental impact of such an increase to be assessed further”.

ESSEX WILDLIFE TRUST – Any comments received will be reported

NHS PROPERTY SERVICES - Any comments received will be reported

PUBLIC HEALTH AUTHORITY - Any comments received will be reported

HISTORIC ENGLAND (HE) – No objection. HE advises that “The application(s) should be determined in accordance with national and local policy guidance and on the basis of your specialist conservation advice”.

NATURAL ENGLAND (NE) - No objection, NE state in respect of other areas of interest:

- (i) Wildlife and Countryside Act 1981 (as amended) – no objection – no conditions requested. NE confirms that “This application is in close proximity to Ardleigh Gravel Pit Site of Special Scientific Interest (SSSI). Given the history of the land-fill site, and the on-going operations, Natural

England does not object to this application on the grounds that the application, as submitted, is unlikely to further damage or destroy the interest features for which Ardleigh Gravel Pit SSSI has been notified.

- (ii) In terms of Soils, Land Quality and Reclamation, NE support the return of the land to agriculture and advise that appropriate conditions on soil handling as set out in the Defra's Good Practice Guide for Handling Soils be used.
- (iii) Protected Species NE have made no comment noting they produce Standing Advice and such advice needs to be addressed against each application.
- (iv) Biodiversity enhancements – the application presents an opportunity to incorporate features beneficial to wildlife into its design.

NATIONAL PLANNING CASEWORK UNIT – Any comments received will be reported

UTILITIES:

ANGLIAN WATER AUTHORITY - Any comments received will be reported

COUNTY COUNCIL'S NOISE CONSULTANT (CNC) – No objection.

COUNTY COUNCIL'S AIR QUALITY CONSULTANT (CAQC) – No objection and notes that "The potential sources of dust are from vehicles using the haul roads and during the tipping of waste into the active cell. The recommended 'damping down' measure should be sufficient to reduce the dust arising from the activities. The landfill should be operated and maintained in line with the guidance specified by the Environment Agency to ensure the necessary standards are met. It is anticipated that the current dust control measures and the approved odour management plan are sufficient and adequate. The increase in contour height from 42m AOD to 44m AOD would have minimal effects on dust and odour issues.

HIGHWAY AUTHORITY (HA) – No objection. The HA Officer requests that a condition be imposed to restrict traffic movements to "All vehicles associated with the proposal shall use Slough Lane to the south of the proposal site and private access on and off the A120 Trunk Road only"

HIGHWAY AUTHORITY (Public Rights of Way) - Any comments received will be reported

LOCAL FLOOD AUTHORITY – No objection and recommend a condition to require the scheme to be carried out in accordance with the submitted drainage strategy.

PLACE SERVICES (ARBOROCULTURE) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection but goes on to state "In relation to the proposed development the below documentation should be provided:

Tree Survey/Tree Constraints Plans, Arboricultural Impact Appraisal and Arboricultural Method Statement/Tree Protection Plans This information should be prepared by a suitably qualified and experienced arboriculturist following the delivery process and methodology set out in the British Standard (BS5837:2012

‘Trees in relation to design, demolition and construction – Recommendations’). This survey information is required to establish the tree stock on site that may be impacted by the proposal and assess the protection requirement of the trees. Where trees are protected by a Tree Preservation Order or are situated within a Conservation Area these should be identified and details provided, although all trees, regardless of designation, will be considered on their own merits.

PLACE SERVICES (ECOLOGY) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS No objection subject to conditions to address ecological surveys and method statement.

Comment: Comments have been incorporated into recommended conditions.

PLACE SERVICES (LANDSCAPE) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection subject to conditions to clarify aspects of the proposals.

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

PLACE SERVICES (HISTORIC ENVIRONMENT) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection noting: “The proposal will not impact directly on existing archaeological deposits as these have been removed by the quarrying work. The applicant does discuss the setting of the listed buildings which is appropriate. However, the application lies 200m to the south of a large scheduled monument. Although the applicant has commented on the monument there is no indication that they have actually discussed the restoration proposals with Historic England nor is there any comment on the impact on the setting of the monument. It is recommended that Historic England is consulted on this application to identify if they have a specific view on the restoration plans”.

PLACE SERVICES (URBAN DESIGN) - No comment to make.

ARDLEIGH PARISH COUNCIL – Any comments received will be reported.

LOCAL MEMBER – TENDRING RURAL WEST – Any comments received will be reported.

## **5. REPRESENTATIONS**

Site, press and 22 neighbour notifications were undertaken. As a result one letter of representation has been received from the agent acting for the landowner. The agent comments relate to:

### Observation

### Comment

As an overarching statement the restoration proposals appear as a sensible expectation. Requests though additional detail to cover:

Noted.

- Extension of the cross sections to include how the levels would marry

into the surrounding landform.

- Clarification over availability, source, quantity and quality of sub and topsoils.
- Timescales
- Land drainage and surface water management
- Long term leachate and gas control measures and how they interact with agricultural afteruse.

Additional information relating to Pre and Post settlement Restoration Profiles – consider there to be insufficient detail on the submitted plans to address how the agricultural afteruse would extend into the adjoining land.

Noted - see appraisal.

Availability of both sub and topsoil and placement control during restoration. The agent considers that clarification should be given on these aspects as to what is already on site and if soils are brought onto site and to how quality standards are maintained.

Described in report.

Phasing and Timescales of the Restoration Proposals. The agent describes the process that envisages the landfill cells to be restored and released to the landowner on a phased basis. That internal delineation layout of the released land would be to the landowner's requirements. The agent would request details of the overall phasing and timescales being proposed.

Noted

Land Drainage and Surface Water Management – The agent identifies that the site soils are naturally clayey and loamy with impeded drainage. All site water drains currently to a lake on the north west boundary.

The agent seeks clarification on how the land drainage would be provided on restoration, how it provides for the agricultural afteruse and how it addresses slippage and erosion; how it minimises infiltration and establishes surface water connectivity to the perimeter ditches and lakes. Also further details of the perimeter surface water management and how it is

See Appraisal

managed and improves surface water drainage and management in the two lakes located one to the north west of Park Farm which drains into the second lake close to Slough Lane. The agent notes that this second lake is being temporary made available by provision of a pumping ring.

Environmental Management Systems and Agricultural Operations – The agent notes that the site will be subject to long term leachate/gas management systems. Such infrastructure will likely influence the long term agricultural potential of the land. Details of the management system should be provided to enable an understanding and implication on future agricultural operations.	Noted
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## **6. APPRAISAL**

The principal issues considered in respect of this proposal are:

- A. Principle of Development.
- B. Visual Impact
- C. Ecology
- D. Noise and Odour
- E. Traffic
- F. Landowner comments
- G. Proposed Material Recycling Facility and Tax Exempt Soil Blending Locations

### **A. PRINCIPLE OF DEVELOPMENT**

The landfill site has experienced considerable and uneven settlement across the previously completed cells including significant compression of those earlier infilled areas situated below the clay stockpiling area.

The normal method of infilling at landfill facilities is for waste to be placed in the relevant void/cell up to and usually slightly above the final site restoration contours levels to accommodate post settlement of the land. This apparent “overfilling” action is a standard type of activity that although producing a slightly higher pre settlement contour level seeks to address the ongoing settlement occurring in the majority of landfill sites whereby the insitu material settles over time and the land form drops to a post settlement contour. Dependant on the nature of the infill type, different settlement rates can be experienced with operators factoring in such settlement rates which have evolved over past experience and waste management guidance.

As the applicant has identified, previous settlement levels were calculated on the

then waste input type. With more recent recycling and recovery initiatives and diversion from landfill the nature of inputs to landfill sites such as the application site has changed significantly. As a result the change in composition has also changed the settlement rates for the waste. The applicant has identified that the earlier settlement rates were based on lower settlement although the waste industry are now working to higher settlement rates, as a result of the experience of the change in waste importation types. The Waste Planning Authority and Environment Agency would generally concur with this revised settlement rate experience. Experience from site monitoring visits at this particular site would confirm the uneven and rapid settlement that has occurred on parts of this site.

Given the nature of the landfill operations, there are a mosaic of cells across the site and the nature of the issue has been addressed earlier in this report. Left in the present state, these cells previously completed would continue to experience varying degrees of settlement.

When the process of pulling this present application together began some 2 years ago the applicant company had just then engaged a consultant to oversee the day to day running of the landfill site. This followed an earlier period by what can only be considered a period of the applicant company's "laxer" approach in site management. This resulted in a period when the site had given rise to local concerns over its management practices and resulting odour nuisance. This matter is addressed later in this appraisal section.

Since the employment of the consultant at the landfill site, a programme of tighter site management and operating practices has been instigated resulting in a vastly improved facility and cell management.

The preparation of this present application has arisen as a result of this uneven settlement.

Left to continue in its present form, the landfill site would continue to experience differential settlement. The nature of the settlement would not only preclude the successful agricultural afteruse of the land being fully achieved. There would be significant ponding issues, inability of the landowner to carry out agricultural operations and ongoing legacy problems of differential settlement affecting the landfill gas/odour management infrastructure.

To minimise disturbance it would be appropriate to address issues whilst the site is still active rather than having to retrospectively re-enter sites post completion to attempt redress.

The operator has the ability to address such issues now through raising certain areas of the site to address the earlier differential settlement, use of the insitu clay stockpile and managing the gas/leachate management infrastructure. Such action now would minimise the potential future need to revisit the land and address such settlement aspects.

The proposal to import a limited amount of material over a limited period and use of the insitu clay would not be seen as unreasonably extending the lifespan of the site.

The ability to secure appropriate pre settlement levels and hence the correct post settlement contours would enable the land to be successfully restored; allowing return of the land to a viable and sustainable agricultural afteruse.

In terms of generating “disruption” on the environment, the ongoing landfill activities take place alongside an adjacent mineral extraction and processing facility that itself has planning approval for the restoration of the mineral void through infilling. The early completion of the landfill restoration subject of this report would in itself then act as a future visual screen to its neighbouring longer term mineral/infilling activities.

Undertaking the development proposed in this location would not conflict with AWLP Policies W3A; W8A; W8B; W10B; W10E and SRWLP Policies 1; 6, 10 and 11 and ATDLP Policies QL11 COM23 and EN13 and STDLP Policies SP1 and PPL3.

## B. VISUAL IMPACT

In general the active landfill element of the site is well screened from outside vantage points being by its nature taking place below ground level in the cells. Individual properties to the north have views of the side flanks of the landfill site and historically the most prominent feature of the site has been the insitu clay stockpiles. Since the company's retention of the consultant, this stockpile has been dramatically reduced in height and is being utilised within the ongoing site restoration work. The proposed removal and reinstatement of the land beneath the clay stockpile location would be a considerable visual benefit to the properties north of the site.

The proposed raising of levels within parts of the site would have the effect of introducing a temporary visual disruption to views from sensitive properties to the north although the experience would not be considered to introduce any different activities to what currently exists or would take place under the previously approved scheme. In any event the above ground disturbance would be

significantly less than what had occurred when the clay stockpile was at its maximum.

Any temporary “higher” levels would settle to achieve a landscape to accommodate the agricultural afteruse and would be a return to an earlier experienced vista to include a rural landscape.

No objection has been raised by either the County Landscape Officer or Ecologist who have visited the site.

In respect of any perceived impacts on historic assets such as Ardleigh Park it is not considered that this asset would be impacted upon over and above what is already taking place. Restoration of the land would introduce a beneficial landform and afteruse in keeping with the historic nature of the land. Neither Historic England nor the Historic Buildings Officer have raised objection on the heritage asset aspect and the proposal is not considered to conflict with Policy

The landscape and visual impacts are not therefore considered in the longer term to be unacceptable and so the proposal does not conflict with AWLP Policies W3A; W8B; W10A; W10B; W10E and SRWLP Policy 10 and ATDLP Policies QL11; EN1 and COM23 and STDLP Policy PPL3.

#### C. ECOLOGY

The application footprint is already significantly disturbed and adjoining land has active mineral extraction. The ecological reports for the land have been set out above and mitigation and enhancement measures, supported by the County Ecologist who has also visited the site, have been addressed within the recommended conditions should planning approval be forthcoming.

Were planning approval refused the landform the land would have to be restored and this would need to be addressed through a further planning application. The landform as it stands already has perimeter hedgerows and within the northern half of the site some mature trees and scrub. These areas could be enhanced and would need to be addressed in any future application were this necessary to secure appropriate restoration should this present application be refused.

This particular application does not impact on ecological aspects such as to conflict with policy and has the potential to introduce significant ecological enhancement than existed under the previously consented scheme. Overall the ecological aspects do not conflict with AWLP Policies W10A; W10B; W10E; W10F or SRWLP Policies 6 & 10 and ATDLP Policies QL11 and EN1 and STDLP Policies SP1 and PPL3.

#### D. NOISE AND ODOUR

The landfill activities have not been a principal noise source and it is not anticipated that there would be any increase in noise generation over and above what had already been accounted for in the previous permission.

The general area, whilst of a rural nature does accommodate the adjacent mineral activities and associated mineral processing area together with the mixture of business activities in the industrial estate. Businesses located within the estate include scrap metal and breaking and significant HGV traffic movements.

The site operator already operates a system of white noise reversing alarms on site machinery and no changes are proposed in this respect. The CNC has reviewed the noise data and has not objected with the recommendation that noise levels are maintained for previously identified noise sensitive receptors around the site perimeter.

In respect of odour, the historical landfill activities have been a source of local complaint. The odour aspects of the landfill are regulated by the Environment Agency under the sites existing Permitting control. As part of this application the EA have not objected to the proposal.

It is of a measure of reassurance that the applicant's consultant's use of additional gas/leachate infrastructure management systems has resulted in improved odour control and this has been recognised by both the EA and Waste Planning Authority. It is understood that complaints to the EA have reduced considerably since the consultant began improvement works.

The proposal to address the differential settlement should be seen not only as an opportunity to secure a beneficial afteruse but that the provision of the gas/leachate infrastructure would be secure and able to operate in an efficient and effective manner without the risk of suffering failure through uneven settlement disrupting the system.

Waste infilling has reduced in recent years and the do nothing scenario would be for the site to be finished to previously approved levels within the remaining cells. Previously restored cells, some showing significant settlement, would remain in this ate, and likely to deteriorate. The gas/leachate management system, controlled through the Permitting regime, already experiences the settlement aspects and this could continue to potentially disrupt this pipework system and impact its effectiveness.

It is considered that were planning approval to be forthcoming, appropriate noise and dust control and monitoring conditions could be applied and overall noise or dust generation is not considered to conflict with AWLP Policies W10A; W10B; W10E; W10F or SRWLP Policies 6 &10 and ATDLP Policies QL11 and COM23 and STDLP Policies SP1 and PPL3.

## E. TRAFFIC

Traffic using the landfill/quarry site and parts of the industrial estates business traffic operate along a well used route of Slough Lane and through the private

access arrangements, onto the A120 road. This proposal would seek to continue the existing arrangements and the Highways Officer has supported this aspect.

What has been picked up on the regular site monitoring visits is the need to better address the wheel cleaning arrangements for site traffic. Slough Lane around both the Martells Industrial Estate/quarry/landfill entrance can be dirty from transfer of dirt/mud and other detritus from the various unauthorised laybys near the entrances, and used by HGV traffic, and from material carried out from the quarry/landfill entrance.

Slough Lane is heavily used by visiting HGV traffic to the existing business interest in the estate and adjoining areas. Whilst the majority of the HGV's that create the staining of Slough Lane by use of the layby aspects are not linked to the landfill, the trafficking of material from the access road is a matter that has been raised with the landfill operator and the former mineral company who are both users of the access track.

The joint use of the access road involves landfill traffic entering the landfill from the south up Slough Lane to turn right into the site entrance. HGV's travel across a 50 metre deep concreted bellmouth past the site wheelwash and then to the site weighbridge. Once off the weighbridge, HGVs then run on unbound compacted rubble to the landfill. On return the HGV's can access the wheelwash but this is too close to the bellmouth to have a useful effect of allowing any remaining material in the tyres to drop off/wheels to dry before accessing Slough Lane and then picking up any material on the Lane again.

Quarry traffic mostly wheeled loaders or articulated dump trucks use the same route into the landfill but the track branches inside the site to allow access into the quarry extraction area. On the way out, quarry plant is too wide to access the wheel bath and so travel directly over Slough Lane into the industrial estate/quarry processing area without effective cleaning.

Were this application refused then the landfill operator will need to address, through an application, the completion of the landfill activities to the previously approved restoration levels. As a consequence continued use of the access track would be required for the infilling period. However, use of the access track by the mineral operator will continue for a number of years beyond the landfill life and so potential for continued transfer of detritus from the inadequate track would continue.

During the progress of this application, both the landfill and quarry operators have been aware that this application was an opportunity to address this aspect and contribute to the improvement of the local area. Were planning approval forthcoming on this application then it is considered that a positive benefit/improvement could be forthcoming through the upgrading of the internal access track/wheel washing facilities. A condition would be recommended that within one month of the date of the permission a scheme of access track/wheelwashing management be submitted and within a further two months of the date of approval of the scheme it being implemented and completed (weather permitting). This would ensure confidence in the working practices of the landfill and commitment to improving the environmental impacts of any site generated

traffic.

The agent has also confirmed that given the delay in processing the application the operator would not be seeking the additional traffic generation and would operate to the previously approved movement figures.

Continuation of HGV traffic along the proposed routeing is seen as acceptable, avoids the impact on local villages and the provision of access road upgrading would help contribute to improving the local highway condition. Overall the traffic aspects would not be considered to conflict with AWLP Policies W3A; W8B; W10A; W10B; W10E; W10F or SRWLP Policies 6, 10 and 12; ATDLP Policies QL11 and COM23 and STDLP Policies SP1.

#### F. LANDOWNER COMMENTS

These have been outlined earlier in the report and whilst the landowner is supportive of the proposals he has been wary and questioned on previous occasions, to both the site operator, EA and WPA, the nature of the of the site activities as they relate to tipping heights and gradients and to how the slopes will marry into the surrounding landform.

It has been clear from meetings with the landowner and through his agent/operator that there has been a reluctance to fully appreciate how the site activities in respect of pre-settlement levels and final site restoration objectives are taking place and that landowner's interests are not being prejudiced.

The site activities have been operating "in the spirit" of the previous permission for some time now during the course of the preparation of this application. Whilst this has enabled the site to work towards completion it has not been ideal with the landowner feeling that the WPA has not had the control they need to monitor site proceedings. Site activities have been operating to the original scheme although with the uncertainty caused by the long period of preparation of this application site infilling and development of the gas/leachate infrastructure has reached stages that decisions on future revised levels could have passed the point whereby any remediation, as proposed in this application, could have been difficult to enter retrospectively and revisit.

The operator has considered a soil composition programme on restoration and this has been set out earlier in the report. The soil programme acknowledges the landowners aspirations and provides for an increased soil depth above the landfill capping. The provision for addressing the interaction of the gas/leachate pipework network and how this lies with future field/field boundaries can be accommodated through appropriate conditions as would the programme of drainage provision. The provision for how the land is ultimately worked would be accommodated through the aftercare requirements that set out the agricultural programme for working the land. The aftercare condition accommodates provision for annual site meetings at which interested parties including the operator, landowner and WPA, take part to monitor and discuss the appropriate management regime.

The operator has to have in place a landfill gas/leachate and gas flare programme to meet its Permitting requirements and for the effective management of the landfill

process. The landowner has on previous occasions expressed a view to seeing the infrastructure sunk below ground level to allow unimpeded agricultural operations across the site.

Sinking of infrastructure can be achieved on waste management sites and this can reduce visual impact from the removal of above ground infrastructure. However, it does raise issues of locating infrastructure once it is buried, access for maintenance with potential conflict of needing to dig whilst overlying crops exist. In this particular case the above ground/below ground issue is considered a neutral aspect from a planning viewpoint. However, there could be Permitting implications. Future final layout of the infrastructure/landscaping aspects across the landform is best left to how the site restoration progresses and what is pragmatic for the working of both interests. A recommended condition would address site restoration/landscaping to accommodate such above ground features.

The landowner has been wary of the gradients created on site and to how the landform slopes would marry into the surrounding landform. It can be difficult when viewing site activities to appreciate how profiles (both pre and post settlement) are taking place and how calculations on settlement rates would work out. The experience of settlement rates both within the waste industry and on this particular site has led to this particular application. Achieving the pre settlement levels would give comfort to all parties that on final settlement the land achieves a situation whereby it is suitable for agricultural use and the landfill infrastructure is maintained and secured so allowing the future management and monitoring of the cells to be undertaken successfully.

The restoration aspects are considered appropriate and supportive of the landowners aspirations for the future use of the land. The proposals are considered to be supportive of policies and do not conflict with AWLP Policies W3A; W8B; W10A; SRWLP Policies 1, 6, 10 and 11; ATDLP Policies QL11, COM23 and EN1 and STDLP Policies SP1 and PPL3.

#### G. PROPOSED RECYCLING FACILITY (RF) AND TAX EXEMPT SOIL BLENDING LOCATIONS

The applicant had originally intimated by reference to a previously approved RF facility identified for the piece of land behind the existing weighbridge and Slough Lane for this to continue. Likewise, reference has been made for the provision of accommodating on the clay stockpile dedicated areas of land to be provided for accepting soil handling for tax exemption purposes in relation to the landfill activities.

No precise details of the RF were provided in this application and the applicant has removed reference to pursuing that element.

In respect of the soil handling facility the applicant has confirmed the location of the platforms formed on the clay stockpile and for maximum stockpile heights to be 6 metres in height.

It is considered appropriate that were planning approval forthcoming on this application that any proposal for the soil stockpiling areas for tax exemption

purposes are controlled through condition.

It is considered that the stockpiling provisions would not conflict with AWLP Policies W3A; W8B; W10A; W10B; W10E and SRWLP Policies 1, 6 & 10 and ATDLP Policies QL11 and COM23 and STDLP Policies SP1 and PPL3.

## **7. CONCLUSION**

Restoration to previously approved post settlement levels has across parts of the site shown signs of differential settlement such that the achievability of a successful restoration and afteruse for agriculture would be questionable.

Furthermore, the integrity of the gas/leachate management infrastructure would be put at risk such that the system could be prejudiced. Seeking to re-access the land post restoration, could have a detrimental effect on the ongoing agricultural activities and further disruption on the land with associated ground disturbance, access restrictions and associated disruption from vehicle movements and effects on residential amenities.

Settlement rates have increased as a result of waste inputs types changing. As a consequence, and site experience, it would appear the most appropriate and least disruptive approach would be to address the differential settlement as part of the present site activities. This could be achieved by accommodating the raising of previously completed cells and continuation of infilling with the appropriate compaction methods and raising of levels within the active cells.

Continuation of the infilling would not introduce any further visual impacts over and above what is already experienced. There would be a longer term visual benefit from removal of the clay stockpiling presence. Longer term would see the vista improved through the presence of the agricultural landscape.

From an ecological aspect the landfill site does not have any significant ecological interest and has the opportunity to provide on restoration an enhanced ecological interest through the creation of a wildlife area.

Noise and odour are not considered to impact negatively on the environment whilst the addressing of the settlement aspects would have the benefit of securing the integrity of the gas/leachate management system for the long term benefit of the local environment. .

HGV traffic would continue to utilise the existing traffic routeing and a condition to

require early upgrading of the internal access track and wheel washing facilities would further improve the use of site vehicles on the public highway and public perception of the industrial activities in this area.

The report notes the provision of the soil stockpiling areas as being appropriate and controllable through condition.

On balance, the proposal is considered to comply with the relevant policies of the Development Plan taken as a whole and represents sustainable development in the context of the NPPF and accordingly planning permission should be granted

## **6. RECOMMENDED**

That for **ESS/30/16/TEN** planning permission be granted subject to the following conditions:

### **Duration**

1. All operations authorised or required by this permission shall cease, and all plant, machinery equipment, structures, buildings, stockpiles and other above ground infrastructure associated with the development, approved as part of this permission, less the gas flare subject to the other condition requirements below, shall be removed and the site restored in accordance with the conditions of this permission not later than 31<sup>st</sup> December 2023.

### **Approved Details**

2. Except as may be modified or required by the other conditions to this permission by the Waste Planning Authority, none of the uses, operations and activities associated with the development hereby approved shall be carried out other than in accordance with the details as set out in:
  - a) Planning Application form from Icon Consulting dated 8<sup>th</sup> April 2016.
  - b) Planning Supporting Statement dated 30<sup>th</sup> May 2016.
  - c) Drwg Nos: SP000 entitled "Section Identification Plan" dated January 2016.
  - d) Drwg Nos: SP001 entitled "Section A" dated January 2016.
  - e) Drwg Nos: SP002 entitled "Section B" dated January 2016.
  - f) Drwg Nos: SP003 entitled "Section C" dated January 2016.
  - g) Drwg Nos: SP004 entitled "Section D" dated January 2016
  - h) Drwg Nos: SP005 entitled "Section E" dated January 2016
  - i) Drwg Nos: SP005 entitled "Section F" dated January 2016

- j) Drwg Nos: LF001 entitled "Proposed Pre-Settlement Levels" dated January 2016
- k) Drwg Nos: LF002 entitled "Proposed Post Settlement Levels" dated January 2016
- l) Drwg Nos: SWP001 entitled "Post Settlement Surface Water Management" dated May 2016
- m) Drwg Nos: CL001 entitled "Landfill Cell Identification" dated May 2016
- n) Drwg Nos: RS001 entitled "Restoration Phasing Plan" dated May 2016
- o) Drwg Nos: TOP01 entitled "Topographical Survey 2015" dated May 2016
- p) Drwg Nos: TOP02 entitled "Additional Topographical Information of Eastern Flank" dated May 2016

as amended by:

- q) The e-mail from Michael Grahame dated 19<sup>th</sup> August 2016 and accompanying:
  - i) Soil Composition Addendum dated 19<sup>th</sup> August 2016.
- r) The e-mail from A Bingham to M Grahame dated 8<sup>th</sup> December 2016 and accompanying:
  - i) Bingham : Hall Associates "Landfill Restoration Drainage Strategy" Report Version 1 dated 9<sup>th</sup> December 2016.
- s) The e-mail from Michael Grahame dated 27<sup>th</sup> February 2017 and accompanying:
  - i) Wild Frontier Ecology report for Martells Quarry Landfill Site, Ardleigh, Essex. Dated February 2017.
- t) The e-mail from Michael Grahame dated 28<sup>th</sup> February 2017 and accompanying Supporting Statement and Environmental Statement clarification points dated 28<sup>th</sup> February 2017.
- u) The e-mail from Michael Grahame dated 12<sup>th</sup> March 2017 and clarification points and accompanying:
  - i) Drwg No S003 entitled "Section C" dated Jan 2016 and
  - ii) Drwg S004 entitled "Section D" dated Jan 2016.
- v) The e-mail from Michael Grahame dated 13<sup>th</sup> March 2017 and accompanying:
  - i) Drwg No: S007 entitled "Sections 01-02" dated Jan

2017.

- ii) Drwg No: S008 entitled "Sections 03-04" dated Jan 2017.

### **Availability of Plans**

3. A copy of this permission, including all documents hereby approved and any other documents subsequently approved in accordance with any conditions of this permission shall be kept available for inspection at the site during the prescribed working hours.

### **Protection of Existing Trees and Perimeter Vegetation**

4. Existing hedgerows and trees on the perimeter of, the site and identified for retention shall be retained shall not be felled, lopped, topped or removed without the prior written consent of the Waste Planning Authority. Any vegetation removed without consent, dying, being severely damaged or becoming seriously diseased (at any time during the development or aftercare period) shall be replaced with trees or bushes of such size and species as may be specified by the Waste Planning Authority, in the planting season immediately following any such occurrences.
5. No raising of existing ground levels on the western site boundary, to the south of the gas flare location, where it forms the boundary between the landfill site and the adjacent mineral extraction void shall take place until a scheme, based on Drwg No: S009 entitled " SW Boundary Retained Swale" dated Feb 2017, for the placing of material, as part of the marrying in of ground levels along the site boundary and in the vicinity of the boundary hedgerow/trees, to ensure their protection has been submitted to and received the written approval of the Waste Planning Authority. The scheme shall be implemented as approved in writing by the Waste Planning Authority. The scheme shall make provision for:
- a) Measures to demarcate any standoff from any affected hedgerow/trees.
  - b) Method of working along the western site boundary.
  - c) Appropriately scaled plans and cross sections of working area to show how final tipped site levels marry into the hedgerow/outside ground levels.
  - d) Timetabling of works.
  - e) Programme of works to achieve a) and b) above.
- For clarification all trees should be protected in accordance with BS: 5837 Trees in relation to design, demolition and construction – Recommendations.

### **Land to North of Site office/weighbridge**

6. No use of the land between the site office/weighbridge and Slough Lane

shall take place and the land shall be restored in accordance with Condition 40 of this permission.

### **Boundaries and Site Security**

7. The operator shall maintain and make stock proof where required the perimeter hedges and fences and protect the same from damage. Where the site boundary does not coincide with an existing hedge or fence line, the operator shall provide and maintain fencing as required for the duration of the development and aftercare period.

### **Ecological Interest**

8. Prior to entry into any cell area or area of previously as depicted on Drwg Nos: CL001 entitled "Landfill Cell Identification" dated May 2016, written confirmation shall be made to the Waste Planning Authority from a qualified ecologist that there are no protected species interests within that part of the site that is being disturbed. Such confirmation shall relate to a period not more than 6 days prior to entry of the above locations. In the event of habitats/species being identified within any area entered then no further works shall take place until a qualified ecologist has assessed the area and an appropriate scheme of mitigation has been submitted and received the written approval of the Waste Planning Authority.

### **Bird Nesting**

9. No vegetation shall be physically disturbed during the bird nesting season (March to August inclusive) unless the vegetation identified for removal has been surveyed to confirm the absence of active bird nesting.

### **Topographical site survey**

10. Within 3 months of the date of this permission updated topographical surveys based on Drwg Nos: Drwg Nos: TOP01 entitled "Topographical Survey 2015" dated May 2016 and Drwg Nos: TOP02 entitled "Additional Topographical Information of Eastern Flank" dated May 2016 shall be submitted to the Waste Planning Authority. The surveys shall identify and quantify any onsite soil making material, sub soil and topsoil present and available for site restoration.

### **Topographical level surveys**

11. A survey of site levels shall be carried out:
  - i. Within 6 months of the date of this permission
  - ii. On completion of final infilling to pre settlement levels
  - iii. Within 4 years of the date of this permission to confirm post settlement levels.

A copy of the survey shall be submitted to the Waste Planning Authority within 14 days of being undertaken.

### **Vehicle Routeing**

12. A written record shall be maintained at the site office of all movements in/out of the site by HGVs. Such records shall contain the vehicle's registration and operating company's identity and time/date of movement. The records shall be made available for inspection by the Waste Planning Authority if requested and retained for the duration of the life of the development permitted.
13. All HGV traffic using the application land shall only access and exit the site from the A120 via the private access off the A120 over Bromley Road and along Slough Lane to the application site entrance. The route being set out in Section 12.3.1 of the Transport Statement of the Environmental Statement dated February 2017.

#### **Highway Cleanliness**

14. No mud or dirt shall be carried out onto the public highway by vehicles using the site.

#### **Haul Road maintenance**

15. Within one month of the date of this permission a scheme to address the site access road to remove the transport of mud/other detritus onto Slough Lane shall be submitted to the Waste Planning Authority. The scheme shall then be implemented within two months of the date of the approval in writing by the Waste Planning Authority. The scheme shall make provision for:
  - i) Hard bound surfacing of the access road.
  - ii) New/relocation of the wheelwash facilities.
  - iii) Programme of maintenance during the life of the development approved by this permission.

#### **HGV Movements**

16. The total numbers of Heavy Goods Vehicle (HGV) movements entering or leaving the site during any single day shall not exceed the following daily overall limits:

Mondays to Fridays 100 movements (50 in/50 out)

Saturdays: 50 movements (25 in/25 out)

Sundays and Bank/Public Holidays:      None

#### **Sheeting Vehicles**

17. All loaded HGVs shall be sheeted with fully serviceable covering before leaving the site.

#### **Vehicle Maintenance**

18. No servicing, maintenance or testing of vehicles or plant shall take place other than within the landfill void area or plant area.

(For the purposes of this condition the restriction shall not apply to unforeseen vehicle breakdowns).

## **Environmental Protection**

### **Hours of Operation**

19. a) No operations authorised or required by this permission shall be carried out on the site except between the following times:-

0800 – 1800 hours	Mondays to Fridays.
0800 – 1300 hours	Saturdays.

The site office situated within the landfill site proper adjacent the temporary gas flare shall have operating hours of:

0800 – 2200 hours	Mondays to Fridays.
0800 – 1700 hours	Saturdays.

- b) There shall be no working on Sundays or Bank/National Holidays.
- c) This condition shall not apply in cases of emergency when life, limb or property is in danger. The Waste Planning Authority shall be notified, in writing, as soon as possible after the occurrence of any such emergency.

## **Rubbish**

20. All rubbish and scrap materials generated on the site shall be collected and stored in a screened position within the site area until such time as they may be properly disposed of to a suitably licensed waste disposal site.
21. No waste material/soil or soil forming material imported into the application area shall be handled other than within the existing void area or for the purposes of the handling of soils in the tax exempt areas identified on Drg nos: Drwg No: S007 entitled "Sections 01-02" dated Jan 2017 and Drwg No: S008 entitled "Sections 03-04" dated Jan 2017. Stockpiles shall not exceed 6 metres in height. From their base.

## **Burning**

22. No waste or other materials shall be burnt on the site.

## **Lighting**

23. No artificial external lighting, whether free standing or affixed to infrastructure, that may be required to be provided within the application site shall be installed until a scheme of lighting at the site has been submitted to, and received the written approval of, the Waste Planning Authority. The scheme shall be implemented in accordance with the details as approved. The submitted scheme shall make provision for:
- a) Lighting point location.
  - b) Lighting design details.
  - c) Proposed Illuminance coverage.
  - d) Assessment of sky glow.

- e) Lighting does not illuminate boundary trees and hedgerows.
- f) Potential effects on nature conservation interests.

### **Noise - Normal Levels**

24. Except for temporary operations, the free field Equivalent Continuous Noise Level (LAeq,1hr) at noise sensitive premises adjoining the site, due to operations in the site, shall not exceed 1h, the LAeq levels as set out in the following table and identified on the attached plan no: ESS/30/16/TEN/A entitled "Noise Monitoring Locations":

Receptor Location	Criterion / dB LAeq,1hr
White House	55 dB
Carringtons	55 dB

Measurements shall be made no closer than 3.5m to the façade of properties or other reflective surface and shall have regard to the effects of extraneous noise and shall be corrected for any such effects. . In the case of complaint(s) noise may be required to be measured at façade(s) and in this event these measurements will take precedence. Noise limits are set at 1.2 to 1.5 metres above ground level at monitoring points and 1.2 metres above ground level at a point 1 metre from façades. The façade limits include a +3dB(A) correction.

In the case of complaint(s) noise may be required to be measured at façade(s) and in this event these measurements will take precedence. Noise limits are set at 1.2 to 1.5 metres above ground level at monitoring points and 1.2 metres above ground level at a point 1 metre from façades. The façade limits include a +3dB(A) correction.

### **Loudspeakers**

25. No sound reproduction or amplification equipment (including public address systems, loudspeakers etc) which is audible at the nearest noise sensitive location shall be installed or operated on the site without the prior written approval of the Waste Planning Authority.

### **Reversing alarms**

26. Only white noise emitting reversing alarms shall be employed on vehicles and plant engaged in site activities and under the control of the applicant.

### **Dust**

27. Within 2 months of the date of this permission a scheme for the control of dust monitoring/mitigation at the site shall be submitted to the Waste Planning Authority. The scheme shall be implemented in accordance with the details as approved, in writing, by the Waste Planning Authority. The submitted scheme shall make provision for:

- g) A dust control plan.
- h) A dust monitoring plan to include:
  - I. The location(s) of dust monitoring points.
  - II. The type of monitoring equipment to be used, the pollutant to be monitored and the standard to be monitored against.
  - III. A programme of monitoring to commence prior to soil stripping to provide a baseline against which to compare future monitoring.
  - IV. A programme of implementation to include frequency of monitoring and locations during the various phasing works
  - V. A log of complaints from the public and a record of the measures taken to be kept and submitted to the Waste Planning Authority on request.
  - VI. The results of dust monitoring over each three month period shall be submitted to the Waste Planning Authority within 21 days of the end of each three month monitoring period.

#### **Surface Water Drainage and Pollution Protection**

- 28. Any oil, fuel, lubricant, paint or solvent within the site shall be stored so as to prevent such materials contaminating topsoil or subsoil or reaching any watercourse.
- 29.
  - a) Any fixed or free standing oil or fuel tanks shall be surrounded by a fully sealed impermeable enclosure with a capacity not less than 110% of that of the tanks so as to fully contain their contents in the event of any spillage;
  - b) If there is multiple tankage, the enclosure shall have a capacity not less than 110% of the largest tank;
  - c) All filling points, vents and sight glasses shall be within the sealed impermeable enclosure; and
  - d) There shall be no drain through the impermeable enclosure. (The applicant's attention is drawn to the requirement set out in BS 799 Part 5: 1987.)
- 30. All foul drainage shall be contained within a sealed and watertight cesspit fitted with a level warning device constructed to BS 6297 "Design and Installation of Small Sewage Treatment Works and Cesspools" (1983).
- 31. No drainage from the site, or from areas immediately adjoining the site, shall be interrupted either partially or fully by the operations hereby approved.
- 32. No foul or contaminated surface water or trade effluent shall be discharged

from the site into either the ground water or surface water drainage systems except as may be permitted under other legislation.

### **Fixed Plant and Buildings**

33. Notwithstanding the provisions of Article 3 and Part 19 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended, no plant/structures whether fixed or static, lagoons, stocking of wastes or other materials or other structures shall be erected or placed on the site, except as provided for under other conditions of this permission.

### **Handling and Storage of Soil and Soil Forming Material**

34. Prior to the handling of any soils whether insitu or having been in storage then any excess vegetation shall be removed from the areas to be stripped.

The term 'excess vegetation' in this condition means all vegetation above a height of 154mm (6") above ground level.

35. No operations involving soil lifting/replacement shall take place between the months of October to March inclusive.
36. No movement of soils or soil-making materials shall take place except when the full depth of soil to be stripped or otherwise transported is in a 'suitably dry' soil moisture condition. Suitably dry means the soils shall be sufficiently dry for the topsoil to be separated from the subsoil without difficulty so that it is not damaged by machinery passage over it.

For clarity, the criteria for determining "suitably dry soil moisture conditions" and "dry and friable" is based on a field assessment of the soils wetness in relation to its lower plastic limit. The assessment should be made by attempting to roll a ball of soil into a thread on the surface of a clean plain glazed tile (or plate glass square) using light pressure from the flat of the hand. If the soil crumbles before a long thread of 3mm diameter can be formed, the soil is dry enough to move. The assessment should be carried out on representative samples of each major soil type.

37. All suitable soils and soil-making material shall be recovered where practicable for use in restoration and separately stored in locations that have received the prior written approval of the Waste Planning Authority.
38. Any topsoil, subsoil, and soil-making material mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability and shall not be traversed by heavy vehicles or machinery except during stacking and removal for re-spreading during the restoration of the site. They shall be graded and seeded with a suitable low maintenance grass seed mixture in the first available growing season following their construction. The sward shall be managed in accordance with correct agricultural management techniques throughout the period of storage.
39. All soil and soil forming material storage mounds or have been restored, shall be kept free of weeds and all necessary steps shall be taken to

destroy weed at an early stage of growth to prevent seeding.

### **Restoration**

40. Within 3 months of the date of this permission, a restoration scheme based on Drwg Nos: RS001 entitled "Restoration Phasing Plan" dated May 2016 shall be submitted to the Waste Planning Authority. The scheme shall then only be implemented as approved, or as may subsequently be approved, in writing, by the Waste Planning Authority. The submitted scheme shall make provision for:-
- a) Reinstatement programme including soil profiles and depths across the restored landform.
  - b) The handling, storage and management of any imported soil making material, sub soil and topsoil identified for site restoration.
  - c) Arrangements for analysing the material in b) above to ensure the appropriate material is suitable for the agricultural afteruse of the land.
  - d) Measures for how soil making and soils would be laid and to what depths.
  - e) Measures for ripping and stone/other detritus removal that would hinder agricultural afteruse are to be removed and what sizes being removed from each of the reinstatement layers.
  - f) Removal of all site structures, including and not limited to gas flare and concrete hardstandings.
  - g) Site water drainage both surface and sub surface and erosion aspects are minimised.
  - h) The land being free from ponding and capable of receiving an effective artificial under-drainage system and agricultural machinery is not unduly restricted.
  - i) How the landfill gas and leachate infrastructure provision would influence final landform design and field delineation and implications for undertaking future agricultural activities.
  - j) Gradients do not exceed the post settlement levels shown on Drwg No S003 entitled "Section C" dated Jan 2016 and Drwg S004 entitled "Section D" dated Jan 2016.
  - k) Programme of implementation.

### **Landscaping**

41. Within 3 months of the date of this permission a scheme of landscaping, based on Drg no: 1910/005/K entitled "Restoration Proposals" dated March 2012 has been submitted to the Waste Planning Authority. The scheme shall be implemented in accordance with the details as approved, in writing,

by the Waste Planning Authority. The submitted scheme shall make provision for:

- a) A landscape management plan to include the recommendations of the Bingham : Hall Associates “Landfill Restoration Drainage Strategy” Report Version 1 dated 9<sup>th</sup> December 2016 in respect of the reed planting of the drainage ditches and management.
- b) Provision of a wildlife habitat area – taking account of the recommendation in Section 9 page 20 of the Wild Frontier Ecology February 2017 report.
- c) Husbandry management of the existing hedgerows/mature trees.
- d) Layout of fields and fencing/hedgerow design, detail and management.
- e) Ground preparation works, including soil assessment, ripping, de-stoning and fertilising etc.
- f) Planting species including berry bearing shrubs, size, density, numbers and location.
- g) Grass seed mixes and rates.
- h) A programme of implementation to include the provision for planting during the first available season following restoration.
- i) A programme of management, maintenance and implementation timetable for the above.

Trees, shrubs and hedges planted in accordance with the approved scheme shall be maintained and any plants which at any time during the life of this permission including the aftercare period, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing with the Waste Planning Authority.

#### **Agricultural Aftercare**

42. Within six months of the date of this permission an agricultural aftercare scheme providing for such steps as may be necessary to bring the land to the required standard for use as agriculture shall be submitted for the approval of the Waste Planning Authority. The agricultural aftercare scheme shall be implemented in accordance with the details as approved in writing, by the Waste Planning Authority. The submitted scheme shall specify the steps to be carried out and their timing within a five year aftercare period, or such longer period as may be proposed, and shall make provision for:-

- i. soil analysis;
- ii. planting
- iii. cultivating
- iv. fertilising
- v. watering
- vi. drainage
- vii. weed control measures
- viii. grazing management
- ix. agricultural management practices in vicinity of perimeter hedgerows and trees
- x. keeping of records; and
- xi. annual meetings with representatives of the Waste Planning Authority, Natural England, landowners and interested parties to review performance.

The period of agricultural aftercare for the site or any part of it shall commence on the date of written certification by the Waste Planning Authority that the site or, as the case may be, the specified part of it, has been satisfactorily restored.

### **Amenity Aftercare**

43. Within six months of the date of this permission an amenity aftercare scheme providing for such steps as may be necessary to bring the land to the required standard for use as a wildlife habitat as provided for in the recommendation in Section 9 page 20 of the Wild Frontier Ecology February 2017 report shall be submitted for the approval of the Waste Planning Authority. The amenity aftercare scheme shall be implemented in accordance with the details as approved, or as may subsequently be approved, in writing, by the Waste Planning Authority. The submitted scheme shall specify the steps to be carried out and their timing within a five year aftercare period, or such longer period as may be proposed, and shall make provision for:-

- (i) a management plan and strategy;
- (ii) a programme to allow for monitoring the establishment of the habitat which shall provide for:
  - (a) such work as is necessary to enable the establishment of

(ii) above; and

(b) maintenance arrangements to include such amendments to drainage patterns, and replacement and/or control of plant species as required to achieve the objectives;

(c) For any woodland provision the:  
cultivation practices;  
post-restoration secondary soil treatments;  
soil analysis;  
fertiliser applications, based on soil analysis;  
drainage;  
tree planting and maintenance;  
weed control;

(d) annual meetings with representatives of the Waste Planning Authority and landowners to review performance.

All areas the subject of amenity aftercare shall be clearly defined on a plan together with the separate demarcation of areas as necessary according to differences in management.

The period of amenity aftercare for the site or any part of it shall commence on the date of written certification by the Waste Planning Authority that the site or, as the case may be, the specified part of it has been satisfactorily restored.

#### **Cessation – Site General**

44. In the event of site operations being discontinued for six months in the period specified in Condition 1 of this permission then the land, or that part of it still remaining to be returned to its approved afteruse condition, shall be restored in accordance with a scheme submitted by the developer which has the written approval of the Waste Planning Authority. The scheme shall be submitted not later than one month from the Waste Planning Authority's issue of written notice that it is of the opinion that infilling has not taken place in the six month period and shall include the requirements of Conditions 40 - 43 inclusive of this permission. The scheme, as approved by the Waste Planning Authority, shall be commenced within three months of notification of determination of the scheme and shall be fully implemented within a further period of 12 months or such other period as may be approved by the Waste Planning Authority.

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## **7. BACKGROUND PAPERS**

Consultation replies  
Representations

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**THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (as amended)**

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

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

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## **EQUALITIES IMPACT ASSESSMENT**

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

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

The Waste Planning Authority has engaged with the applicant prior to submission and during the consultation process for the application, advising on the validation requirements and likely issues. As a result of engagement through the encouragement and assistance of the Waste Planning Authority the applicant and third parties have been involved in negotiations over various aspects of the application resulting in beneficial aspects relating to provision of public access and nature conservation as set out in the report.

Throughout the determination of the application, the applicant has been kept informed of comments made on the application and general progress. Additionally, the applicant has been given the opportunity to address any issues with the aim of providing a timely decision.

### **LOCAL MEMBER NOTIFICATION**

TENDRING RURAL WEST

**ESS/30/16/TEN****ENVIRONMENTAL IMPACT ASSESSMENT (EIA) FOR:**Proposal: **For the continued restoration of former quarry void by means of landfill**Location: Land at **Martells Quarry, Slough Lane, Ardleigh****Ref: ESS/30/16/TEN**

An Environmental Statement (ES) has been submitted with the application and examines the potential impact of the proposal on the natural and built environment and considers, where necessary, ameliorative measures to reduce and minimise that potential impact. The EIA process has been undertaken with respect to that part of the site where there are proposed changes. The assessment has been undertaken according to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 and through the consultation process the ES has been revised as required and mitigation measures introduced either by amendments to the proposal or as suggested planning conditions. The assessment covers the following:-

Noise  
Dust and Odour  
Air Quality  
Flood Risk  
Landscape and Visual  
Cultural heritage  
Traffic  
Ecology

A summary of the potential effects assessed in the ES are set out below.

**Noise**

The assessment calculated the predicted noise levels for the proposed development. A noise survey was undertaken to assess the change in noise levels from any increase in height difference from those previously approved.

The noise readings were taken incorporating the working of the compactor, visiting vehicles and towing of vehicle by the tracked shovel.

A number of surrounding properties identified including Park Farm House; Park Farm Cottages and Ardleigh Park. Park Farm House was taken as being the representative sensitive location with intervening land identified as being uniformly level and in agricultural use.

Calculations were undertaken to consider the elevated operational levels replicating per settlement levels resulting in noise generation of less than 1 dB (LAeq T). Such difference being considered not detectable.

Mitigation – The conclusion was that a survey of plant undertaken and predicted noise difference being less than 1 dB as being minimal and not perceptible

Comments:

A scheme for undertaking monitoring and the setting of noise generation limits at locations representative of adjacent residential properties could be secured through condition.

### **Dust/Air Quality/Odour**

The assessment noted that as a baseline the application footprint is already in use as a landfill site.

The assessment acknowledged that dust could be generated from the haul road and cell areas.

That for Air quality the site had in place gas flare provision that dealt with landfill emissions. As with odour which the assessment noted the nature of the waste accepted at the site minimises the potential for odour generation. Use of rapid cover of waste reduces the potential for odour generation and before the wastes start to decompose. That odour issues were regulated through the Environmental Permit.

Mitigation

The assessment recommended that for dust standard “dampening down” actions could take place. Such actions could also take place within the cell arrangements.

Air Quality and Odour issues were regulated through the Environmental Permit.

Comments:

Appropriate conditions could be imposed to secure dust management

### **Flood Risk Assessment**

The assessment addressed the existing surface water drainage; the overlying hydrological regime; the underlying hydrological conditions and historic flooding records.

The assessment noted that the site lies within the catchment of the River Colne with the nearest watercourse tributary at some 540 metres north west of the application footprint that fed into the Colne via Salary Brook.

The assessment noted that there were 2 small lakes adjacent the site, remnants of former mineral workings. One lake located to the north east has no connection to the application land. The lake to the north west forms the outfall for non-contaminated site drainage.

The assessment noted that all site surface water is diverted away from the cells. Surface water is discharged via balancing lagoon and attenuation channels and then to the brook. This procedure would continue under the present proposal.

There are no records of historic flooding in the locality.

Mitigation.

The assessment noted that the proposed application does not alter area of land to be regraded and therefore no increase in surface water runoff generated over the site.

Comment: Surface water management for the restored land could be addressed through appropriate conditions.

### **Landscape and Visual**

The assessment undertaken included a landscape and visual impact assessment (LVIA) of potential effects on the local landscape character and quality, together with an assessment of the sites visibility from the surrounding area.

The assessment considered the baseline with a description of the landscape noting the Natural England countryside character listing as within the Northern Thames Basin National Character Area and within the County's Landscape Character Assessment as Tendring Plain characterised as large flat farmland plateau dominated by arable agriculture and small narrow valleys.

There are 2 recorded Sites of Special Scientific Interest (SSSI) located on the northern site boundary and on part of the internal haul road and comprise locations of geological interest (glacial and inter glacial deposits) that are buried features and would remain unaffected by the site activities.

The assessment considered viewpoints from outside vantage points comprising 2 near field viewpoints and six intermediate distance locations on a triangle of roads with the application site situated in the centre.

The assessment confirmed that site boundary vegetation would be retained. Internal fields would be created and the landscape would accommodate a slightly domed landform with a difference of some 5 metres between centre and edge.

At pre settlement levels created by the importation aspects and create no additional impact than what already occurs to the ongoing landfilling practices. Whilst the dome effect would be visible its settling would further reduce the impact.

The assessment considered that the change from landfill to agriculture would have a high positive effect and therefore a major benefit to the landscape character.

Mitigation measures: Retention of the perimeter vegetation would assist in the sites screening. Reduction of the insitu clay stockpile would further reduce the visual aspect of the development.

Comments: Conditioning the proposal to the proposed working programme and retention of the perimeter vegetation could be secured.

## **Cultural Heritage**

The assessment identified existing features in the landscape and gave consideration to both important heritage assets in wider landscape as well as potential effects on the interested heritage assets.

The assessment confirmed that there were no World Heritage Sites nor Battlefields or Registered Parks and Gardens in the search area around the application land.

The assessment found a Scheduled Monument, Iron Age cemetery, within 200 metres and a Listed Building, Ardleigh Park, within 500 metres. In addition archaeological searches identified primarily spot finds and crop marks within 500 metres.

Mitigation: The assessment noted that the Scheduled Monument was outside the application footprint and would remain unaffected by the proposal.

For the Listed Building no impacts were identified and the restoration of the land would be considered a positive benefit to the heritage asset by removing the landform feature and achieving the historic agricultural character of the land.

Mitigation: Retention of the perimeter vegetation would assist in the screening of the heritage asset.

Comments: Conditioning the proposal to the proposed working programme and retention of the perimeter vegetation could be secured.

## **Traffic**

This assessment considered the existing site access arrangements; the proportion of existing and proposed trips generated by the site and impact on the local highway.

The assessment noted that Slough Lane as being some 5.5 metres wide with no accompanying footpaths or street lighting.

It was confirmed that site traffic leaves Slough Lane southwards to intersect with Bromley Road before access is taken onto the A120 via slip road near the existing Ardleigh Waste Transfer Station.

The assessment noted that currently there are permitted some 100 HGV movements per day (50 in/50out) during the time extension to 2020 a total of up to 100 imports would be required equivalent to 5 additional vehicles per hour or 1 every 12 minutes.

The assessment predicted that between 2020 – 2022, with the soil importing, HGV's would reduce to 25 per day with the last 2 years import volumes would be half of the current maximum.

The assessment considered that the existing traffic routing would be continued. It was noted that there was only one residential property along the route.

The assessment considered that the proportionate increase was low and no significant impact on existing highway capacity expected.

Mitigation: The assessment confirmed that site traffic would utilise the existing site access and routing arrangements as previously undertaken.

Comments: Appropriate conditions could be imposed to address haul road upgrading and routeing arrangements.

## **Ecology**

The assessment identified the baseline conditions and included a desk top study; site visit and habitat survey including Protected species and faunal surveys.

The assessment found limited vegetation with shrub and bramble on previously disturbed areas. There were a number of adjoining ponds and that no floral species of note were recorded.

The assessment considered the nature of the site infrastructure as not being suitable for bat use nor were the onsite trees of likely bat interest.

On site grassland was not considered of any significant intrinsic ecological value being species poor and subject to an intensive management regime. The assessment considered no specific mitigation needed.

The ecological assessment considered there to be opportunity of providing ecological habitat than currently exists.

Mitigation: The Ecology report considered mitigation measures to include:

- i. Retention of hedgerow trees.
- ii. Avoidance of night time lighting and if required that such lighting does not illuminate perimeter trees.
- iii. Any presence of protected species found moving onto site then appropriate qualified ecologist to investigate and advise on way forward.

Also considered enhancement measures to include:

- i. Provision of a wildlife area in arable restoration, this location could be informed through an ecological survey being undertaken before the landform is given over to arable use.

Conclusion was that the restoration could provide additional wildlife habitat .consistent with the Local Wildlife Site. Overall the proposal was found to result in no net loss of biodiversity and would result in a small gain through the restoration programme.

#### Comments

Appropriate conditions could be imposed to secure the mitigation and enhancement aspects.



# DR/12/17

committee DEVELOPMENT & REGULATION

date 24 March 2017

## MINERALS AND WASTE DEVELOPMENT

Proposal: **CONTINUATION OF USE OF WASTE RECYCLING FACILITY (AS AMENDED BY PLANNING PERMISSION ESS/29/16/COL) WITHOUT COMPLIANCE WITH CONDITION 3 (OPERATING HOURS) TO ALLOW DUST CARTS TO OPERATE FROM THE SITE ON GOOD FRIDAY APRIL 14<sup>TH</sup> 2017 BETWEEN THE HOURS OF 06:00 – 16:30 AND CONDITION 4 (HGV MOVEMENT TIMES) TO ALLOW 24 MOVEMENTS ON GOOD FRIDAY 14<sup>TH</sup> APRIL 2017.**

Location: **LAND AT GREENACRES, PACKARDS LANE, WORMINGFORD**

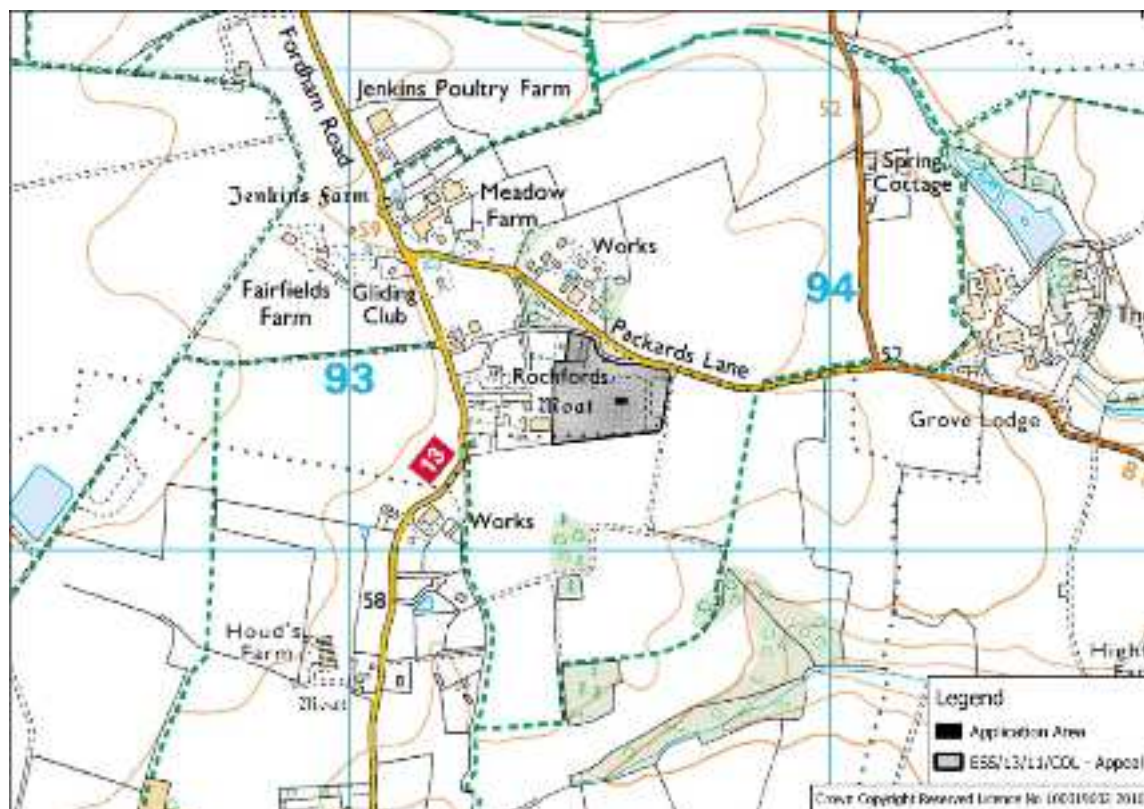
Ref: **ESS/18/17/COL**

Applicant: **CSH Environmental**

Report by Director of Operations, Environment and Economy

Enquiries to: Terry Burns Tel: 03330 136440

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





In November 2016 permission ESS/29/16/COL was permitted for the provision for bays to be constructed adjacent the recovery building to accommodate the timber recycling activities.

Ongoing landscaping to complete the required scheme and habitat management aspects are being completed later this planting season.

As reported at previous committee meetings, the history of this site has seen the involvement of the local action group, Residents Against Skip Hire (RASH), principally comprising the occupiers of the sites three nearest local properties. Their involvement post the appeal Inquiry has continued and relations between the local residents and the site operator have been strained with the site activities having generated regular complaints to the Waste Planning Authority (WPA). These complaints have amongst other matters comprised noise, reversing beepers, odour, lighting, cladding requirements of the buildings and positioning of bunding.

In an effort to establish better relations and understanding on both sides of each other's concerns, a site liaison meeting has been established comprising the site operators, two of the three local residents (the third being party to minutes and invites), Local Member, County Council Portfolio Holder for Waste; Parish Councils (both Wormingford and Fordham), the WPA and more latterly the Environment Agency. Invites are also extended to the District Council Member and Planning and Environmental Health Officers.

The meetings that have taken place to date have been supported by all parties and whilst issues remain, these get raised at the meetings which themselves maintain an avenue for the locals to see site progress and have face to face contact with interested parties.

However more recently one of the residents has moved away and the other resident who attended has been considering withdrawing, questioning the use of the meetings when it appears the operator continues to flout planning controls; seeks relaxation of conditions it was bound to at the appeal and the lack of support residents feel they get from an ineffective Waste Planning and Environment Agency attendance.

The Waste Planning Authority (WPA) has been working to help steer the operator to achieving its responsibilities as well as addressing activities that have developed as the business has grown and which require regularising. The WPA has had, and continues to progress, meetings with both the operator and agent (together and separately) in identifying and working through the site operator's activities and future aspirations whilst also liaising with local residents separately as well as acting as a mediator between the parties, where appropriate. This approach is in accordance with the authority's Local Enforcement and Site Monitoring Plan.

Whilst the liaison meeting site visits have been used to enable the operator to show site progress, the meetings themselves have provided an opportunity to outline the forward work programme in terms of the issues still needing to be addressed. Included in this work programme has been the following:

- (i) Provision of the staff welfare cabin. This arose as a requirement to provide appropriate clean and dirty separation facilities for the staff when arriving and changing for work and their interaction with their rest/eating area. This matter has now been dealt with as addressed earlier in this report.
- (ii) Use of the approved workshop end bay for dry storage of bales and regularising the change in the design of part of the northern site perimeter fence. This was approved by this committee at the July meeting.
- (iii) Regularising the wood processing activities.
- (iv) Addressing the outside storage of filled skips awaiting removal off site.
- (v) Addressing the reversing beepers on highway vehicles such as the dustcarts and skip lorries.

Ongoing aspects that are being discussed with the operator to reflect the outstanding matters are those relating to (iv) and (v) above.

## 2. PROPOSAL

This application seeks without compliance with Condition 3 (Operating hours) to allow dust carts to operate from the site on Good Friday April 14<sup>th</sup> 2017 between the hours of 06:00 – 16:30 and Condition 4 (HGV movement times) to allow 24 movements on Good Friday 14<sup>th</sup> April 2017.

*In support of the application the applicant confirms that “The 12 refuse vehicles will be parked in line on the access road Thursday evening in the area hatched red on the attached plan and on return the vehicles will be parked in the area coloured blue ready for emptying from 07:30 on Saturday morning.*

*The parked vehicles will be located well away from local residents and their operation in the manner suggested is unlikely to cause any effects on local amenity. All vehicles leaving the site will exit the site by turning right only, towards the B1508 as per Condition 4 (v) of the planning consent.*

*In commercial and waste management terms it is essential for CSH Environmental to service their customer base on Good Friday in line with other commercial waste operators. The vehicles will leave the site in the morning and not return until the afternoon. No other operations will take place on the site during Easter Friday.”*

## 3. POLICY

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that consideration be had to the development plan unless other material considerations indicate otherwise. Other material considerations include:

- i) The National Planning Policy Framework (NPPF) March 2012.
- ii) The National Planning Policy for Waste October 2014.
- iii) Essex and Southend Waste Local Plan Adopted September 2001
- iv) Essex County Council Replacement Waste Local Plan Pre Submission document June 2016

v) Colchester Borough Council Local Development Framework  
Development Policies Adopted October 2010.

The following policies of the Essex and Southend Waste Local Plan Adopted September 2001 (WLPA); Essex County Council Replacement Waste Local Plan Submission document June 2016 (WLPS) and the Colchester Borough Council Local Development Framework Development Policies Adopted October 2010 (CBCP) (paraphrased or in quotation marks if set out in full) are of relevance to this application:

Relevant policies within the Essex and Southend Waste Local Plan Adopted September 2001 are:

Policy W3A (Best Practicable Environmental Option)

Requires that consideration be given to:

- The goals of sustainable development
- Whether the proposal represents the best practicable environmental option for that particular waste stream
- Whether the proposal conflicts with options further up the waste hierarchy.
- Conformity with proximity principle.

Policy W10A (Planning Conditions and Obligations)

Provides for the WPA to impose conditions as appropriate to ensure the development is operated in an acceptable manner and undertaken in accordance with approved details.

Policy W10E (Content of Planning Applications and Material Considerations)

- Supports applications for waste management development where provision is made to address, amongst other matters relevant to this application:
- Effects on the amenity of neighbouring occupiers.
- Effects on the landscape.
- Impact on road traffic generation.

The most relevant policy within the Colchester Borough Council Local Development Framework Development Policies Adopted October 2010 is:

a) Policy DP1 “Design and Amenity”

The policy requires that “all development must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability. Development proposals must demonstrate that they, and any ancillary activities associated with them, will....” the policy then lists various aspects with those of relevance to this application being:

- (i) “Respect and enhance the character of the site, its context and surroundings in terms of its ..... height, size, scale, form, massing, density, proportions, materials, townscape and/or landscape setting, and detailed design features. Wherever possible development should remove existing

- unsightly features as part of the overall development proposal;
- (ii) Provide a design and layout that takes into account the potential users of the site including giving priority to pedestrian, cycling and public transport access....
- (iii) Protect existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight;
- (iv) Create a safe and secure environment;
- (v) Respect or enhance the landscape and other assets that contribute positively to the site and the surrounding area; and the statement of the Council's commitment to carbon reduction measures including the promotion of efficient use of energy and resources".

The Essex County Council Replacement Waste Local Plan Submission document has been submitted in June 2016 to the Secretary of State for independent examination later in the year. The submitted policies reflect the intention of the Waste Planning Authority towards waste related matters and whilst such policies are at this stage of limited weight they remain material considerations in respect of applications of the nature being contemplated in this report.

Relevant policies within this document are:

(a) Policy 6 (Open Waste Facilities)

This policy considers such waste management facilities that take place in the open air and which could have noise and air impacts that influence where such activities should take place. The policy seeks to collocate such activities at existing permitted waste management sites or co-located with other waste management development.

(b) Policy 10 (Development Management Criteria)

Provides support for waste management development where such development can be demonstrated not to have an unacceptable impact (including cumulative impact with other existing development) on a list of issues, where relevant to this application include:

- (i) Local amenity
- (ii) Safety and capacity of road network
- (iii) Appearance quality and character of the landscape and visual environment.

(c) Policy 12 (Transport and Access)

Provides support for waste management development where it would not have "an unacceptable impact on the efficiency and effective operation of the road network, including safety and capacity, local amenity and the environment.

Proposals for the transportation of waste by rail and/or water will be encouraged subject to other policies in this Plan. Where transportation by road is proposed. This will be permitted where the road network is suitable for use by Heavy Goods

Vehicles or can be improved to accommodate such vehicles”.

Policy 12 sets a hierarchy for transport preference of the waste with the movement by rail or water at the top followed by access through an existing junction to the main road network via a suitable section of existing road. A final criterion for creation of a new road access is not relevant to this application.

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

The NPPF sets the scene for placing sustainable development at the heart of the planning system. The Government sets a series of core planning principles to be applied at both plan making, as well as at decision making and that these include in relation to this application contribute to conserving and enhancing the natural environment and reducing pollution.

The NPPF seeks the delivery of sustainable development through the planning system encouraging and supporting economic growth and that this is achieved through proactively meeting the needs of business.

The NPPF seeks to mitigate, through appropriate planning decisions, the potential for noise and other adverse impacts including air quality, arising from a development on health and quality of life.

Para 14 of the NPPF sets for decision takers the presumption in favour of sustainable development to mean approving development that accords with the development plan. Where the development plan is absent, silent/out of date that permission be granted unless adverse impacts would significantly outweigh the benefits or that specific policies in the NPPF indicate such development be restricted.

#### National Planning Policy for Waste

The National Planning Policy for Waste was published October 2014 and sets out the national case for the management of wastes. The Introduction to this document states that it is “the Government’s ambition to work towards a more sustainable and efficient approach to resource use and management. Positive planning plays a pivotal role in delivering this country’s waste ambitions through: delivery of sustainable development and resource efficiency .....

The National Planning Policy for Waste published October 2014 sets out under the heading of identifying waste management facility needs that Waste Planning Authorities in their preparation of local plans identify such opportunities to meet identified needs of their area for the management of waste streams.

Waste planning authorities should also amongst other matters and of relevance to this application:

- consider the need for additional waste management capacity of more than local significance and reflect any requirement for waste management

facilities identified nationally;

- consider the extent to which the capacity of existing operational facilities would satisfy any identified need”.

In identifying suitable sites, Waste Planning Authorities are required to assess the suitability of sites against “ each of the following criteria:

- the extent to which the site or area will support the other policies set out in this document;
- physical and environmental constraints on development, including existing and proposed neighbouring land uses, and having regard to the factors in Appendix B [which addresses locational criteria] to the appropriate level of detail needed to prepare the Local Plan; and
- the cumulative impact of existing and proposed waste disposal facilities on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential.”

For the determination of planning applications the policy statement requires waste planning authorities to amongst other matters “

- “consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies;
- ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;
- concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced”

#### **4. CONSULTATIONS**

COLCHESTER BOROUGH COUNCIL: Any comments received will be reported at the meeting.

WORMINGFORD PARISH COUNCIL: Object on the following grounds:

- Concern over increased noise on what would otherwise be traditionally a period of rest bite from activities of this nature.
- Concern over additional traffic movements and therefore disturbance on a Bank Holiday to direct neighbours, residents in Wormingford and neighbouring villages.
- Concern that Colchester Skip Hire does not adhere to the current planning

conditions. For example, an application was previously submitted for the Good Friday in 2016 and was subsequently refused, Colchester Skip Hire however still went ahead regardless of the conditions with seemingly no consequence.

- Concern that this will open the door to further applications for other Bank Holiday's during the year.

FORDHAM PARISH COUNCIL: Any comments received will be reported at the meeting.

COUNTY COUNCIL'S NOISE CONSULTANT (CNC) – Any comments received will be reported at the meeting.

ENVIRONMENT AGENCY (EA): Any comments received will be reported at the meeting.

LOCAL MEMBER – COLCHESTER – CONSTABLE -Any comments received will be reported at the meeting.

## 5. REPRESENTATIONS

Site, press and neighbour notification was undertaken. As a result objections have been received from two of the local residents. In addition a member of Fordham Parish Council who attends the site liaison meeting has, in his own capacity, supported the local resident's concerns. The representation refers, in summary, to:

Observation	Comment
Object as they did last year This is not a high street or retail park with Bank Holiday shopping and it is also not on a retail park.	Noted. Noted and sentiments picked up in appraisal section.
Old Packard Lane is primarily residential and the operator are the only ones seeking to operate on a Bank Holiday.	Operator are a waste management business and the reasons for request are addressed in this report.
Vehicle movements will disturb residents when transiting through Fordham and West Bergholt	Noted although traffic on the public highway is outside planning control. The operator would be sticking to their routing out of the site.
Granting the application is likely to generate engine noise, reversing alarms and odour.	The proposal to line up on the road is to avoid these issues arising. The matter of odour is noted have been consulted
Returning vehicles would have waste on	EA have been consulted.

board and be sitting Friday afternoon and evening. This could create odour.  
The Waste Planning Authority have consistently maintained the no working on Bank Holidays condition.

Noted. The operator was advised to find alternative arrangements last year as their request was made with too short a time period to allow and application to be determined.

Seek rejection of the application as the first time since 2010 that the residents amenities have been put before the CSH interests.

Noted.

## 6. APPRAISAL

The principal issues in respect of this proposal are:

- A. Appropriateness of the location for accommodating activities on Good Friday.
- B. Environmental aspects Noise and Dust

### A. APPROPRIATENESS OF THE LOCATION FOR ACCOMMODATING ACTIVITIES ON GOOD FRIDAY.

The issue of “catch up” servicing of customers on Good Friday has arisen previously at this site. Last year the operator made a verbal request to seek servicing of customers, although given the short notice and likely local objections, the operator was advised to seek alternative arrangements. In the event the operator did park their vehicles off-site although they returned into the site parking up at the end of the day. Local residents raised objection noting at the time that any working would set a precedence; that the operator was flouting the planning conditions and that the use of the vehicles even when parked up off site and then used was in breach of the site permission stating no activities on Bank Holidays.

A report was subsequently taken to the April 29<sup>th</sup> meeting of this committee to clarify the enforcement aspect for what was considered a technical breach of the permission through the return of the vehicles into the site. The recommendation of the report that was subsequently endorsed by the committee was that *“It is not considered that the weight of “harm” caused to local amenity from vehicles returning to the site (at the end of the day on 25 March 2016 - Good Friday) had a significant adverse impact to local amenity and accordingly it is not considered expedient, in the wider public interest, to take enforcement action”*. In addition to this recommendation, Members required that a letter be sent to the operator warning that future infringements would not be dealt with in the same manner.

The operator has now submitted a formal application, the subject of this report, so enabling the proposal to be fully considered.

The applicant’s justification for the application is acknowledged. The more

frequent opening of businesses during Bank Holiday periods has necessitated a demand for the servicing of these activities which includes the collection of wastes. Such requests for working specific Bank Holiday days is not unusual and experience has been that where activities during such periods are unlikely to give rise to unacceptable environmental impacts on local amenity, such requests can be supported.

The previous local concern over such activities setting a precedence are acknowledged and need to be read alongside the above comments. Potential erosion of local amenities through this ever increasing world of commercial/industrial activity has the potential, unless safeguards are in place, to erode local amenity. Therefore each application of this nature needs to be properly assessed on its individual merits. A precedence in one area does not necessarily follow for the next site.

The applicant's agent has indicated that future applications may arise for seeking a relaxation of the Bank Holiday restriction if the issues raised by this application are satisfactorily addressed.

The facility operates from a location granted permanent approval through the appeal process and whilst the local residents have previously referred to the rural locality in which they co-exist with the site, the applicant's business is not the only one in this locality. There are other industrial businesses, former agribusinesses and food processing industries in the locality and these have developed and grown alongside the rurality of the area.

Furthermore, it has been previously expressed and reported in past applications to this committee concerning aspects of this site that conditions are being relaxed to suit the operator's needs. It is open to any operator to seek variations to the planning conditions and the appropriate way this is achieved is through the planning process, which the operator has properly done on this occasion.

In respect of this application, the applicant is only proposing the movement of 12 refuse vehicles that would already be pre-positioned on the internal site haul road the night before. Returning vehicles would be parked up in a similar location. The location of the parking area would be separated from the more sensitive western site boundary by the intervening recovery building, the existing timber processing stockpile area and the skip storage arrangements.

The principal elements of the proposal are that the activities for the Good Friday are primarily for vehicle movements only; that the operators acknowledgement of the sensitivity of the site has been reflected in the proposal for pre-positioning, and that there would be no other site activities taking place. On that basis, and subject to other environmental aspects being acceptable, the proposal would not conflict with policies aspects of maintaining a sustainable and efficient handling of the waste arising set out in the National Planning Policy for Waste and WLPA policies W3A and W10A and CBCP policy DP1.

## C. ENVIRONMENTAL ASPECTS - NOISE AND DUST

In terms of environmental arisings affecting the local amenities these would

principally be the generation of noise from the movement of the vehicles and associated dust.

Local residents have previously referred to both these aspects of noise (principally the reversing beepers) and dust from the site activities affecting their amenities.

The assertion from the operator of there being no site activities other than vehicles movements should assure the local residents that the dust aspect would not arise. The movement of refuse vehicles within the site generating dust nuisance has not been a specific area of concern. Likewise the pre-positioning of vehicles along the access road would obviate any need, subject to no breakdowns or necessity for accessing the air pumps, for reversing issues to arise.

The operator has, with the pre-positioning proposal, offered what could be deemed an additional “safeguarding” aspect if one were considered to be required in the first place to address any potential local residents concerns. The proposal as presented is not considered to conflict with WLPA Policies W10A; or WLPS Policies 6, 10 and 12 and CBCP policy DP1.

## **7. CONCLUSION**

The operator’s business is recognised as being a permanent development situated with a mixture of residential, rural and associated industrial style businesses activities. The nature of the business is one that services customers who are exhibiting more frequent need for continuation of servicing over Bank Holiday periods.

The appropriateness of this location to undertake a Bank Holiday activity has been assessed and that in this particular location the pre-positioning of vehicles on the site access road would act as an additional “safeguard” towards minimising any perceived impact likely to arise on the sensitive adjoining residential receptors.

Noise, dust and visual aspects are considered to be appropriate and could be controllable through condition.

The opportunity has been afforded by such a variation of condition application for the WPA to review the extant conditions and these have been set out in the recommendation below.

On balance, the proposal is considered to comply with the relevant policies of the Development Plan taken as a whole and represents sustainable development in the context of the NPPF and accordingly planning permission should be granted.

## **RECOMMENDED**

That planning permission be **granted** subject to:

### **1. Approved Details**

(A) The development hereby permitted shall be carried out in accordance with the details submitted by way of the ‘Planning Application’

(ESS/13/11/COL Appeal ref no: APP/Z1585/A/11/2165340) dated 4<sup>th</sup> July 2012 comprising:

(a) Drawing Numbers:

- (i) No 220 entitled "Site Layout Plan" dated January 2011
- (ii) No. 221 entitled "Floor Plan" dated December 2010
- (iii) No.222 entitled "Elevations" dated December 2010.
- (iv) No.223 entitled "Administration Offices" dated January 2011
- (v) No. 224 entitled "Maintenance Workshop" dated January 2011.
- (vi) No. 225 entitled "Weighbridge Office" dated January 2011.
- (vii) Landscape 100 entitled "Landscaping Plan" dated January 2011.
- (viii) Landscape 101 entitled "Landscaping Planting Schedule" dated November 2010.
- (ix) Landscape 108 entitled "Cross Sections" dated January 2011.

As amended by those details reserved by condition of planning permission ref no: ESS/13/11/COL:

(a) For Material Samples those details set out in:

- (i) Planning application form from Peter Johnson dated 10/07/15 and accompanying:
- (ii) "Span/load table for C19 Wall Profile from Tata Steel dated 2012
- (iii) Colourcoat HPS200 Ultra Tata Steel sample colour: Van Dyke Brown.

(b) For Travel Plan those details set out in:

- (i) Letters of the 14th December 2012
- (ii) application form dated 14th December 2012 and amended Travel Plan dated January 2013 and drawing number 130/A dated January 2013
- (iii) Letters of 7th January 2013 and 21st January 2013.

(c) For External Lighting those details set out in:

- (i) Letters of: the 7th November 2012.
- (ii) Application form dated 7 November 2012
- (iii) Letter of 12th December 2012
- (iv) Email of the 20th March 2013 and document entitled External Lighting dated October 2012 and drawing numbers P9306-334-R1 1 of 1 dated 31/10/12 and 137 dated October 2012.

(d) For Noise Monitoring those details as set out in:

- (i) E-mail from Johnson Dennehy Partnership (Peter Johnson) dated 06/10/14.
- (ii) AAD "Acoustic Report" dated 21/12/12.

- (e) For Sound Insulation those details set out in:
  - (i) Letters of 23rd January 2013
  - (ii) Planning application form application form dated 23rd January 2013, and accompanying documents entitled Sound Insulation (Condition 10) dated January 2013 and revision dated February 2014
  - (iii) Letters of 18th February 2014; 12th April 2013; 23rd September 13; 9th December 2013 and
  - (iv) Emails from The Johnson Dennehy Planning Partnership dated 20th May 2013 and 23rd July 2014.
  
- (f) For Scheme for suppressing or limiting audible noise from warning devices on vehicle those details set out in:
  - (i) Letter of the 14th January 2013
  - (ii) Application form dated 14th January 2013
  - (iii) Email of the 4th February 2013 and document entitled "Suppression of Audible Noise" dated January 2013.
  
- (g) For foul and surface drainage those details as set out in:
  - (i) Letters of the 7th November 2012
  - (ii) Application form dated 7th November 2012 and accompanying document entitled Foul and Surface Water Drainage dated October 2012; document entitled Colchester Recycling and Recovery Facility Surface Water Drainage Strategy prepared by Richard Jackson Intelligent Engineering Job No. 44218 dated November 2012;
  - (iii) Letter of 21st November 2012.
  
- (h) For Habitat protection scheme those details as set out:
  - (i) Letters of the 22nd February 2013
  - (ii) Application form dated 22nd February 2013 and accompanying document entitled Habitat Protection Scheme dated February 2013, drawing numbers Landscape 101/A dated August 2012 and 144 dated January 2013.
  - (iii) Letter of 12th April 2013
  - (iv) Email of the 3rd May 2013 and 19th March 2013.
  
- (i) For Habitat Management Scheme those details as set out in:
  - (j) Letter of the 22nd February 2013
  - (ii) Application form dated 22nd February 2013, document entitled Habitat Management Scheme dated February 2013, drawing numbers 136 dated October 2012, 144

- dated January 2013, Landscape 100 dated August 2012 and Landscape 101/A dated August 2012
  - (iii) Letter of and 12th April 2013
  - (iv) Emails of the 15th March 2013 and 19th March 2013.
- (k) For Tree and hedgerow Protection Scheme those details as set out in:
- (i) Letter of the 28th January 2013
  - (ii) Application form dated 28th January 2013, document entitled Tree and Hedgerow Protection dated January 2013 and drawing numbers 143 dated January 2013 and Landscape 100 dated August 2012
- (l) For Landscaping Timetable and Management Plan those details as set out in:
- (i) Letter of the 13th September 2012
  - (ii) Application form dated 13th September 2012
  - (iii) Email of the 9th November 2012, document entitled Management Plan and Landscape Timetable dated August 2012 and drawing number Landscape 100 dated August 2012.
- (m) For Archaeology those details set out in:
- (i) The 'Archaeological Investigation' (reference: PRJ/SS/1104), dated August 2012 subject to the field work, publication and archiving being completed. And the following note attached to the determination letter that "in accordance with the advice from Essex Council's archaeological officer (email dated 26/10/12) and the requirements of the condition, the condition shall not be fully discharged until. In previous communications with yourself it was indicated that this work is scheduled to commence week beginning 5 November 2012 and it is expected that Essex County Council (planning and archaeology) would be kept fully informed throughout".
- (n) For the Storage of Empty Skips and Waste Containers and Parking of HGVs when not in use those details as set out in:
- (i) Letters of the 14th January 2013
  - (ii) Application form dated 14th January 2013, document entitled Storage and Parking dated January 2013 and drawing numbers 128/B dated November 2012 and 130/B dated January 2013
  - (iii) Letter of 22nd April 2013
  - (iv) Emails of the 4th February 2013, 20th May 2013.
- (o) For Materials to be used for all hard surfaces those details as set out

in:

- (i) Letter of the 7th November 2012
- (ii) Application form dated 7th November 2013, document entitled Surfacing Materials dated October 2012 and drawing number 138 dated October 2012.
- (iii) Email of the 18th December 2012,

(p) For Proposed Bunding or Mounding those details as set out in:

- (i) Letter of the 7th November 2012
- (ii) Application form dated 7th November 2013, document entitled Earth Bunding Details dated October 2012 and drawing number 139 dated October 2012.
- (iii) Email of the 18th December 2012.

(q) For Ancillary Works Timetable those details as set out in:

- (i) Letter of the 14th December 2012,
- (ii) Application form dated 14th December 2012, document entitled Ancillary Works Timetable dated December 2012 and drawing numbers 139 dated October 2012, 140 dated December 2012, 141 dated December 2012 and Landscape 101 dated August 2012.
- (iii) Email of the 21st January 2013

(B) As amended by the Non Material Amendment for the  
Welfare  
Building as set out in:

- (i) Planning application form from Peter Johnson dated 11/05/16 and accompanying
- (ii) Drwg No: 157 entitled "Staff Welfare Accommodation" dated Feb 2016
- (iii) Drwg No: 163 entitled "Recycling and recovery Facility Non Material Amendment Staff Welfare Facilities" dated May 2016.

(C) As amended by the planning application  
ESS/21/16/COL comprising:

- (i) Planning application form from Peter Johnson dated 16/05/16 and accompanying Supporting Document entitled "Variation of Conditions 04 & 23 "Greenacres" Old Packards Lane, Wormingford" dated May 2016;
- (ii) Drwg No: 158 entitled "Change of Use to Workshops and Dry Storage Building" dated Feb 2016
- (iii) Drwg No: 159 entitled "Change of Use to Workshops and Dry

- Storage Building” dated Feb 2016
- (iv) Drwg No: 165 entitled “Recycling and recovery Facility Variation of Conditions 04/23 Vehicle Maintenance Building/ Dry Storage and Containment Walls to Northern Boundary” dated May 2016.
- (v) Drwg No: 166 entitled “Recycling and recovery Facility Variation of Conditions 04/23 Vehicle Maintenance Building/ Dry Storage and Containment Walls to Northern Boundary” dated May 2016.

As amended by the e-mail from Johnson Dennehy Partnership (Peter Johnson) dated 20/06/16 and 3 page planning justification ref no: PRJ/SM/1104.

(D) As amended by the planning application  
ESS/29/16/COL comprising:

- (i) Planning application form from Peter Johnson dated 08/07/16 and accompanying Supporting Document entitled “ Variation of Condition 06 (Waste Handling) “Greenacres” Old Packards Lane, Wormingford” dated May 2016;
- (ii) Drwg No: 155 entitled “Recycling and Recovery Facility Recycled Timber Storage Bays” dated Feb 2016
- (iii) Drwg No: 156 entitled “Recycling and Recovery Facility Recycled Timber Storage Bays” (Isometric View of Storage Bays) dated Feb 2016
- (iv) Drwg No: 162/A entitled “Recycling and Recovery Facility Variation of Condition 06 Timber Recycling Compound” dated May 2016.
- (iv) Letter from AAD Applied Acoustic Design dated 3<sup>rd</sup> October 2016 entitled “Acoustic Survey Note”.
- (v) E-mail from Johnson Dennehy Partnership (Peter Johnson) dated 18<sup>th</sup> October 2016.

(E) As amended by the planning application ESS/18/17/COL comprising:

- (i) Planning application form from Peter Johnson dated 24/02/17 and accompanying:
  - (ii) letter from The Johnson Dennehy Planning Partnership dated 24<sup>th</sup> February 2017 and
  - (iii) Drwg No: 123 entitled “ Recycling and Recovery Facility Variation of Conditions 03 and 04 Bank Holiday Working” dated Feb 2017.

### **Availability of Plans**

2. A copy of this permission and the approved plans shall be available at the operator’s site office at all times during the life of the site the subject of this permission. Any subsequent amendments approved by the Waste Planning

Authority shall also be available upon request.

### **Environmental Protection Operating Hours**

3. The development hereby permitted shall only be carried out during the following times:

07:30 – 18:30 Monday to Friday,  
07:30 – 13:30 Saturdays

And, at no other times or on Sundays, Bank or Public Holidays (except for Condition 4 (vi) below).

### **HGV Movement times**

4. (i) The total numbers of Heavy Goods Vehicle (HGV) movements entering or leaving the site during any single day shall not exceed the following overall limits:

Mondays to Fridays: 150 movements

Saturdays: 74 movements

Sundays and Bank/Public Holidays: none (except for (vi) below)

- (ii) Outside the hours specified In Condition 3 above, any HGV movements associated with the site shall be limited to the following times and numbers:

Mondays - Saturdays: 06.00- 07.00: 6 movements

07.00- 07.30: 6 movements

Sundays and Bank/Public Holidays: none (except (vi) below)

For the avoidance of doubt, all movements permitted under Condition 4 (ii) shall count towards the daily limit for that day as set out under Condition 4 (i).

- (iii) All movements before 07.30 on any day, permitted under Condition 4 (ii) above shall be limited to out-bound movements only.
- (iv) All movements between 06.00 - 07.00 on any day, permitted under Condition 4 (ii) above shall exit the site by turning right only, towards the B1508.
- (v) No HGV movements of any kind shall take place prior to 06.00 on any day, or after 18.30 on Mondays to Fridays, or 13.30 on Saturdays.
- (vi) For the purposes of this condition, and for the Good Friday April 14<sup>th</sup> 2017 only, 12 refuse vehicles shall be allowed to leave the site between the

hours of 06:00 – 07:30 hours and return no later than 16:30 hours making a total of 24 movements. Upon return the 12 refuse vehicles shall park up on the access road in the area coloured red on Drwg No: 123 entitled “ Recycling and Recovery Facility.

For the purpose of this condition, each vehicle entering the site shall constitute one movement, and each vehicle leaving the site shall constitute a separate movement.

#### Noise

5. Outside the times specified in Condition 3, the noise level at the boundary with Rees Farm, resulting from any activities, operations, or vehicle movements at the site, shall not exceed the following limits, measured as the free field equivalent continuous level(LAeq, 5 min):
  - (A) (i) the pre-existing background level (LA90) plus 5dB; and  
(ii) the average residual level (LAeq 5 min) plus 1dB.
  - (B) During the times specified In Condition 3, the noise level at the boundary with Rees Farm, resulting from all activities, operations, and vehicle movements at the site, measured as the free field specific noise level, shall not exceed 45 dB (L.Aeq,1hr).
  - (C) The frequency of monitoring shall not be less than once every three months.
  - (D) The monitoring scheme shall be implemented as approved.
  - (E) All noise measurements carried out in connection with this condition shall be undertaken In accordance with the guidance contained in BS4142:2014.

#### Waste Handling

6. All waste materials, recycled materials and recycled products, fuels brought to the site shall be loaded, stored, sorted, treated, and processed and handled only within the proposed main recycling building: and not in or on any other building or any other part of the site with the exception of dry storage of recycled products within approved designated area within former recycling building as identified in Drawing No 1104/165 entitled "Recycling and Recovery Facility Variation of Conditions 04/23 Vehicle Maintenance Building/Dry Storage and Containment Walls to Northern Boundary" dated May 2016 and the Handling and Processing of Timber Products within a Defined Compound Area as identified on Drawing No.1104/162/A dated May 2016.

#### Waste Types

7. All waste materials brought to the site shall be either from commercial and Industrial sources or from construction and demolition sources. No

waste materials of any other kinds shall be brought to, or accepted or handled at, the site. Records shall be kept of the source and nature of each load of waste material and those records shall be made available to the waste planning authority on request.

#### Waste Throughput

8. The maximum quantity of waste materials handled at the site within any 12-month period shall be no more than 50,000 tonnes per annum. Records shall be kept of the weights of each load of waste material entering and leaving the site, and those records shall be made available to the Waste Planning Authority on request.

#### Boundary Maintenance

9. The site perimeter fence/demarcation shall be maintained, in accordance with those details in Condition 1 of this permission that provides for their design and installation, during the life of the waste transfer activities.

#### Dust Suppression

10. Within one month of the date of this permission, a water bowser and connected oscillating blower shall be positioned at the timber processing bays and shall be used in dry weather periods to suppress dust when the wood shredder is operational. Without prejudice to the foregoing, the water bowser and connected oscillating blower shall be used continually when the wood shredder is operational when, without water suppression, the prevailing wind speed and direction would cause dust to escape the site.

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### **BACKGROUND PAPERS**

Consultation replies  
Representations

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### **THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (as amended)**

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

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

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### **EQUALITIES IMPACT ASSESSMENT**

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

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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 Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

### **LOCAL MEMBER NOTIFICATION**

COLCHESTER – CONSTABLE



committee DEVELOPMENT & REGULATION

date 24 March 2017

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**INFORMATION ITEM: Report on the programme of Periodic Reviews Of Mineral Planning Permissions**

Report by Acting Head of County Planning

Enquiries to Claire Tomalin – Tel: 03330 136821.

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**1. PURPOSE OF THE REPORT**

To update Members on the current status of the MPA's programme of Periodic Reviews of mineral planning permissions (also known as ROMPS).

**2. BACKGROUND**

The Environment Act 1995 introduced a requirement for periodic review of all mineral permissions when 15 years old. The review programme gives Mineral Planning Authorities the opportunity to ensure that conditions attached to mineral planning permissions remain up-to-date and relevant.

The Planning Practice Guidance (PPG) outlines the manner in which Periodic Reviews are undertaken.

In order to ensure Members are kept up to date it has been agreed previously that a report would be produced annually advising of sites needing review in the next year.

The provisions of the Environment Act 1995 were amended on the 23 June 2013 under new provisions within The Growth and Infrastructure Act 2013. The amendments give discretion to MPAs over when the initial review is undertaken. The MPA may chose a longer period than 15 years, if circumstances are appropriate, as long as it is not less than 15 years and also subject to a provision that the interval between any two reviews not being less than 15 years.

It is not the case that all old mineral planning permission will require view. The PPG advises "*Mineral Planning Authorities should usually only seek a review of planning conditions when monitoring visits have revealed an issue that is not adequately regulated by planning conditions, which the operator has been made aware and has not been able to address*"

**3. PERIODIC REVIEWS**

Under the Environment Act 1995 the MPA is required to review mineral planning

permission issued after 22 February 1982 that are 15 years old. The MPA must notify the operator at least 12 months prior to the permission being 15 years old.

This year the MPA must review permissions to be 15 years old between Feb 2018 and Feb 2019 i.e. permission issued from 22 February 2003 to 21 February 2004. This ensures the Authority has the opportunity to notify the operator 1 year in advance as required by the regulations.

The Periodic Review process makes no distinction between active and dormant sites. An updated set of conditions must be submitted for both types of site by the applicant. If no submission is received by the date stipulated by the MPA, the mineral permission ceases to have effect, although restoration and aftercare conditions still apply.

Review applications may be subject to Environmental Impact Assessment. Once a Periodic Review application is received, the MPA has three months (16 weeks if accompanied by an EIA) in which to make a decision on the application and if no decision is reached, the application is automatically approved. The applicant may however agree to extend the period for determination.

If the MPA imposes new conditions that unreasonably restrict working rights, a liability to compensation may arise. There must, therefore, be exceptional circumstances for such conditions to be imposed.

## **The Periodic Review programme in Essex**

### Mineral Permissions Previously Identified for Review

In April 2016 one site was identified as potentially requiring review. Frances Flowers operators of Chalk Farm at Newport were notified of need for review of planning permission reference ESS/23/01/UTT (R) in May 2016. The operator subsequently requested a postponement of the review which is permitted under the Act. The postponement was considered by Members in a report to Committee in July 2016, where it was agreed that in view of the fact the existing conditions were up to date, as a result of subsequent variation applications and no issues were arising as a result of the quarry operations a review at this time was not necessary and was postponed for 15 years.

### Future permissions identified for Review

The MPA has now considered all predominant planning permissions granted within the administrative area of Essex between 22 February 2003 and 21 February 2004 and assessed them for the need for Periodic Review. Full details are contained in Appendix 1 attached.

One site has been identified as potentially requiring notification of review in 2017/18.

Planning Permission ESS/22/00/TEN at Fingringhoe Quarry, Colchester may require review, however this may not be necessary if a planning application for

inert landfilling (as allocated within the Replacement Waste Local Plan) is submitted and approved before the Review date.

### **The future Periodic Review programme**

A further annual update report on the outcome of each year's Periodic Review exercise will be presented to the Development and Regulation Committee in early 2018.

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### **BACKGROUND PAPERS**

70.421.50

Ref: P/DM/Claire Tomalin

### **LOCAL MEMBER NOTIFICATION**

CHELMSFORD – Broomfield & Writtle

CHELMSFORD – Great Baddow

COLCHESTER – Stanway & Payfleet

BRAINTREE – Witham North

TENDRING - Tendring Rural West

UTTLESFORD - Stansted

## Review of Mineral Planning Permissions

PERIODIC REVIEWS – Predominant Mineral Planning permissions issued between 22 February 2003 to 21 February 2004 identification of Planning Permissions granted 15 years ago requiring Periodic Review between February 2018 and February 2019

Site Ref.	Address & Electoral Division	Applic No.	Description	Decision Date	Periodic Review needed Y/N
23 421 11	Roxwell Landfill, Chignal St James, Chelmsford, CM1 4TZ  CHELMSFORD – Broomfield & Writtle	ESS/10/02/CHL	Variation of Condition 58 attached to approved application CHL/445/91 to allow the importation of minerals, other than those indigenous to this site, for processing, treatment or refinement	08/04/03	May be required.  This planning permission was superseded by planning permission ESS/60/11/CHL, which raised the height of the restoration profile. A further application (ref ESS/05/15/CHL) which would supersede ESS/60/11/CHL (which revised the profile of the restoration) has been resolved to be granted subject to a legal agreement.
23 421 34	Manor Farm, Great Baddow, Chelmsford, CM2 7RT  CHELMSFORD – Great Baddow	ESS/37/00/CHL	Construction of an irrigation reservoir of approx. 223,000m cubed capacity including the extraction & removal of approx. 250,000 tonnes of as dug sand & gravel. Restoration is to be to conservation water area incorporating the irrigation reservoir.	09/04/03	N Site fully restored and completed its aftercare period.

14 421 34	Hill Farm Reservoir, Crown Lane, Tendring, Clacton-on-Sea, CO16 0BJ	ESS/05/02/TEN	Removal of minerals & surplus soils associated with the construction of an extension to the agricultural reservoir.	09/04/03	N  Extraction, restoration and aftercare completed.
	TENDRING - Tendring Rural West	ESS/06/02/TEN	Variation of conditions 2 (plans to incorporate extension area) & 9(time limit) of ESS/1/97/TEN		
12 421 14	Scripps Farm, Coggeshall, Colchester  BRAINTREE – Witham North	ESS/13/02/BTE/R	Review of Mineral Planning permission BRD/275/69	12/06/03	N  Planning permission superseded by ESS/59/12/BTE and this newer permission has adequate restoration and aftercare conditions. The site is fully restored and in aftercare.
13 421 09	Land South of Fingringhoe, Fingringhoe Quarry, Ballast Quay, Fingringhoe, Colchester  COLCHESTER – Stanway & Payfleet	ESS/22/00/COL	Extraction of sand and gravel as an extension to existing workings, restoration to agriculture and temporary diversion of Furneaux Lane	17/12/03	May be required  Updated conditions may be required if a planning application to restore the site with inert waste (as allocated in the RWLP) is not submitted and determined before the notification date.
23 421 33	Land at Writtle College, Writtle, Chelmsford,CM1 3SB  CHELMSFORD – Broomfield & Writtle	ESS/62/03/CHL	Proposed variation of condition 2 attached to approved application ESS/43/01/CHL to allow for amendments to the alignment & method of construction of the haul road	06/01/04	N  Extraction, restoration and aftercare completed



**DR/14/17**

committee DEVELOPMENT & REGULATION

date 25 March 2017

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**MINERALS AND WASTE DEVELOPMENT - ENFORCEMENT OF PLANNING CONTROL INFORMATION ITEM**

**Unauthorised Development – The use of the land for importation, deposition, storing, processing and spreading of waste materials (including soils, and other similar waste materials), subsequently raising the levels of the land (the unauthorised development).**

Location: **Land at Gean Trees, The Causeway, Great Horkesley, Colchester, Essex**

**CO6 4EJ**

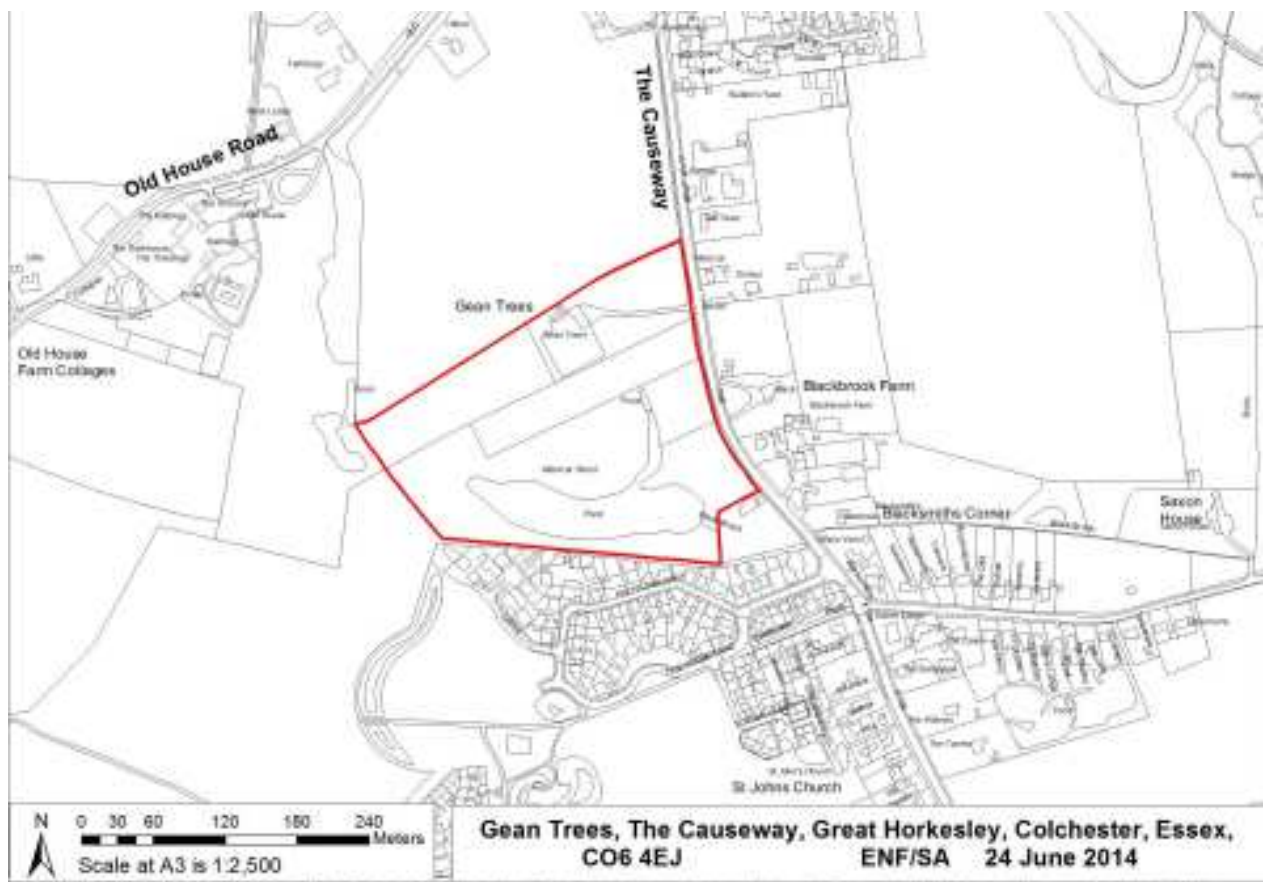
Ref: **ENF/0656**

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Report by Acting Head of County Planning

Enquiries to: Suzanne Armstrong 03330136823

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## **1. BACKGROUND AND SITE**

Geen trees is located within the village of Great Horkesley, north of Colchester. The site is located within a large plot of land consisting of a detached residential property, outbuildings, a wooded area and lakes.

The Waste Planning Authority (WPA) witnessed the importation, deposition, storing, processing and spreading of waste materials (including soils and other similar waste materials) on the land. Essex County Council (ECC) recognised the potential to involve the Environment Agency (EA) as the activities involved regulatory responsibilities of ECC as WPA and the EA as the regulatory authority for permitting activities.

ECC and the EA have adopted a Joint Enforcement Protocol. In this case there was an overlap between the planning enforcement activities of ECC and the regulatory responsibilities of the EA. Joint investigations and site visits commenced.

On the 1<sup>st</sup> July 2014 the WPA considered that in order to prevent further irreversible damage to the environment and countryside and to prevent prolonged detriment to the amenity of the area a Temporary Stop Notice (TSN) would be served on the land. Therefore on the 1<sup>st</sup> July 2014 a TSN was served on the land owner in respect of the unauthorised importation, deposition, storing and spreading of waste materials (including soils, and other similar materials).

The TSN required;

- Cease and do not resume the importation, deposition and spreading of waste materials on the land

Joint investigations continued and an enforcement notice was served by ECC on the 27<sup>th</sup> August 2015. Compliance was due by 28<sup>th</sup> January 2016.

The requirements of the enforcement notice were;

- Cease and do not resume the importation, deposition, storing and spreading of waste materials on the land;
- Remove from the land all waste materials, including imported soils, and other similar waste materials.
- Remove from the land all plant and machinery associated with the unauthorised development
- Restore the land to its condition prior to the commencement of the unauthorised development.

The waste on the land also breached the EA's waste exemption contrary to Environmental Permitting Regulations and the waste was required to be removed by both authorities.

## **2. CURRENT POSITION**

The Temporary Stop Notice served on the 1<sup>st</sup> July 2014 was in force for 28 days and expired on the 28<sup>th</sup> July 2014. Since the service of the TSN the importation of the waste has ceased.

A joint site visit was undertaken on the 12<sup>th</sup> February 2016, by ECC and the EA. The purpose of this visit was to check compliance with the enforcement notice. The importation of waste had ceased and machinery had been removed, there was no evidence of further activity, however the waste remained on the land. A letter was sent to the land owner requiring compliance with ECC's enforcement notice. A further joint visit was carried out on the 10<sup>th</sup> November 2016 by ECC and the EA. The purpose of this visit was to check if any further progress had been made to comply with the enforcement notice served on the 27<sup>th</sup> August 2015. The waste remained on the land and the enforcement notice had not been complied with.

The change of use of the land for the importation deposition, storing, processing and spreading of waste materials substantially raising the levels is considered inappropriate development in this semi-rural area, has a harmful effect on the visual environment. The breach of planning control is visually intrusive and detrimental to the local amenity, landscape and character of the countryside meriting protection in the public interest.

The land had not been cleared of the waste materials and the WPA and EA proceeded with a prosecution in the Magistrates Court.

On the 6<sup>th</sup> March 2017 Essex County Council as Waste Planning Authority attended Chelmsford Magistrates Court to prosecute the land owner and tenant for failure to comply with the enforcement notice served on the 28<sup>th</sup> August 2015. The Environment Agency prosecuting for breaching a waste exemption.

At this hearing the defendants (land owner and operator) pleaded guilty to both offences.

The defendants (land owner and operator) were each sentenced to a fine and costs, which altogether totalled £66,493.00.

The court has issued a deadline of the 7<sup>th</sup> May 2017 for payment of this fine.

Officers from ECC and the EA are continuing to monitor the site.

### **LOCAL MEMBER NOTIFICATION**

COLCHESTER - Constable



**DR/15/17**

Committee DEVELOPMENT &amp; REGULATION

Date 24 March 2017

**INFORMATION ITEM****Applications, Enforcement and Appeals Statistics**

Report by Acting Head of County Planning

Enquiries to Emma Robinson – tel: 03330 131 512

or email: emma.robinson@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/Emma Robinson/

**MEMBER NOTIFICATION**

Countywide.

**Major Planning Applications****SCHEDULE**

N°. Pending at the end of January

**25**

N°. Decisions issued in February

**3**

N°. Decisions issued this financial year

**35**

Overall % in 13 weeks or in 16 weeks for EIA applications or applications within the agreed extensions of time this financial year (Target 60%)

**97%**

N°. Delegated Decisions issued in February

**1**

N°. Section 106 Agreements pending at the end of February

**6**

### **Minor Applications**

% of minor applications in 8 weeks or applications within the agreed extensions of time this financial year (Target 70%)	98%
Nº. Pending at the end of January	6
Nº. Decisions issued in February	1
Nº. Decisions issued this financial year	47
Nº. Delegated Decisions issued in February	1

### **All Applications**

Nº. Delegated Decisions issued in February	2
Nº. Committee determined applications issued in February	2
Nº. of Submission of Details dealt with this financial year	130
Nº. of Submission of Details pending at the end of February	71
Nº. of referrals to Secretary of State under delegated powers in February	0

### **Appeals**

Nº. of outstanding planning and enforcement appeals at end of February	2
Nº. of appeals allowed in the financial year	0
Nº. of appeals dismissed in the financial year	0

### **Enforcement**

Nº. of active cases at end of last quarter	27
Nº. of cases cleared last quarter	6
Nº. of enforcement notices issued in February	1
Nº. of breach of condition notices issued in February	0
Nº. of planning contravention notices issued in February	0
Nº. of Temporary Stop Notices issued in February	0
Nº. of Stop Notices issued in February	0